



Variance or Appeal of Zoning Decision

([Land Use Application](#) also required)

Public Hearing

Application Requirements

The city requires one (1) copy of all required drawings at a scale no smaller than 1" = 50', and no larger than 24"x36". Two (2) sets of 11"x17" are also required. **In order for an application to be considered complete, all required information must be submitted.**

Incomplete applications will not be accepted/processed in accordance with MN Statutes Chapter 15.99

Drawings shall be folded; rolled drawings will not be accepted.

City Ordinance Section [30-633](#)

Each of following applicable requirements (unless waived by staff) shall be submitted:

- [Land Use Application](#) form
- Application Fee
- Labels for Property Owners within 350 feet of the subject parcel obtained from the Sherburne County Public Works Office-GIS (See Page 5 of the [Land Use Application](#) Form)
- Site Plan showing all dimensions of proposed structure and proposed setbacks.
- For a variance:** A typewritten narrative explaining what the application is for, how it exceeds the requirements, and how all five criteria for a variance (see page 2) are met shall be submitted.
- For a zoning decision:** A typewritten narrative explaining why the applicant feels the zoning decision is in error.
- All submitted documents shall also be provided in a digital format (e.g. pdf, jpeg, doc, dwg) at a resolution of at least 300 dpi. *Flash drives, CD's, and email are acceptable.*
- All other information as determined by City Staff

A variance is not guaranteed with an application submittal. The Board of Adjustments will make a decision on the request at the regularly scheduled Planning Commission meeting. (See page 5 of the [Land Use Application](#) Form) If the Board of Adjustments denies the variance request, it will be automatically appealed to the City Council for a final decision. An appeal as specified in section [30-633](#) may be made by any person (appellant), including a city officer or employee, affected by an action of the land development staff. An appeal may be made only following the transmission of a written notice of appeal upon a form provided by the city which specifies the subject and grounds therefore. Such notice must be received by the director of planning within 60 days following the issuance of the order, requirement, decision or determination which is the subject of the appeal. Applying for a variance or appeal does not guarantee you will be granted a variance or appeal.

I understand if all of the required information is not submitted within 10 calendar days after my application has been submitted, my application will be returned incomplete and the next application deadline will be the following month.

Applicant Signature: _____ **Date:** _____

Print Name: _____

The narrative is your opportunity to describe, promote, and sell your proposal to the Board of Adjustment and City Council (if needed).

Your typewritten narrative should explain your request in detail AND how the **five bolded criteria** below are met in order to be granted a variance.

If the five criteria are not answered and submitted within 10 calendar days after the application has been submitted, the application will be returned incomplete and the next application deadline will be the following month.

- (a) A variance may be requested only by the owner of the property (petitioner) to which the variance would apply. A variance may not be granted which would allow the use of property in a manner not permitted within the applicable zoning district, provided that the board may grant a variance for the temporary use of a single-family dwelling as a two-family dwelling. In granting any variance, the board may prescribe conditions to ensure substantial compliance with this article and to protect adjacent property, including, without limitation, an expiration date. The violation of any written condition shall constitute a violation of the ordinance. No request for a variance may be resubmitted sooner than six months following denial. A variance shall become void within two years following issuance unless substantial action has been taken by the petitioner in reliance thereon.
- (b) A variance may be granted by the board only if it finds that:
 - (1) The variance is in harmony with the general purpose and intent of the ordinance.**
 - (2) The variance is consistent with the City of Elk River comprehensive plan.**
- (c) Variances may be granted when the petitioner establishes that there are practical difficulties in complying with the zoning ordinance. Practical difficulties means that:
 - (1) The petitioner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;**
 - (2) The plight of the petitioner is due to circumstances unique to the property not a consequence of the petition's own action or inaction; and**
 - (3) The variance, if granted, will not alter the essential character of the locality.**
- (d) Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.