

VARIANCE PROCEDURE¹ FOR THE CITY OF INDEPENDENCE

The Independence City Code was established to protect both current and future residents from the negative impacts of improper development and to ensure a positive future for the city. A variance request is the mechanism that allows the City Council to determine whether a project deviating from code should be permitted. A variance from the provisions of the zoning ordinance may also be issued when the city code imposes undue hardship, and if there are circumstances that apply to the property which the owner has no control. The variance requested should be the minimum variance which would alleviate the hardship, and not be detrimental to the purpose of the Independence City Code. The granting of the variance requested must not confer on the applicant any special privileges that are denied by the city code and to the owners of other lands, structures, or buildings in the same district (*Ref: Independence City Code Subsection 520.19,21,23,25*)

The applicant for a variance must complete and submit to the city administrator-clerk an application for a variance and required documentation, together with a fee established by city council ordinance. In addition to said fee, the applicant shall sign an agreement, on forms provided by the city, to pay the cost of all engineering, planning, legal and inspection expenses incurred by the city in processing the application.

STEPS TO FOLLOW

In order to have your application be complete and reviewed in the timeliest fashion, there are a number of steps that must be followed:

1. Contact city staff to discuss your proposed variance and obtain a land use application from City Hall.
2. Put together an informational packet (described herein) that outlines your request and outlines all reasons as to why the variance should be granted.
3. Submit your application and the completed packet to the staff by the applicable due date for review. Staff will examine your submittal to determine if the application is complete, and contact you if additional information is required or was omitted. When all the information requirements are complied with, the request shall be considered as being officially submitted. It is to your advantage to submit your materials as early as possible so staff can assist you in meeting all requirements. Applications found to be incomplete as of the due date shall not be reviewed until the following month.²

¹ The information provided in this document is intended to be a correct statement of the law as set forth in the Independence City Code and the laws of the State of Minnesota. However, the applicant should refer to the actual sources and consult with their own legal advisor regarding applicability to their application. In providing this information, the City makes no representations nor provides any legal advice or opinion.

² Minnesota State Statute 15.99 requires local governments to review an application within 15 days of its submission to determine if an application is complete and/or if additional information is needed to adequately review the subject request.

4. Staff will address completed applications by requesting comments from partnering agencies, scheduling meetings, writing reports, notifying and holding a public hearing.
5. The Planning Commission will review the request at their monthly meeting (2nd Monday of the month³) and forward a finding of fact and recommendations to the City Council (meets the 4th Tuesday of the month⁴). Applicants are advised to attend both the Commission meeting and the Council meeting and be open to questions that might be posed regarding the request.
6. The City Council will consider the request and either grant or deny the variance.

Above all else, it is imperative that you begin your preparations as early as possible to insure your application is complete by the applicable due date. Because of state mandated notification requirements, there may be NO exceptions to this deadline.

Please note that it is the responsibility of the applicant to provide all required information and to illustrate all reasons why the requested variance should be granted. City staff is not authorized, nor permitted, to prepare applications since the “burden of proof” rests with the applicant to justify the specific request.

CHECKLIST

The following items must be completed for the variance application:

- Item:**
1. **Schedule a pre-application meeting** with the Planning Department to discuss the purpose of the request and what will be needed in order to complete the application.
 2. **A land use application form** signed by **all** property owners and applicant along with payment of the proper filing fee.
 3. **Written statements** providing information regarding your proposal. Please provide a separate answer for each of the lettered items listed below:
 - a. A listing of contact information including name(s), address(es) and phone number(s) of: the owner of record, authorized agents or representatives, engineer, surveyor, and any other relevant associates;
 - b. A listing of the following site data: Address, current zoning, parcel size in acres and square feet, property identification number(s) (PID), current

³ Please note that meeting dates are subject to change due to holidays, lack of quorum, etc. Please contact City Hall to confirm all dates and times.

