

# VARIANCE

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## **WHEN REQUIRED**

A Variance may be requested in order to allow relief from physical standards established by the Zoning Ordinance. Such standards include: building setbacks, parking and lot dimensions. Variances cannot be granted to allow uses that are not specifically listed as permitted in a particular zoning district.

## **PREAPPLICATION REVIEW**

It is recommended that a proposal be discussed with Planning Division staff prior to submitting an application. Staff can provide guidance in determining the suitability of a Variance for a particular location.

## **APPLICATION**

The submittal requirements for a Variance application are listed on page three. Please also see Section 19.42.070 of the Novato Municipal Code for further details. Incomplete applications are often the major cause of delays in processing. Please submit each of the items listed but by all means call the Planning Division if you have any questions.

A planner will be assigned to review the application for completeness. State law requires that staff determine whether the application is complete within 30 days.

## **SCHEDULING**

When it has been determined that a complete application has been submitted, it is noted as accepted and copies of the plans are sent to reviewing agencies and departments.

Once a response is received from the agencies and departments, the application is scheduled for a public hearing, usually before the Zoning Administrator. (In some instances, it may be appropriate for a different Review Authority to consider the application.) Notices of the hearing are mailed to neighboring property owners ten days prior to the hearing.

## **ACTION**

Staff will evaluate the application for compliance with zoning and/or previous related actions and prepare a staff report with recommendations to the Review Authority.

At the hearing, the Review Authority will hear all appropriate testimony and, in accordance with the criteria set forth in the Zoning Ordinance, will act to approve, approve with conditions, deny the application, or continue the hearing for additional information or redesign.

State law has established a six-month time limit from the date of acceptance for action on projects not requiring an Environmental Impact Report (EIR). In Novato, Variance applications are usually acted on within one to three months from the date of acceptance.

In order to approve a Variance, the following findings must be made:

1. Granting the Variance is consistent with the General Plan and any applicable specific plan;
2. Granting the Variance would not constitute a grant of special privileges inconsistent with the limitations on other properties in the vicinity and in the same zoning district;
3. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, topography, or other conditions), so that the strict application of the Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts or creates an unnecessary and non-self imposed, hardship or unreasonable regulation which make it obviously impractical to require compliance with the development standards;
4. Granting the Variance is necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same vicinity and zoning district and denied to the property owners for which the Variance is sought; and
5. Granting the Variance would not be materially detrimental to the public interest, health, safety, convenience, or welfare of the City, or injurious to the property or improvements in the vicinity and zoning district in which the property is located.

## **RESULT**

Actions of the Review Authority are final unless appealed in writing within ten days of the date of action, accompanied by the required filing fee (see Fee Schedule for appeal fee).

Prior to any construction, a building permit must be secured. A building permit application can be submitted and reviewed after the action but it cannot be issued until after the appeal period has expired.

Note: You may request to receive notice of any proposal to adopt or amend any of the following: the Novato General Plan, a specific plan, or chapters of the Municipal Code affecting development. Please use the separate form titled "Request for Notification of General Plan or Municipal Code Amendments."

## VARIANCE - SUBMITTAL REQUIREMENTS

In order to file an application for a Variance, you must submit the information listed below. **It is recommended that you submit three copies for staff to review for completeness prior to submitting the multiple copies required.** All plans must be folded, in sets, no larger than 9" x 12". Maximum sheet size is 24" x 36".

1. A completed Application for Zoning/Planning Action.
2. Ten copies of a site plan\* (scaled, drawn, and dimensioned) to **accurately** show:
  - a. Vicinity map.
  - b. All property lines, streets (with center lines) and easements (existing and proposed).
  - c. Location and outside dimensions of all buildings and structures.
  - d. Location and size of all parking spaces.
  - e. Location of all driveways.
  - f. Location, diameter, and dripline of all existing trees 14 inches or more in circumference.
  - g. Any other element of the project appropriate for inclusion in site plan (i.e., pool, patio, tot lot, tennis courts, etc.).
  - h. Topography, **if** topography is used as a basis for the Variance request. Adequate contour intervals to clearly illustrate the problem are required.
3. A statement clearly setting forth the special circumstances that apply to the property that deprive the property of privileges enjoyed by other properties in the vicinity and under identical zone classifications.
4. Additional information as determined necessary by the Director to conduct a review and analysis.
5. Filing Fee (see Fee Schedule).

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\*Some site plans from previous building permits are kept on file in the Department of Community Development. You may obtain a copy of such a plan to assist you in preparing your Variance application.

**For further information please contact the City of Novato Department of Community Development at:**

- **922 Machin Avenue, Novato, CA 94945**
- **(415) 899-8989**
- **www.novato.org**