

TOWN OF LOS ALTOS HILLS

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Variance

To file an application for a variance, you must first schedule an appointment with a Planner for a pre-application meeting. Applications cannot be submitted without the pre-application meeting and checklist completed at the meeting.

A variance is a procedure established by State law and included in the Town's Zoning Ordinance that allows an applicant to request an exception from the Zoning standards that apply to their property. There are situations when strict application of Zoning standards, such as setbacks, height, MDA, MFA, grading or parking, may be inappropriate because of special or extraordinary conditions existing on the property. Where special or extraordinary circumstances of the property (including size, shape, topography and existing development) make it virtually impossible to develop the site within the standards of the zoning and site development ordinances, the variance procedure allows for discretion and flexibility from the normal standards.

This application packet provides the information necessary to apply for a variance to exceed any aspect of the Zoning and Site Development Ordinances. Any other permits necessary for the project will not be issued until a variance has been approved.

WHEN A VARIANCE IS REQUIRED:

A variance is required if the project you are proposing exceeds the maximum height envelope, setbacks, Maximum Development Area (MDA), minimum parking requirement, grading or foundation restrictions, or any other requirement of the Zoning and Site Development Ordinance. A variance is a special exception from the ordinance. Before applying for a variance, you should first attempt to design a project that complies with the ordinance. You should also review the attached findings required for approval of a variance, noting that ALL the required findings must be made by the decision-making body in order to approve a variance.

MINOR VARIANCES:

The Zoning Ordinance provides for staff approval of minor variances. While a public hearing is still required for minor variances, the processing time is shorter, and the fees are lower than for other variance applications. As provided for in the Zoning Ordinance, the Planning Director shall act as the permitting body for all applications involving the following:

1. Maximum Development Area (MDA): Requests to exceed the MDA by 250 square feet or less;
2. Maximum Floor Area (MFA): Requests to exceed MFA by 150 square feet or less;
3. Setbacks: Requests for encroachment into any setback of two feet or less and measuring less than 150 square feet of area;
4. Fences and Walls: Requests to locate fences on the roadway side of the "reference line" defined in Section 10-1.504 (d) (1).

THE PLANNING COMMISSION ACTS AS THE PERMITTING AUTHORITY FOR ALL OTHER VARIANCE APPLICATIONS.

APPLICATION PROCEDURES:

To file a variance application, you must first schedule an appointment with a Planner for a pre-application conference. The Planner can advise you regarding previous precedent for approval or denial of projects similar to your proposal, and answer questions you may have about the process. At the pre-application meeting, the Planner will complete a checklist of information you must submit with your application. Incomplete applications, that is, those missing the checklist or any of the required materials, will not be accepted. An appointment should also be scheduled for submittal of the application.

Once your application has been accepted, it will be reviewed by the Planning Department to assure that the variance is correctly described and that your project otherwise complies with all other aspect of the Town ordinances. This review usually takes one to two weeks. If your application must be heard by the Planning Commission (all variance applications other than Minor Variances), it will be routed to reviewing departments or agencies for their comments. These agencies may include the Engineering Department, Fire Department, Health Department, Santa Clara Valley Water District and the Town Geologist. The review period for other departments or agencies is two weeks. If your application is complete when submitted, Zoning review and review by other agencies will be done in two to three weeks. Once the application is cleared by all reviewing agencies, your application will be scheduled for a public hearing. The Planning Commission meets once a month. It usually takes six to eight weeks from the date your application is submitted to be placed on an agenda.

DECISION-MAKING PROCESS

Minor Variance Decision-Making Process: Staff will visit the site and prepare an analysis of the findings in writing prior to the public hearing. At the public hearing, the Staff Committee will consider the evidence in support of the necessary findings of Section 10-1.1107 (b), and either grant or deny the variance based on the findings. The public hearing will be held about two weeks after the review period ends, to allow time of the required public notices of the hearing to be sent.

Planning Commission Variance Decision-Making Process: Once the zoning review is completed and all comments and recommendations are received from Los Altos Hills and other agencies, the application will be scheduled for public hearing by the Planning Commission. The Planning Department prepares a staff report and recommendation and the Planning Commission holds a public hearing, considers the evidence in support of the necessary findings of Section 10- 1.1107 (b), and either grants or denies the variance on the basis of the findings. It will take usually two to three weeks from the time the Zoning review is complete to the time the Planning Commission holds a hearing on the application.

City Council Decision: The decision of the Planning Commission or the Planning Director will appear on the consent calendar of the City Council for concurrence at their next regularly scheduled meeting, generally one to two weeks after the Planning Commission hearing.

If the Council concurs with the Planning Commission action, and no member of the public, including the applicant, files an appeal of the Commission decision within 10 working days the process is complete. If any member of the Council wishes to appeal the decision, or any member of the public, including the applicant, files an appeal within 10 working days of the Planning Commission's decision, the item will be scheduled for a public hearing before the City Council. Once the City Council has decided, the process is complete.

PROCESSING APPLICATIONS SIMULTANEOUSLY

To expedite the processing of all necessary permits, you may file simultaneously for zoning permit, site development permit, conditional development permit (if applicable) and variance. These applications will be processed concurrently and will be scheduled on the same Planning Commission agenda. Plans submitted should be titled "Variance and Site Development Plan".

REQUIREMENTS FOR A VARIANCE APPLICATION:

Minor Variance: When filing for a Minor Variance, three sets of plans are required. If you wish to have your Site Development Permit processed simultaneously with your variance application, you must submit three sets of plans for administrative-level development or five to six sets of plans for committee-level site development. You are required to submit a letter or statement addressing the variance findings. Your statements should specifically discuss the justifications or reasons why the variance should be granted and how your application meets ALL the required findings.

Planning Commission (Major) Variance: Five sets of plans are required with the initial submittal for an application for a Variance that must be approved by the Planning Commission. Prior to the public hearing 10 additional sets of plans will be needed. The plans and application must contain all the items listed on the checklist completed by the Planner at the pre- application meeting. Plans should be bound and folded to 8 1/2 X 11 size. A statement addressing the required Findings is also required.

VARIANCE FINDINGS LAHMC SECTION 10-1.1007(2)

The findings for a Variance are as follows:

1. Because of exceptional or extraordinary circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the ordinance is found to deprive the property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications:

2. That upon granting of the Variance, the intent and purpose of the ordinance will still be served, and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners:

3. That granting the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district:

4. That the Variance will not allow a use or activity which is not expressly authorized by the Zoning Ordinance:
