

# Guide to Variances

## INTRODUCTION

The Douglas County Department of Community Development (DCD) is committed to providing open, transparent application processes to the public. This Guide is provided to assist anyone interested in the procedures and expectations involved in the variance process. The information in this packet is a summary of Section 26 of the Douglas County Zoning Resolution (DCZR).

## WHAT IS A VARIANCE AND WHEN IS IT REQUESTED?

A regulatory or administrative variance is a request for relief from certain provisions of the DCZR. A property owner may request a variance when a strict application of the DCZR causes peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon their property. A variance may be requested, per Section 2602.01, for the following:

- Minimum area of a lot, minimum setback, or minimum number of off-street parking spaces
- Maximum height of structures or fences
- Maximum devegetated area for livestock (Section 24 Animals of the DCZR)

A land use variance, or variance authorizing a zoning violation, is not allowed per Section 2602.02 of the DCZR.

## WHAT CRITERIA MUST BE MET?

All variance requests must meet the approval criteria contained in Section 2603 of the DCZR. The applicant must be able to:

- Document a hardship. The applicant must provide proof that the land is affected by special circumstances or unusual conditions that result in an uncommon hardship and unequal treatment under the strict application of the DCZR. The applicant is also responsible for providing reasonable and adequate evidence that the variance is not a self-imposed hardship which can be rectified by other means. A variance that has the affect of substantially impairing the intent and purpose of the DCZR will not be granted.
- Clearly demonstrate that the provisions of the DCZR, along with the uncommon conditions of the land, prevent reasonable use as permitted by the present zoning. Since zoning regulates land and not people, the following conditions cannot be considered - financial, personal or self-imposed hardship.
- Prove that no substantial detriment to the public good will be created and the intent and purpose of the DCZR is not impaired.



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## VARIANCE PROCESS

### Step 1

Pre-application Meeting

### Step 2

Application\*

### Step 3

10-14 Day Referral

### Step 4

14-Day Public Notice

### Step 5

Board of Adjustment

\* Application should be submitted a minimum of 30 days prior to the hearing to allow adequate time for processing.

## ADMINISTRATIVE VARIANCE PROCESS

Note: Administrative review is allowed for a 40% or less variance from the zoning requirements for those items listed in Section 2602.01.

### Step 1

Pre-application Meeting

### Step 2

Application (10-Day Notice)

### Step 3

Referrals (as needed)

### Step 4

Director's Decision

# Steps 1-5 of the Variance Process

## STEP

# 1

### Pre-application Meeting

#### COUNTY STAFF'S GOAL FOR COMPLETION: 1 DAY

Call 303-660-7460 to schedule a meeting to discuss your needs, ask questions and learn about the process.

### Application

#### COUNTY STAFF'S GOAL FOR COMPLETION: 2 DAYS

Once an application for a variance is submitted and a planner assigned, the applicant is contacted. The application is reviewed to determine if additional information is needed. The request is entered into the County's data management system and a public hearing date is set. Applications must be received a minimum of 30 days prior to a scheduled hearing in order to be placed on the hearing agenda.

#### Submittal Checklist (summarized from Section 2605 of the DCZR)

- Pre-application meeting
- Completed Land Use Application form
- Letter of authorization, if applicable
- Copy of a title policy or commitment (within the last 30 days)
- Application fee
- Statement of request:
  - Explain the request
  - Identify the hardship (answer the three questions on page 4)
- List of abutting landowners and a map identifying each owner's lot
- Proof of notice to affected landowners (may be completed after application)
- Survey or plot plan depicting the request, such as a setback variance, if applicable

The planner provides the applicant with a letter stating when the hearing date has been set and lets them know about their public notice responsibilities.

### 10-14 Day Referral, if necessary

#### REFERRAL PERIOD: 10-14 DAYS

The planner prepares referral packets containing an application, narrative, plot plan or survey, referral response request, and any additional information. Referral packets are sent to agencies that may be affected by the request, such as the fire district, Building Division, Public Works Engineering, HOA, health department, utility company, etc. The referral period provides an opportunity for various agencies to comment on the application.

The planner forwards referral comments to the applicant as they are received so the applicant can immediately begin addressing comments directly with the referral agencies. The planner assists in facilitating meetings or discussions between the applicant and referral agencies, as necessary.

### 14-Day Public Notice

#### APPLICANT'S REQUIREMENT: 14 DAYS

At least 14 days prior to the hearing, the applicant completes the public notice (signs and letters) as stated in the requirements of Section 2606 of the DCZR. The applicant must provide the planner with a Certificate of Mailing and Affidavit of Sign Posting as proof that this has been completed seven days prior to the hearing (Section 2606 of the DCZR).

