

How to request a Variance

A variance application is required when the applicant encounters practical difficulties in the strict enforcement of the Zoning Ordinance because of circumstances unique to the property. "Practical difficulties" means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

Economic, personal and health considerations **shall not** constitute a practical difficulty as variances are granted to the land not to the property owner.

Procedure

1. The property owner shall meet with the City Administrator to describe the situation and be advised of the procedures and obtain the application form.
2. The applicant shall return the completed application form together with the required exhibits and fees to the City Administrator.
3. City staff will review the proposal and submit a recommendation to the Planning Commission. The Planning Commission will hold a public hearing. City staff will give notice to all property owners within 100' of applicant's property. A notice of the public hearing shall be published in the Albany Enterprise ten (10) days prior to the public hearing before the Planning Commission. The applicant should appear at the public hearing prepared to present the proposal and answer questions. The Planning Commission will then forward its recommendation to the City Council.
4. The City Council will have the final decision on granting or denying the variance. The City Council may put added restrictions or conditions to the variance at its discretion.
5. No re-application by a property owner for a variance shall be submitted to the Council within a 12-month period following a denial of such as request unless the Council, in its sole discretion, determines new evidence or change of circumstances has occurred. Such determination shall be made without a public hearing.

Required exhibits- the following exhibits shall be submitted with the application:

1. A certificate of survey/site plan accurately depicting the applicant's lot, the proposed variance request and the distance from property lines to buildings on adjacent lots if nearby.
2. A written statement that addresses all six of the following findings. A variance may only be granted if all of the following circumstances exist:
 - a. The landowners have shown that they are proposing to put their property to a reasonable use which is not allowed by the ordinance.
 - b. There are circumstances unique to the subject property not created by the landowner.
 - c. The variance, if granted, will not alter the character of the neighborhood or location of the subject property.
 - d. The variance is not sought solely for reasons of increased financial gain.

- e. The landowner has demonstrated that a variance is in keeping with the spirit and intent of the ordinance and the comprehensive plan.
- f. That the condition or situation of the specific property for which the variance is sought, is not of so general or recurrent a nature such that regulation should be amended to address the condition or situation.

Please note that any construction activity approved with the variance shall be commenced within one year of approval.