



CITY OF INVER GROVE HEIGHTS

8150 Barbara Avenue
Inver Grove Heights, MN 55077
(651) 450-2545
www.invergroveheights.org

VARIANCE

City Code Section 10-3-4., states that the City Council may grant variances in instances where practical difficulties exist where the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance. City Code Section 10-3-4.D., states the determinations upon which the Council may approve variances. These are summarized as follows:

- The variance must be in harmony with the general purposes and intent of City Ordinances, and be consistent with the Comprehensive Plan.
- Variances may be granted when the applicant establishes that there are practical difficulties in complying with the zoning ordinance.
- The plight of the landowner is due to circumstances unique to the property not created by the landowner.
- The variance will not alter the essential character of the neighborhood.
- Economic considerations alone do not constitute practical difficulties.
- The Council may impose conditions in the granting of a variance that are directly related to and must bear a rough proportionality to the impact created by the variance.
- Variances may not be granted to allow a use that is not allowed under the zoning ordinance in the zoning district where the affected person's land is located.

When preparing an application for a variance, the following guidelines may be helpful in establishing the basis upon which the variance is requested:

1. A practical difficulty exists, as distinguished from a mere inconvenience, because of the particular physical surroundings, shape or topographical conditions of the property.
2. A practical difficulty means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
3. The variance is not detrimental to the public welfare or the neighborhood in which the property is located.
4. The variance does not affect the supply of light and air to adjacent properties.
5. The variance is in keeping with the spirit and intent of the City Code and Comprehensive Plan.
6. Economic considerations alone do not constitute practical difficulties.

INSTRUCTIONS

The following must be submitted prior to review and processing a request. If you have any questions, please contact the Planning Department.

- A completed Planning Application Form with fees.
- Provide the name and address of each owner directly across the street and also abutting property along each side of the property under consideration. The Planning Commission and City Council may require additional notification pursuant to Section 10-3-4. C of the City Code.
- A written narrative clearly describing the request. The following pages of this form contain the requirements of the City Code and a list of guidelines to aid in the preparation of the written statement.
- Ten (10) copies (no larger than 11 x 17) and an electronic plan set, if available, of a survey or scaled drawing including the following information:
 - Lot/parcel boundaries.
 - Location of existing and proposed structures with dimensions and their distance from all setbacks.
 - Location and size of driveways, parking areas and any other impervious coverage.
- An exact legal description of the property.
- Complete attached Variance Standards Worksheet



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PLANNING APPLICATION FORM

SECTION 1 APPLICANT INFORMATION

Applicant Name: _____ Contact Name: _____
Mailing Address: _____ Mailing Address: _____

Daytime Phone: _____ Daytime Phone: _____
Cell Phone/Fax: _____ Cell Phone/Fax: _____
Email: _____ Email: _____

SECTION 2 SITE & PROPERTY OWNER INFORMATION

Site Address: _____ County Tax PIN: 20 _____
Legal Description (or attach separately): _____

Owner Name (If different from above): _____
Owner Email: _____
Owner Mailing Address: _____

SECTION 3 APPLICATION TYPE

_____ Variance _____ Conditional Use Permit _____ Major Site Plan Review
_____ Rezoning _____ Preliminary Plat _____ Planned Unit Development
_____ Comp Plan Amendment _____ Final Plat _____ Zoning Code Amendment
_____ Waiver of Plat _____ Other: _____

SECTION 4 OTHER INFORMATION

Attach the written description, plans and other required documents (See Petitioner's Instructions.).

I attest that the information contained in this application is true and correct to the best of my knowledge.