### Board of Adjustment Hearing

#### COUNTY STAFF'S GOAL FOR COMPLETION: 3 DAYS

Board of Adjustment hearings are generally held the third Tuesday of the month at 1:30 p.m. in the Commissioners' Hearing Room, as needed. The planner prepares a staff report, attachments, presentation, and provides copies to all necessary parties prior to the hearing. At the hearing, the applicant should be prepared to present pertinent information and address questions about the proposed variance.

The Board of Adjustment evaluates the application, referral agency comments, staff report and public testimony. Based on the evaluation, the Board either approves the variance, approves it with conditions, tables it for further study, or denies it based on the evidence presented in compliance with the applicable criteria.

## STEP

# 2

## STEP

# 3

## STEP

# 4

## STEP

# 5

# Steps 1-4 of the Administrative Variance Process

## Pre-application Meeting

### COUNTY STAFF'S GOAL FOR COMPLETION: 1 DAY

Call 303-660-7460 to schedule a meeting to discuss your needs, ask questions and learn about the process.

## Application (10-Day Notice) - Section 2604

### COUNTY STAFF'S GOAL FOR COMPLETION: 10 DAYS

Once an application for a variance is submitted and a planner is assigned, the applicant will be contacted. The application will be reviewed to determine if additional information is needed. The request is entered into the County's data management system and the applicant needs to notify the abutting landowner(s) in one of the following two ways (see sample notices below).

Applicant must provide a form with the abutting landowner's signature showing they have been informed of the variance process.

Date:

I, \_\_\_\_\_ am the owner of the property located at, \_\_\_\_\_ CO, \_\_\_\_\_. I am submitting a variance request to Douglas County for: (describe **specific** request).

This variance is being sought to remedy the following hardship: (describe **specific** hardship)

If you do not object to this request, please indicate by signing below:

(signature)

Name

Full Address

*(Separate form needed for each abutting landowner)*

Applicant may send the form via certified mail to the abutting landowner (certified mail requires a signature of receipt showing they have been informed of the variance process).

Date:

To: Name, Address

I, \_\_\_\_\_ am the owner of the property located at, \_\_\_\_\_ CO, \_\_\_\_\_. I am submitting a variance request to Douglas County for: (describe **specific** request).

This variance is being sought to remedy the following hardship: (describe **specific** hardship)

If you have questions or concerns regarding this request, please contact Douglas County Zoning at 303-660-7460 within 10 days of the date of this notice.

*(Send notice via certified mail to each abutting landowner)*

### Submittal Checklist (summarized from Section 2605 of the DCZR)

- Pre-application meeting
- Completed Land Use Application form
- Letter of authorization, if applicable
- Copy of a title policy or commitment (within the last 30 days)
- Application fee
- Statement of request:
  - Explain the request
  - Identify the hardship (answer the three questions on page 4)
- List of abutting landowners and a map identifying each owner's lot
- Proof of notice to affected landowners (may be completed after application)
- Survey or plot plan depicting the request, such as a setback variance, if applicable

## Referrals, if necessary

### COUNTY STAFF'S GOAL FOR COMPLETION: 10-14 DAYS

Referral packets containing an application, narrative, plot plan or survey, referral response request and any additional information is prepared and sent to agencies that may be affected by the request, such as the fire district, Building Division, Public Works Engineering, HOA, health department, utility company, etc. The planner forwards referral comments to the applicant as they are received so the applicant can immediately begin addressing comments directly with referral agencies.

## Director's Decision

### COUNTY STAFF'S GOAL FOR COMPLETION: 14 DAYS

The Director is provided an administrative approval form and any other necessary materials to make an informed decision. If approved, the form is signed and a copy mailed to the applicant. A decision by the Director to deny a variance may be appealed to the Board of Adjustment in accordance with the procedure listed in Section 26A of the DCZR. The applicant can submit a written appeal to Planning Services within 30 days of such denial.

STEP  
1

STEP  
2

STEP  
3

STEP  
4

# Fees and Sample Exhibit

## VARIANCE FEES

Variance	\$375 for process + \$125 for hearing = \$500
Administrative Variance	\$375

Make checks payable to Douglas County  
Depending on the project, additional fees may apply

## THREE STANDARD QUESTIONS

The applicant must answer the following questions to demonstrate a hardship:

1. What exceptional practical difficulties, exceptional and undue hardship, or other extraordinary and exceptional situation or condition of your land prevents compliance with the DCZR?
2. A variance may not be granted if it is due to self-imposed hardship that can be rectified by means other than relief through a variance. What other design or development alternatives have you considered and why aren't they feasible?
3. Why do you believe that your variance request is in harmony with the intent and purpose of the DCZR?

## SAMPLE VARIANCE EXHIBIT