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- legal description(s), and existing use of land;
- c. State the provision(s) of the Independence City Code for which you seek a variance. (*For example, subsections 530.03, 530.07, 530.15[physical standards]*)
 - d. A specific written description of the proposal and how it varies from the applicable provisions of Independence Code.
 - e. A narrative regarding any pre-application discussions with staff, and an explanation of how the issue was addressed leading up to the application for a variance.
 - Describe how the literal interpretation of the provisions of the zoning code would cause undue hardship, deprive you of rights commonly enjoyed by other properties in the same district under the terms of this zoning code and leave you with no reasonable use of the land. The hardship must not have been created by you, the applicant.
 - Explain why the conditions causing the hardship are unique to the property and are not shared by neighboring properties in the same zone. Also explain why exceptional or extraordinary circumstances apply to the property, that do not apply generally to other properties in the same zone, and result from lot size or shape, topography, or other circumstances over which you or the owners of the property, since enactment of the applicable zoning restriction, have no control.
 - Address how the variance would be in keeping with the spirit and intent of this zoning code, would be consistent with the comprehensive plan, and would not essentially alter the character of the neighborhood, or adversely affect the environmental quality of the area.
 - Please explain why the variance would not allow any use that is not permitted under the zoning code for a property in the zone your land is located.
 - Provide justification that the variance request is not based exclusively upon a desire to increase the value or income potential of the parcel of land.
 - Please describe the cause(s) of this hardship (who or what created the current nonconformity).
 - Justify that the granting of the requested variance **will not**: 1) adversely affect the health or safety of persons residing or working in the neighborhood; 2) alter the essential character of the neighborhood; 3) impair an adequate supply of light and air to adjacent properties; 4) be injurious to property or improvements in the neighborhood; 5) increase the congestion on public streets; 6) endanger public safety; 7) or substantially diminish or impair property values within the neighborhood.

4. **Survey:** Six (6)⁵ copies of a certified survey depicting the lots or tracts upon which a variance is requested. Each document shall be at a consistent, readable, and measurable engineering scale, be composed of sheet(s) not smaller⁶ than 11”x 17” and be pre-folded for distribution. Staff will assist you in determining what is required. The survey will not be considered complete unless all required elements are included.

The survey must include:

- Legal description and street address
- Location, Floor Area, and Building Envelope of Existing & Proposed Structures including list of building materials, showing a sketch or computer-generated image of proposed buildings as viewed from surrounding uses.
- Lot Lines and property boundaries
- Parcel Size in Acres & Square Feet
- Building Setbacks (Front/Rear/Side/Lake): closest point of building to each property line
- Distances between buildings (principal and accessory)
- Distance between principal buildings and principal buildings on adjacent lots within 100 Feet of Property
- Actual elevations for Garage Floor, Basement Floor, Foundation Top, & Building Height
- Lowest Floor Elevation if any part of property is in flood plain
- All Water Features: Floodplain, Floodway Delineations, Ordinary High Water Mark Elevations, Wetlands, Watercourses, Reservoirs, Ponds, Other Bodies of Water & Shoreland District, on property and adjacent to lot line
- Existing** topography of the site and area within 100 feet of the property boundaries with contours at **2-foot intervals**, including lot corner elevations;
- Proposed** topographic character at **2’ intervals**
- Flow arrows indicating direction of drainage
- Existing improvements, including: buildings, sump pump discharge areas, parking areas, driveways, storage areas, utilities, septic systems, drainage tiles and wells
- Location and dimensions of driveways and off-street parking spaces
- Location of Trees 6” diameter and larger
- All Adjacent Structures Within 100 Feet of Property
- Center of city street and curb elevations, if applicable

⁵ Six copies are needed due to the number of people who receive Planning and Council Packets. Depending upon how the project progresses (i.e. if the item is tabled), additional copies may be required.

⁶ We ask that three (3) copies of the plan be in the large format (30x40), with the remainder (3) reduced to 11x17.

