



This handout provides information about variances and the variance application process.

What is a variance?

A variance is a modification from the literal requirements of the Land Use and Development Code (LUDC). If the proposed development of a property (new construction or additions) does not meet the area, size, setbacks or open space standards, a property owner may apply for a variance.

A variance may be granted from the literal provisions of the LUDC when strict enforcement of the ordinance would cause undue hardship. By definition, undue hardship exists when a property cannot be put to reasonable use as normally allowed in a particular zoning district.

Variances are intended to be granted only as a last resort, after all other options have been explored. They are intended to provide relief from exceptional hardships that are unique to the property in question. Variances are not intended to be granted for reasons of economic/financial hardship, inconvenience, aesthetics, physical handicaps, personal preferences, or disapproval of one's neighbors.

Because variances are associated with circumstances unique to a particular piece of property, they are said to "run with the land". This means that once approved, the variance stays with the property in perpetuity, even after the original owner/applicant has moved.

When can a variance be approved?

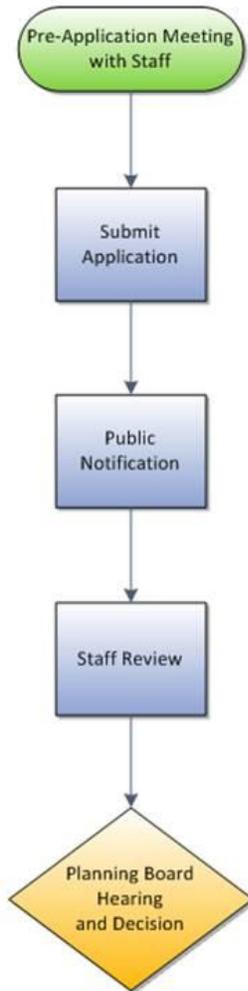
All variance requests are analyzed using five criteria, and all five criteria must be met for the variance to be granted:

- 1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning classification.
- 2) The special conditions and circumstances do not result from the actions of the applicant.
- 3) Literal interpretation of the provisions would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classifications, and would work an unnecessary and undue hardship on the applicant.
- 4) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- 5) The grant of the variance will be in harmony with the general intent and purpose of the code and that such variance will not be injurious to the area involved.

What is the variance process?

The steps in the variance process are summarized below:

Variance Process



First, the applicant (property owner or representative) meets with Town staff to discuss the proposed project, possible alternatives, and the variance process.

Next, the applicant completes a variance application and submits it and all required documents and fees to the Planning Division.

Then, the applicant sends a “Notice of Hearing” by certified mail to all adjacent property owners, and posts a public hearing notice on the property. Staff also prepares and submits a public hearing notice to the *Daytona Beach News-Journal*, which publishes the notice 7 days before the hearing. These public notice efforts are required by the Town to ensure that affected property owners and the public have the opportunity to comment on the variance proposal.

Next, the Planning Division staff reviews the submitted application and documents and prepares a written report recommending either approval or denial of the variance request. The Staff recommendation is based on whether the request meets the five review criteria. The written report is forwarded to the property owner or representative, and to the Planning Board members.

Finally, the Planning Board holds a public hearing on the variance request. During the public hearing, the Staff presents its report and provides its recommendation to the board. The applicant has the opportunity to address the board, and area residents are given the chance to ask questions and speak for or against the request. After receiving this input, the Planning Board discusses the request and votes to deny, approve, or approve with conditions.

Any person aggrieved by a Planning Board decision may appeal that decision to the Town Council. Appeals must be made in writing to the Planning Division within 30 days of the Planning Board’s decision.

Applications and Information

A variance application may be picked up at the Planning & Development office at Town Hall. As per the Town’s adopted fee resolution (No. 2010-04), the application and processing fee is \$450. The applicant must also pay for the certified mailing and required notice in the *News-Journal*.

The regulations concerning the variance process may be found in Article X, Section 2 of the Land Use and Development Code (www.municode.com) or by clicking [here](#). Please contact the Planning & Development staff at 386-236-2181 with questions or for additional information.