APPLICANT SIGNATURE: _____

OWNER SIGNATURE: _____

OFFICE USE ONLY

Case Number: _____ Planning Review Committee Date: _____
Date Accepted: _____ Planning Commission Date: _____
Accepted By: _____ Park & Rec. Commission Date: _____
Receipt #: _____ City Council Date: _____
Escrow #: 702-229 **60 Day Deadline:** _____

SECTION 5 FEES

REQUEST TYPE	BASE FEE	ABSTRACT FEE	GIS FEE	ESCROW*	TOTAL
Administrative Subdivision	\$100		\$25/lot		\$
Comprehensive Plan Amendment	\$500		\$50	\$2,500	\$
Comprehensive Plan Amendment – minor	\$200			\$250	\$
Conditional Use Permit, single family residential	\$250	\$46			\$
Conditional Use Permit, impervious surface single family residential	\$250	\$46		\$1,500	\$
Conditional Use Permit, other	\$500	\$46		\$5,000	\$
Conditional Use Permit, other – amendment	\$150	\$46		\$1,000	\$
Determination of Substantially Similar Use	\$200			\$200	\$
Final Plat – single family	\$500	\$46	\$25/lot	\$5,000	\$
Final Plat – other (i.e. Commercial or Industrial)	\$200	\$46	\$100/acre	\$5,000	\$
Interim Use Permit	\$500	\$46		\$1,250	
Major Site Plan Review	\$500			\$5,000	\$
Non-Conforming Use Certificate	\$500	\$46		\$1,250	
Northwest Area Environmental Studies Fee	\$80/gross acre				\$
Northwest Area Sketch Plan Review				\$1,000	\$
Planned Unit Development (PUD) - Preliminary	\$1,000 + plat fees	\$46	Varies	\$5,000	\$
Planned Unit Development (PUD) – Final	\$500	\$46		\$3,000	\$
Planned Unit Development – Amendment	\$250	\$46		\$1,000	
Preliminary Plat	\$500 + \$5 per lot			\$5,000	\$
Rezoning	\$500		\$50	\$500	\$
Street Dedication	\$150	\$46	\$50		\$
Street/Easement Vacation	\$150	\$46	\$50	\$500	\$
Variance – Residential	\$200	\$46			\$
Variance - Commercial	\$200	\$46			\$
Waiver of Plat	\$300	\$46	\$25		\$
Wetland Conservation Act Certification	\$75				
Wetland Replacement Plan	\$200		\$100/acre	\$2,500	
Zoning Code Amendment	\$500			\$500	\$
Zoning Code Amendment – minor	\$100			\$250	\$
TOTAL CUMULATIVE FEES	\$ (Code “AV”)	\$ (Code “AV”)	\$ (Code “CB”)	\$ (Acct. #)	\$

*The above escrow amounts represent the minimum deposit required. Additional escrow amounts may be required depending upon the size, complexity and scope of project.

CITY OF INVER GROVE HEIGHTS, MINNESOTA
PLANNING DIVISION

PROPERTY ACCESS CONSENT FORM

This is to certify that on _____, 20____, I, _____,
owner of property described as follows (address or legal description):

filed a request, (or authorized, by my signature, the filing of a request) with the Inver Grove Heights Planning Division for _____ on the described property. By filing the above referenced request, I hereby consent to permit access to said property, at any reasonable time, to members of City Staff, the Planning Commission, and the City Council for purposes of viewing the site and information gathering that is pertinent to the request.

Property Owner

Dated: _____

(Please return this completed form to the Planning Division at the time of application for your planning request. If the Consent Form is not returned with your Planning Application Form, it will be assumed that you do not wish to grant access to your property for the stated purpose. A copy of the Consent Form will be retained in the planning file relative to your case. The consent granted by virtue of this form expires upon final City Council action relative to your request.)

OFFICE USE ONLY

Case No: _____

Applicant: _____

VARIANCE STANDARDS WORKSHEET

A variance cannot be approved unless the Planning Commission and City Council find that the following standards have been met. Please provide a response as to how/why your project will meet these criteria. Use additional sheets if necessary and consult with the Planning Director at your plan review meeting if you need clarification on the intent of any of the below standards.

1) Practical difficulties

2) Reasonable use

3) Applying to property

4) Character of the locality

5) Consistency with Comprehensive Plan

SUPPLEMENT TO VARIANCE APPLICATION

Introduction

The following memorandum is meant to assist the landowner in understanding (1) the purpose of a variance and (2) the framework within which a variance request is considered. This memorandum does not purport to recite all the applicable ordinances and state laws dealing with variances. Further, this memorandum does not purport to list all the provisions of the Inver Grove Heights Code that may apply to the subject property. The landowner is encouraged to review the Code to further familiarize themselves with the requirements that must be met before a variance can be granted. The Code is on file with the Clerk.

Types of Variances

Inver Grove Heights City Code (IGH Code), Title 10 (Zoning Regulations) and Title 11 (Subdivision Regulations) imposes standards and controls dealing with land development, subdividing and platting. The Code establishes a procedure for obtaining a variance from these regulations. IGH Code, Title 10, Chapter 3-4 deals with zoning and land use restrictions; it likewise establishes a procedure for obtaining a variance. Thus, the landowner should initially determine whether they wish a variance from the subdivision standards or from the zoning restrictions or from both.

Processing of the Variance Application

Once the application for a variance has been completed and the requisite fees have been paid, the City will process the request. The application will be reviewed initially by the City's planning and engineering departments; they, in turn, will make a report to the City's Planning Commission. The Planning Commission will review the variance application and will make a recommendation to the City Council. Finally, the City Council will act on the variance required and will either approve or deny the request.

Authority to Grant a Variance

Under Minn. Stat. 462.357, Subd. 6; the Board of Appeals and Adjustments has the power to grant a variance from the literal provisions of the zoning ordinance. In Inver Grove Heights, the City Council is the Board of Appeals and Adjustments. Thus, by statute and by ordinance, the City Council has the ultimate authority to grant or to deny a variance.

Definition of a Variance

A variance is the authorization for the construction or maintenance of a building or structure in a manner which is not allowed by the IGH Code. In some exceptional cases, due to the unique physical characteristics of the property, full compliance with the Code is either impossible or results in a practical difficulty. By varying the terms of the Code, a variance provides the opportunity for specific amelioration of practical difficulty resulting from the literal enforcement of the City's generally applicable zoning and subdivision regulations. The need for a variance stems from where the property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.

The Statute – Variance from Zoning Restrictions

City Code sets forth when a zoning variance may be granted. Title 10, Chapter 3, Article 4, provides in part:

“The Planning Commission may recommend to approve, approve with conditions, or deny a request for a variance. The City Council may deny or approve such variances and impose conditions thereon.

1. Variances shall only be granted:
 - a. When they are in harmony with the general purposes and intent of the zoning and subdivision ordinances; and
 - b. When the variances are consistent with the Comprehensive Plan.
2. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.
3. Practical difficulties,” as used in connection with the granting of a variance, means that:
 - a. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;
 - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
 - c. The variance, if granted, will not alter the essential character of the locality.
4. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.”

See Ordinance #1237, adopted July 11, 2011.

Reasons for Granting a Variance

The applicant must demonstrate that the reasons exist for granting a variance. The City Council, in acting upon a request for a variance, shall consider the following factors:

1. The variance must be in harmony with the general purposes and intent of the Zoning Ordinance.
2. The variance must be consistent with the Comprehensive Plan.
3. The applicant must show that there are “practical difficulties” in complying with the Zoning Ordinance:
 - a. Property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.
 - b. The plight of the landowner is due to circumstances unique to the property not created by the owner.

- c. The variance will not alter the essential character of the locality.
- d. Economic considerations alone do not constitute practical difficulties.

It is impossible to describe in detail all the factual situations which meet the criteria set forth above. The clearest situation, however, is where the property does not have a practical and beneficial use unless a variance is granted.

Practical Difficulties and Circumstances Unique to the Property

The term “practical difficulties” does not mean the personal circumstances or characteristics of the applicant. Circumstances which are merely personal to the current landowner or to a supposed future owner will not justify a variance. Rather, practical difficulties relate to the unique characteristics of the individual tract under consideration. The practical difficulty must relate to the land. For example, because of certain unique physical characteristics of the property, such as irregularity in shape, narrowness, shallowness of lot size, or exceptional topographical or other physical conditions peculiar to and inherent in the particular lot, it may be that a variance from the Code is the only way that a lot can have a practical and beneficial use. Because of such unique physical conditions, it may be that practical difficulties arise in complying with the Code. Practical difficulty is not peculiar to the applicant’s land if it is shared by the entire neighborhood or surrounding area. Where the practical difficulty imposed upon the applicant’s property is no greater than that suffered by nearby land, a variance may not be the proper vehicle to alleviate the hardship. Where a practical difficulty is shared by several pieces of land or by an entire area, the appropriate remedy may be to seek a change in the Code itself rather than a variance from its literal language and application.

Practical and Beneficial Use

In general, all properties are entitled to have a practical and beneficial use. A variance may be granted when, because of unique physical characteristics, the property does not have a practical and beneficial use unless the Code is varied. However, a mere showing that the land will be more valuable if the variance is granted is not in itself a sufficient reason to support a variance. Further, the mere showing that the applicant will make a greater profit in the sale of the land or from the business conducted on the land is not in itself a sufficient reason to support a variance. A variance cannot be granted solely on the ground that the applicant will be unable to realize a business advantage without it. Proof that a more profitable use could be made of the land if a variance is granted is not in itself sufficient to establish the practical difficulty or undue hardship required by the IGH Code, and Minn. Stats. 462.357 and 462.358. Where the applicant merely shows that the land could be more economically improved or used, a sufficient showing has not been made.

The Spirit and Intent of the Ordinances

By state law, a variance must be in harmony with the general purposes and intent of the Zoning Ordinance.

With zoning, the City regulates and restricts the use of land by dividing land within the City into appropriate zoning classifications or districts and by authorizing only certain uses within the districts. If a variance would alter the essential character of the neighborhood, the variance may be denied.

Self-Created Hardship

A variance may be denied when the “practical difficulty” has been self-created. One example of a self-created practical difficulty is when the owner of a large tract divides the tract into smaller, separate parcels, none of which meet the minimum lot size requirement. When the only “practical difficulty” is that

the applicant subdivided his land and sold portions of it retaining a substandard lot, it is proper to deny a variance for the substandard lot. Further, a variance may not be granted to an applicant who wishes to subdivide a lot to create a standard and a substandard lot or to an applicant who proposes to divide a standard lot into two or more substandard parcels.

A Variance is Not a Rezoning

A variance is not the way to change the zoning classification of the property. The statute provides that a variance cannot be granted to permit a use which is prohibited by the zoning ordinance. To change the zoning classification of the property, the applicant will have to seek a rezoning.

Reasons for Denying Variance

Whenever a variance is denied, it is the judgment of the City Council that the applicant has failed to demonstrate the reasons prescribed by state law for the granting of a variance. The considerations that result in denial are expressed in many ways. It is impossible to list comprehensively all of the expressed considerations because each request is created individually and on its own merits; the considerations differ from case to case. However, some of the common reasons, among others, for denying a variance are:

1. The practical difficulty, if any, is personal to the landowner, rather than the property.
2. The practical difficulty is not caused by any unique circumstances of the individual property.
3. The practical difficulty is self-created.
4. If granted, the variance would change the essential character of the surrounding neighborhood.
5. The circumstances or conditions of the property are not unique but rather apply generally to the surrounding neighborhood or to other properties within the same zoning classification.
6. The variance request is for a use not permitted in the zoning classification.
7. A variance would not be in keeping with the spirit and intent of the zoning ordinance or subdivision ordinance.

The order in which the reasons for denial are listed is not meant to indicate any priority nor is any particular stated reason meant to indicate that other justifiable concerns will be ignored. Each application is treated on its own merits.

Conditions to the Variance

By state law, the City Council “may impose conditions in the granting of variances to insure compliance and to protect adjacent properties.” If conditions are imposed, they are an essential part of the variance. If the landowner violates the conditions, the variance automatically terminates.

Lapse of the Variance

If a zoning variance is not used within two (2) years after it is granted or is not used within such longer period as the City Council may determine, the variance becomes void.