



CITY OF LAS VEGAS VARIANCE APPLICATION PACKET

**\$125.00 NON-REFUNDABLE
APPLICATION FEE AS PER
ORDINANCE NO. 04-13 PASSED &
ADOPTED AUGUST 18, 2004.**

Variance

Permission to depart from the literal requirements of a zoning ordinance is called a variance. It is a zoning adjustment which permits minor changes of district requirements where individual properties are both harshly and uniquely burdened by the strict application of the law. The power to vary is restricted, and the degree of variation is limited to the minimum change necessary to overcome the inequality inherent in the property. No variation may be granted which would adversely affect surrounding property or the general neighborhood.

Variance Hardship

A departure from the provisions of a zoning ordinance relating to setbacks, side yards, frontage requirements, and lot size, that if applied to a specific lot would present practical difficulties in the use of the property. Hardship relates to the physical characteristics of the property, and without the variance, the property becomes unusable.

NOTICE TO APPLICANTS

A variance is the means by which an adjustment is made in the application of the specific regulations of a zoning ordinance to particular piece of property. It permits minor changes of district requirements where individual properties are both harshly and uniquely burdened by the strict application of the law. The power to vary is restricted and the degree of variation is limited to the minimum change necessary to overcome the inequality inherent in the property.

A variation recognizes that the same district requirements do not affect all properties equally. It was invented to permit minor changes to allow hardship properties to enjoy equal opportunities with similarly zoned properties. It must be proven that said land is affected by special circumstances or unusual conditions. These must result in uncommon hardship and unequal treatment under the strict application of the zoning ordinance.

An applicant must prove that the combination of the zoning ordinance and the uncommon conditions of the property prevents you from making any reasonable use of the land as permitted by your present zoning district. Since zoning regulated land, not people, the following conditions cannot be considered pertinent to the application for a variation: (1) proof that a variation would increase the financial return from the land, (2) personal hardship, (3) self-imposed hardship. In the last case, the recognition of conditions created after the enactment of the zoning ordinance would encourage and condone violation of the law.

No variation may be granted which would adversely affect surrounding property or the general neighborhood. All variations must be in harmony with the intent and purposes of the zoning ordinance.

PROCEDURES

Application Process

Variance applications can be obtained from the City Community Development Department, 1700 North Grand Ave., or on the City of Las Vegas website at www.lasvegasnm.gov under Community Development Forms. Review request with Zoning Official. Complete and submit application including:

- Letter of Intent or statement of request
- Name of project
- Address
- Property size/acreage
- Copy of current deed to the land and authorization form (if applicant and owner are not the same)
- Zoning classification
- Scaled site development plan
 - Dimensions of the lot or parcel
 - Arrow indicating NORTH
 - Location and name of abutting streets and roads
 - Location and width of all easements
 - Exact locations and size of existing structures including signs
 - Distance of structures from the side, front, and rear of property
 - Location and width of existing or proposed driveway access and/or parking plan
 - Drainage plan if commercial property or if property is near flood zone
 - Identification of available utilities Line location # 425-3898
 - Descriptions of known code enforcement violations
- Legal description of property / Survey
- Current use of property
- Surrounding land use
- Authorization of property owner (if Applicable)
- Fees: \$125*

***NOTE: Application fees are non-refundable. There are no guarantees that your application will be approved.**

Application Review Process

Completed application *may* be reviewed by the ***Development Review Team** where recommendations will be made to insure compliance with Development Standards for presentation to the **Planning and Zoning Commission**. All variance applications must be filed with Community Development staff the first day of the month, or earlier. If deadline is not met for filing, proposals will be subject to a continuation at the following month's Planning and Zoning Commission meeting.

The Development Review Team *DRT meets the second Tuesday of each month at 10:00 a.m., and the Planning and Zoning Commission meets the last Monday of each month (excluding holidays) at 4:00 p.m. in City Council Chambers 1700 North Grand Ave.

*The **Development Review Team (DRT)** is comprised of representation from various municipal and local utilities departments. Their purpose is to provide the developer with technical input from staff. The review is conducted to consolidate the efforts of the **DRT** agencies regarding projects that utilize all or part of the services each agency provides to residents and proposed businesses of the City of Las Vegas and County of San Miguel. The actions of the **DRT** further assist the **Planning and Zoning Commission** and the City Council in evaluating those projects submitted for public hearings. The **DRT** is committed to helping the applicant as much as possible to develop a successful proposal.

Planning & Zoning Commission (P&Z) Meeting: All applicants should be present at **P&Z** meeting and are encouraged to speak on behalf of their request. Failure to attend **P&Z** meeting by applicant may result in a continuation of the request. Application approvals from **The Commission** shall be adopted by no less than a two-thirds (2/3) affirmative vote of the total voting **Commission** Membership. Approval by the **Commission** is an *approval for recommendation* to Mayor and Council, who make *final* decisions regarding zone changes. Such hearings before City Council are heard the following month. When an application for a zone change is denied by the **Commission**, the decision is final and conclusive. However, an appeal may be filed with the City Clerk within twenty (20) days of said **Commission** Hearing (meeting) and then forwarded to the City Council for review.

