

**VARIANCE APPLICATION**

The City of Vadnais Heights  
800 East County Road E • Vadnais Heights, MN 55127  
Phone: 651.204.6015 • Fax: 651.204.6100  
www.cityvadnaisheights.com

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Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_ - \_\_\_\_ - \_\_\_\_ Cell: \_\_\_\_ - \_\_\_\_ - \_\_\_\_ E-mail: \_\_\_\_\_

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Fee Owner: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_ - \_\_\_\_ - \_\_\_\_ Cell: \_\_\_\_ - \_\_\_\_ - \_\_\_\_ E-mail: \_\_\_\_\_

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Property Address: \_\_\_\_\_

Legal Description of Property (attach separate sheet if necessary): \_\_\_\_\_

\_\_\_\_\_

Zoning: \_\_\_\_\_ Land Use Designation: \_\_\_\_\_

Present Use of Property: \_\_\_\_\_

Description of Variance Request: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

City Code Section: \_\_\_\_\_

\_\_\_\_\_  
Applicant's Signature Date

\_\_\_\_\_  
Property Owner's Signature (if different from applicant) Date



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**Application Fees & Escrows**

Single family uses:  
Fee: \$500  
Escrow: \$1,500\*

Commercial/Industrial/Multi-family uses:  
Fee: \$2,000  
Escrow: \$1,500\*

\*All planning cases are subject to a minimum escrow fee to cover any consulting costs the City may incur. Additional charges may apply if the consulting costs exceed the escrow amount. The escrow may be waived, reduced, or increased by the City Planner on a project-by-project basis. For applications that involve excessive staff time, services performed by City staff will be billed at actual payroll costs including hourly rates, payroll taxes, and benefit charges.

**Items to Accompany Application:**

1. Site Plan or survey\* drawn to scale showing.
  - a. Property dimensions; topography at one-foot intervals; grading plan; significant landscaping in area of variance; water courses (wetland, floodplain, shore land, etc.); utilities; curb cuts/driveways; sidewalks; access roads; parking spaces; and off-street loading area.
  - b. Easements.
  - c. Location of all existing and proposed buildings: existing and proposed dimensions; existing and proposed square footage; and existing and proposed setbacks, as well as other structures, such as fences or retaining walls.
2. Floor Plan and Colored Building Elevations with proposed building materials.
3. Written Narrative
  - a. Explain how the variance request meets all three (3) factors of the “practical difficulties” test (more information found in attached sheet under “review standards”):
    - 1) *Reasonableness.*
    - 2) *Uniqueness.*
    - 3) *Essential Character.*

Note: Economic considerations alone cannot create practical difficulties.
  - b. Explain how the variance is in harmony with the general purposes and intent of the ordinance.
  - c. Explain how the variance is consistent with the Comprehensive Plan.
4. Property Report.
5. Signed Payment of Costs Agreement.

\*\*City staff may require the submittal of a survey completed by a licensed surveyor.

**Acceptance of Application**

This application is subject to acceptance by the City upon review of the application and necessary materials being submitted.

Date Received: \_\_\_\_\_ Date Application Deemed Complete: \_\_\_\_\_

Application Fee: \_\_\_\_\_ Application Number: \_\_\_\_\_

\_\_\_\_\_  
Planning/Community Development Director Date

\_\_\_\_\_  
City Administrator Date

The signature and acceptance by city staff does not constitute approval of this application request.



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### **Filing Requirement Information**

This document is intended to assist the applicant with the variance process. Variance procedures are described in Section 38-38 of the City Code, which are attached on the next page. The goal is to make the development process as economical and efficient as possible.

**What is a variance?** A variance is a way that a city may allow an exception to part of a zoning ordinance. It is a permitted departure from strict enforcement of the ordinance as applied to a particular piece of property. A variance is generally for a dimensional standard (such as setbacks or height limits). A variance allows the landowner to break a dimensional zoning rule that would otherwise apply.

Sometimes a landowner will seek a variance to allow a particular use of their property that would otherwise not be permissible under the zoning ordinance. Such variances are often termed “use variances” as opposed to “area variances” from dimensional standards. Use variances are not generally allowed in Minnesota – state law prohibits a city from permitting by variance any use that is not permitted under the ordinance for the zoning district where the property is located. (Source: League of Minnesota Cities Information Memo: Land Use Variances).

**Process.** Applications are reviewed and recommended on by the Planning Commission and then approved or denied by the City Council. The Planning Commission meets on the fourth Tuesday of each month, and the City Council meets on the first and third Tuesday of each month. Variances require a public hearing before the Planning Commission, with notices published and mailed to property owners within 350 feet of the subject property at least ten days prior to the hearing.

