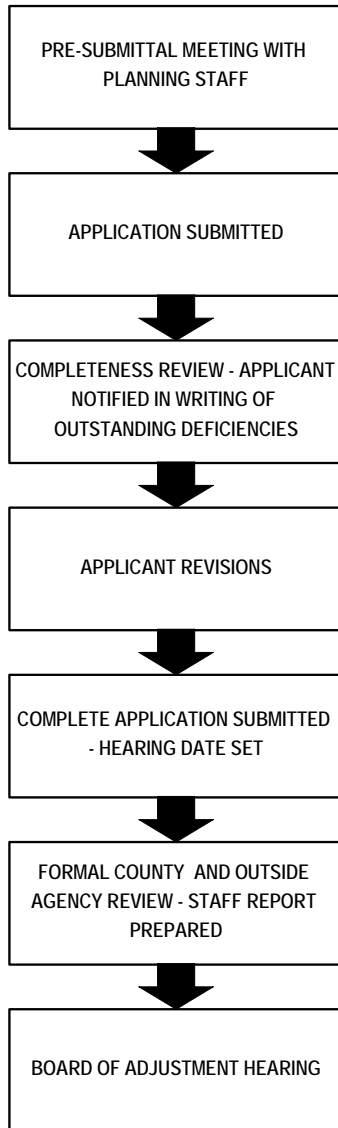


ZONING VARIANCE

DEVELOPMENT PERMIT APPLICATION REVIEW PROCESS (TCLUR Chapter 2, Section 2.12)

OVERVIEW Zoning Variances are deviations from zone district standards that would not be contrary to the public interest if, **when owing solely to special circumstances or conditions like exceptional topographic conditions, narrowness, shallowness, or the shape of a specific piece of property**, the literal enforcement of zoning requirements would result in **peculiar and exceptional practical difficulties** to, or **exceptional and undue hardship** on, the owners of the property. **The burden of proof rests with the Applicant** to prove that a Variance is necessary to avoid unnecessary hardship or practical difficulties as defined in the Land Use Regulations, *Chapter 12 Definitions*.

PROCESS



Pre-Submittal Meeting with Planning Staff. Reviews requirements of the application and highlights information needed for the Board of Adjustment to make a determination.

Application Submitted. Based on Pre-Submittal Meeting, Applicant prepares materials and submits them to Planning Department for review to see whether the application is complete.

Completeness Review. Staff formally reviews the application to determine whether all information required has been submitted. Staff notifies Applicant in writing and in detail of any items still outstanding.

Applicant Revisions. Applicant makes any final changes or provides any missing information necessary to make the application complete. Staff will provide a review agency list and indicate the number of copies of the complete application needed. Applicant submits copies.

Complete Application Submitted - Hearing Date Set. When multiple copies of the complete application have been submitted for distribution, Staff will arrange for the application to be heard by the Board of Adjustment, usually within 60 days.

Review - Staff Report. County Staff and other review agencies evaluate the application for compliance with Federal, State, and County regulations and provide comment to Staff. Staff prepares and distributes a report 10 days before the hearing.

Board of Adjustment Hearing. Staff and Applicant make presentations; public comment will be taken. At the end of the hearing the Board of Adjustment will approve, approve with conditions, or deny the application. The Board has the right to also seek input from the Teller County Planning Commission.

APPLICATION CHECKLIST

- ❑ A properly completed **Application Form**, together with the additional materials required by *Section 3.2*. The written narrative should describe IN DETAIL the Variance request, the reason for the request, and how the standards for approval of a Variance are met, and application fees.
- ❑ A **boundary survey of the affected portion of the site**, prepared by a Registered Professional Land Surveyor, showing existing and proposed features and those **limitations of the underlying zone district, including its topography, that are relevant** to review of the proposed Variance

EVALUATION STANDARDS. The Board of Adjustment must find that ALL of the following exist:

1. At least one of the following exists with respect to the specific piece of property: (1) Exceptional narrowness, shallowness or shape at the time the zoning regulation in question was enacted; (2) exceptional topographic conditions; or (3) other extraordinary and exceptional situation or condition of the property.
2. The special circumstance(s) and condition(s) above have not resulted from any act of the Applicant. Improper placement of a structure is considered a self-inflicted hardship.
3. Because of the special circumstance(s) and condition(s), the strict application of zoning would result in **peculiar and exceptional practical difficulties** (dimensional limitations) to, or **exceptional and undue hardship** (use limitations) on, the owner of the property. The adequacy of access to sunlight for solar energy devices installed on or after January 1, 1980 may be considered.
4. Granting the Variance is necessary to relieve the owner of the peculiar and exceptional practical difficulties or exceptional and undue hardship.
5. Granting the Variance will not cause substantial detriment to the public good.
6. Granting the Variance will not impair the intent and purpose of the zone plan and the zoning regulations.
7. The Variance request is not for a violation that is otherwise a misdemeanor under law.

OTHER

- A granted dimensional limitation (“practical difficulties”) Variance is only for the particular development for which it is issued, and expires 3 years from the date of granting if no building permit has been issued.
- Desire for a use (“exceptional and undue hardship”) Variance is more properly handled by a request for change to the zoning provisions of the Land Use Regulations.
- **Practical Difficulty.** . . . *unusual physical circumstances peculiar to the subject property and not to the neighborhood in general which would result in an unreasonable and substantial economic burden on the property owner, or an unreasonable deprivation of the beneficial use sought from the property under its zoning, if the dimensional limitations of its zoning are strictly enforced. The practical difficulty must (1) be peculiar and exceptional in the zone district; (2) relate to an extraordinary and exceptional situation or condition of the property; and (3) not result from any affirmative action of the property owner (be “self-inflicted”). In determining whether a practical difficulty exists, the following are considerations: (1) The magnitude of the Variance sought and its impact on adjacent property and the area; (2) the magnitude of the economic injury; (3) whether the practical difficulty was self-inflicted; and (4) whether other feasible means exist to avoid the practical difficulty. Sufficient evidence of good faith on the part of the land owner should be presented in order to eliminate the bar of self-inflicted difficulty, including the showing that the owner has attempted to use other alternatives to relieve his or her practical difficulty prior to requesting a Variance. An Applicant’s mere desire does not constitute “practical difficulty.”* (from: TCLUR Chapter 12)

CONTACT US!

The information above is a **summary only**. The Land Use Regulations may require more or less than is stated in this brochure.



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