From Updated City of Las Vegas City Zoning Ordinance Manual 2005:

ARTICLE VI

SECTION 12-6-4 APPEALS FROM BOARD ACTION

Any person or persons, or any board, taxpayer, department or bureau of the City aggrieved by any decision of the Board of Adjustment may file a written notice of appeal to the City Council in the manner specified in Article 10 of this Ordinance. ***A fee of fifty (\$50.00) dollars shall be paid to the City of Las Vegas through the Community Development Department upon the filing of the written appeal to defray the cost of advertising.** *Amended by Ord. No. 04-13 8/18/04

ARTICLE X

SECTION 12-10-15 APPEAL OF PLANNING AND ZONING COMMISSION DENIAL OF APPLICATION

The action of the Planning and Zoning Commission in denying an application for amendment to the boundaries of a zone or classification of property used herein shall be final and conclusive, unless with twenty (20) days following the date of decision of said Commission, an appeal in writing is filed with the City Council through the Community Development Department by the applicant. **A fee of fifty (\$50) dollars shall be paid to the City of Las Vegas through the Community Development Department upon the filing of the written appeal to defray the cost of advertising.**

VARIANCE APPLICATION

1 of 3

APPLICANT'S DATA:

Name: _____

Mailing address: _____

Phone #: _____ Cell # _____

Property interest of applicant: _____
e.g. owner, under contract, etc.

OWNER'S DATA

Name of owner: _____

Address of proposed property: _____

Current zoning of property: _____

Phone #: _____ Cell # _____

Please note: the following questions must be answered completely. If additional space is needed, attach extra pages to the application. Before answering, read the "notice to applicants" which is attached.

What characteristics of the property prevent it from being used for any of the uses permitted in your current zone?

- | | |
|--|--------------------------------------|
| <input type="checkbox"/> Too narrow | <input type="checkbox"/> Soil |
| <input type="checkbox"/> Shape of property | <input type="checkbox"/> Slope |
| <input type="checkbox"/> The elevation | <input type="checkbox"/> Too shallow |
| <input type="checkbox"/> Too small | <input type="checkbox"/> Subsurface |
| <input type="checkbox"/> Other, please specify _____ | |

Describe the items checked, giving dimensions where appropriate.

VARIANCE APPLICATION

2 of 3

How do the above site conditions prevent any reasonable use of the land under the terms of the zoning ordinance? _____

To the best of your knowledge, can you affirm that the hardship described above was not created by anyone having interest in the property after the zoning ordinance or applicable part thereof became law? ___ yes ___ no if "no" explain why the hardship should not be regarded as self-imposed (self-imposed hardships are not entitled to variations). _____

Are the conditions on your property the result of other man-made changes (such as the relocation of a road or highway)? _____

Which of the following type of modifications will allow you a reasonable use of your land?

- _____ change in setback requirement
- _____ change in side yard restriction
- _____ change in area requirement
- _____ change in lot coverage
- _____ change in off-street parking requirement
- _____ other, please explain _____

What variation is being requested? _____

Are the conditions or hardship for which you request a variation true only of your property?

___ yes ___ no

If not, how many other properties in your area are affected in the same way as yours? _____

Will the granting of the variation in the form requested be in harmony with the neighborhood and not contrary to the intent and purpose of the zoning ordinance? ___ yes ___ no

Please explain _____

VARIANCE APPLICATION CERTIFICATION & CONSENT STATEMENT

3 of 3

I (we) certify that all the above statements and the statements contained in any papers of plans submitted herewith are true to the best of my (our) knowledge and belief.

I (we) consent to the entry upon the premises described in this application by any authorized official of the City of Las Vegas for the purpose of posting, maintaining, and removing such notices as may be required by New Mexico law.

Property owner's signature

Date of application

FOR OFFICIAL USE ONLY
Received by: _____
DATE: _____
Receipt No.: _____

NOTICE:

Staff is available to answer questions. To avoid any confusion please refer to staff for clarification. This will aid you with the efficiency of your proposal application. Community Development Department 454-1401 ext 276.

ARTICLE IX

SECTION 12-9-4 of the Las Vegas Municipal Zoning Ordinance Amended To Read As Follows:

SECTION 12-9-4 FILING FEE FOR VARIANCE AND SPECIAL USE PERMIT. A fee of **one hundred and twenty five (\$125.00) dollars** shall be paid to the City of Las Vegas through the **Community Development Department** upon the filing of such application for a Variance or Special Use Permit as provided for this Ordinance. Said fee shall be for the purpose of defraying the expense of postage posting advertising, and other costs incidental to the proceedings prescribed herein. Payment of the filing fee shall not be construed in any way to be approval of the proposed Variance or Special Use Permit. No refund of any filing fee shall be granted if processing of the application has been started.

ARTICLE X

SECTION 12-10-3 (A) of the Las Vegas Municipal Ordinance amended to read as follows:

- (a) Whenever the owner of any land or building desires an amendment, supplement to, or change of the regulation prescribed for his property, that person shall file with the **Planning & Zoning Commission** an application therefore, verified by the owner, requesting such **recommendation of amendment, said application shall be submitted to the Community Development Department** in duplicate and shall be on forms prescribed and approved by the Planning Commission. **An application-filing fee shall be submitted for all zone change requests, such fees shall be determined by the application fee table below.** Said fee shall be payable to the City of Las Vegas through the **Community Development Department.** Payment of the filing fee shall not be construed in any way to be approval of the requested amendment. No refund of any filing fee shall be granted.