**DRC.** The Development Review Committee (DRC) meets weekly and strongly encourages persons who are or will be seeking application approval from the City to schedule a meeting(s) to review site plan concepts and requirements. Meeting with the DRC is intended to assist the applicant with the application process. The DRC consists of the City Planner, City Engineer, City Administrator, Building Official, and the Fire Chief. Meetings with the DRC can be scheduled through Nolan Wall, Planning/Community Development Director, by e-mail at [nolan.wall@cityvadnaisheights.com](mailto:nolan.wall@cityvadnaisheights.com) or by phone at (651) 204-6027.

**Application Deadline.** In order to have necessary reviews and reports completed for the Planning Commission, the public, and the applicant, the application materials and fee must be submitted according to the *Land Use Application Submission and Meeting Schedule*, usually about five weeks prior to the Planning Commission meeting.

**Review Period.** The applicant will be notified within 15 days of the City receiving the application if it is incomplete and what information is missing. Once an application is considered complete, the City has sixty (60) calendar days to complete its review and either approve or deny the application. In compliance with applicable state statutes, the City may extend the application review period for another sixty (60) days with written notice to the applicant. Once a recommendation is made by the Planning Commission, the application will go in front of the City Council. If approved, the City Council may impose conditions upon approval.



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**Review Standards.** A variance may be granted if enforcement of a zoning ordinance provision as applied to a particular piece of property would cause the landowner “practical difficulties.” For the variance to be granted, the application must satisfy the statutory three-factor test for practice difficulties:

1. *Reasonableness.* The first factor is that the property owner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.
2. *Uniqueness.* The second factor is that the landowner’s issue is due to circumstances unique to the property now caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal preferences of the landowner. The consideration should be whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.
3. *Essential Character.* The third factor is that the variance, if granted, will not alter the essential character of the locality. The consideration should be whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

If the applicant does not meet all three factors of the statutory text, then a variance should not be granted. Also, variances are only permitted when they are in harmony with the general purposes and intent of the ordinance, and when the terms of the variance are consistent with the comprehensive plan. Economic considerations alone cannot create practical difficulties.

**Development Agreement.** Some variances are formalized in a Development Agreement prepared by the City and recorded with the Ramsey County Recorder’s Office. If a variance is denied, the City will adopt written findings of facts for denial.



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### City Code 38-38.

#### Procedure for Variances to this Code.

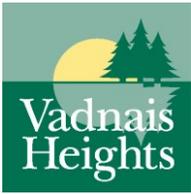
(a) Generally. The city council may allow a departure from the literal provisions of this chapter by the granting of a variance. Variances shall only be granted when they are in harmony with the general purposes and intents of this Code and consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official controls. The term "practical difficulties," as used in connection with the granting of a variance, 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 considerations alone shall not constitute a practical difficulty if reasonable use for the property exists under the terms of this chapter. The term "practical difficulties" also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances may be granted for earth-sheltered construction, as defined by state law, when in harmony with this chapter. The city council may not permit as a variance any use that is not permitted under this chapter for property in the zone where the affected person's land is located, except where the city council is considering a variance from nonconforming use requirements under [section 38-45](#) on land zoned residential at the time it became nonconforming. The city council may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling. The city council may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(b) Application. An applicant for a variance shall submit the proper application forms made available by the city, including all required materials and applicable fees.

(c) Notice of hearing. No variance shall be adopted until a public hearing has been held by the planning commission. A notice of the time, date, place and purpose of the hearing shall be published in the official newspaper at least ten days prior to the date of the hearing. A similar notice shall be mailed at least ten days prior to the date of the hearing to each owner of affected property and property wholly or partly within 350 feet of the property to which the variance relates. The city shall be responsible for placing and mailing such notices. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings.

(d) Review and recommendation by the planning commission. In its deliberations on the matter, the planning commission shall consider oral or written statements from the petitioner, the public, city staff, and its own members. The planning commission may recommend approval, denial, or table the variance application. A written report shall be transmitted to the city council by the city planner on behalf of the planning commission stating its findings and recommendation.

(e) Decision by the city council. The city council shall consider the matter at its next regular meeting after receipt of the report and recommendation of the planning commission. In considering applications for variance, the city council shall consider the effect of the proposed variance upon the health, safety, and welfare of the community, traffic conditions, light and air, danger of fire, risk to the public safety, the effect on values of property in the surrounding area, and the effect of the proposed variance upon the city's comprehensive plan. The city council may, by majority vote, deny the application for a variance



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by resolution with findings, approve it by resolution, or table action to a future meeting, and the applicant shall be notified in writing of such action, including any conditions of approval.

(f) Time limits. If construction is not commenced within one year from the time a variance has been granted by the city council, then the variance shall be null and void unless an extension is granted by the city council. Only one such extension shall be permitted, and it shall not be for more than six additional months.