- All Easements including the dimensions (Road, Utility, Drainage, etc.)
- Public Right-of-Way Name (street name)
- Proposed driveway location and proposed driveway grades
- Wells & Neighboring Wells if New Drainfield is Installed
- Septic System & Drainfield, or Sanitary Sewer Connection
- Percolation Test & Soil Boring Holes (if applicable)
- Hardcover Calculations (Impervious surface)--% and square footage of:
 - Building coverage
 - Public street right-of-way
 - Driveway and parking
 - Open space and/or landscaped area
- Proposed Treatment of the Perimeter, including Screens, Fences, Walls, & Landscaping
- Adjacent streets, if any
- Shoreline and/or tops of bluffs (if applicable)
- Plans for tree preservation, landscaping (species and sizes), drainage and stormwater, utilities, signs, and lighting.
- Administrative Information:
 - Scale
 - North Point
 - Signature of Surveyor
 - Date of Preparation (THE REVISION BOX MUST BE CONTINUALLY UPDATED AS CHANGES OCCUR!!!)
 - PID Number
 - Site Address
 - Legal Description
 - Subdivision Name (if applicable)
 - Zoning Classification

- 5. Any other information required by city staff, commissioners, or council members necessary to provide a complete review of the proposal.⁷ Staff will list other requirements below:

⁷ Information deemed critical to the review process not listed in this handout may be requested. Number of copies, size, and other such administrative details may also be imposed when requiring additional information.

Process following application submittal (Ref: Independence City Code Subsection):

After you submit your application, the city administrator-clerk refers the application to the zoning administrator. The application will be reviewed before being presented to the board of adjustment (the planning commission). The request shall be considered as being officially submitted when all the information requirements are completed. If the request is deemed incomplete, the city will contact you with an explanation on how to rectify the problem.

The planning commission will hold a hearing on the proposed variance. Notice of the hearing must be mailed by first class mail to owners of the property within **500 feet** of the outer boundaries of the land to which the variance will be applicable. The notices will be posted ten days before the hearing (failure to give the required notice does not invalidate the proceedings). Notice of the time, place, and subject matter of the proposed variance must be posted at the city hall.

After review, where the planning commission is encouraged to make written findings and recommendation of the proposed variance to the city council, the city council will approve or deny the proposed variance within 60 days of the filing of a completed application. The city council may extend the review period up to an additional 60 days upon written notification to the landowner of the reason for the extension and the anticipated length of the extension.

In granting a variance the board of adjustment may recommend and the city council may impose additional conditions and restrictions that are reasonably necessary to insure compliance with all provisions of this zoning code, and with the language and intent of the comprehensive plan, and to protect adjacent properties.

The City may require (or the applicant may choose to submit) evidence that is beyond what is required in any section outlined in this handout. Please be advised that the City reserves the right to impose conditions on an approved variance if necessary to avoid a detrimental impact on surrounding properties or the City as a whole.

Please contact Rose Lorsung, City Planner at (763)746-1632 if you have any questions.

Thank You!

Application Due Dates⁸ (2007 to 2008):

<u>Year</u>	<u>Meeting Month</u>	<u>Application Due Date</u>	<u>Parks⁹</u>	<u>Planning¹⁰</u>	<u>Council¹¹</u>
2007	January	December 8	January 4	January 8	January 23
	February	January 12	February 1	February 12	February 27
	March	February 9	March 1	March 12	March 27
	April	March 9	April 5	April 9	April 24
	May	April 13	May 3	May 14	May 22
	June	May 11	June 7	June 11	June 26
	July	June 8	July 5	July 9	July 24
	August	July 13	August 2	August 13	August 28
	September	August 10	September 6	September 10	September 25
	October	September 7	October 4	October 8	October 23
	November	October 12	November 1	November 12	November 27
	December	November 9	December 6	December 10	December 11 or 18
2008	January	December 14	January 3	January 14	January 22

⁸ This table does not reflect holidays. Generally, meetings which fall on holidays are rescheduled for the following day. Please check with City Hall to confirm actual dates.

⁹ Park Commission meeting starts at 7:00 p.m.

¹⁰ Planning Commission meetings start at 7:30 p.m.

¹¹ City Council meetings start at 7:30 p.m.