

Town of Meeker

VARIANCE APPLICATION PACKET

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Dear Applicant:

The following material is intended to provide you with an overview of the variance process.

The Town of Meeker is divided into different zone districts that specify the types of land uses that can occur within them. Each district contains different regulations, restrictions, and prohibitions that serve particular needs and conveniences of the district. In order for a variance to be granted, your request must meet all variance conditions listed in the *Required Criteria* section (Step 1B), and the application must contain all items listed in the *Application and Fee* section (Step 1E) of this packet. Your decision to proceed should be based on your determination of whether or not the request can meet all conditions of the Code.

Variances for the type of use permitted on the property are not allowed, because this type of variance is equivalent to rezoning. Therefore, a property must conform to its zoning district's list of permitted or special-review uses before a variance application can be accepted. Zoning variance requests covering subjects other than use (e.g. setbacks, height of structure, and other items addressed within Title 18, Chapters 1, 2 and 6 of the Municipal Code) may be accepted for any zone district as long as all other conditions of the subject property are in conformance with the provisions of the Code. Information regarding the requirements of your zoning district is available at Town Hall, 345 Market Street.

This packet is designed to assist you in the decision-making process and to provide both the Planning Commission and me with the information necessary to make a determination concerning your variance request.

Thank you for your cooperation. If I can be of further assistance in this or any other matter, feel free to call at 878-5344.

Sincerely,

Anna Smith
Town Planner

Town of Meeker Community Development
THE VARIANCE PROCESS: A SUMMARY.

STEP 1: APPLYING FOR A VARIANCE.

- A. Pre-application Meeting.** The applicant discusses the proposed variance with the Planner (345 Market Street, 878-5344) and receives the necessary forms.
- B. Required Criteria.** A variance from the strict application of any zone district requirement, except for the type of use, may be granted by the Planning Commission; variance requests will not be accepted unless the uses to which they are tied are listed as either a permitted use or special review use in the property's zone district (see Sections 18.1.113-124 of the Municipal Code). **Granting of a variance requires demonstrable proof of an undue hardship or exceptional practical difficulty that is inherent to the property and is not self-induced. The burden of proof of the hardship or difficulty lies with the applicant.** According to Section 18.1.146 of the Municipal Code, the Commission may grant a variance if it finds:
1. that the variance granted is without substantial detriment to the public good and does not impair the intent and purposes of the Code, including the specific regulation in question and the adopted Comprehensive Plan, which guides the town's development;
 2. that there exists on the subject property exceptional topography, shape, or other extraordinary and exceptional situation — or a condition peculiar to the site, existing buildings or lot configuration — such that strict application of the zone district requirement would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the property owner;
 3. that the exceptional situation or condition was not induced by any action of the applicant and is not a general condition throughout the zone district;
 4. that the hardship noted above cannot practically be corrected except by a variance;
 5. that the variance granted is the minimum necessary to alleviate the hardship.

The Planning Commission considers each request on a case-by-case basis, and each request must stand alone on its own merits.

- C. Variances and Construction.** If part or the entire variance request is in conjunction with the construction of any structure needing a Town building permit, the permit will not be issued prior to the granting of the variance request. Once the zoning variance is granted, the Town Building Official may issue the building permit once he has ensured compliance with all other requirements for issuing the building permit.

- D. Conditions Existing on the Property.** A variance application will not be accepted if violations of the Meeker Municipal Code exist on the subject property at the time of submittal of the application. The conditions in violation of the Code may be subject to the penalties provided by any applicable provisions of the Code.
- E. Application and Fee.** The applicant completes the Town's application form and returns it to the Planner, along with any other required materials at least fifteen (15) days prior to the Commission meeting. The application must be accompanied by:
1. **Proof of ownership of the land** for which the application is made. Acceptable documents include the following: deed of trust, quit-claim deed, warranty deed, or title policy;
 2. **A site plan** drawn to scale depicting the location and boundaries of the lot and structures, both existing and as proposed;
 3. **A variance fee of \$70.00** as designated by Town Resolution 2, Series 2007. The application fee is not refunded if the application is denied by the Town Planning Commission or withdrawn by the applicant.
- F. Processing by Staff and Acceptance by the Planning Commission.** The Planner reviews the completed and accepted variance application with any appropriate Town staff and other agencies, schedules a public hearing and provides a report to the Planning Commission.

The Planning Commission considers the application at the public hearing. **The applicant or a representative must be present at the public hearing to present the request and answer any questions.**

Town staff's report will contain recommendations based on an analysis of the request as it conforms to the provisions of the Municipal Code, based on the following:

1. If the variance requests relief from a Code requirement that effectively prohibits or unreasonably restricts the use of the property, or creates a clearly demonstrable hardship (i.e. approaching confiscation), it will usually receive a favorable recommendation. *Examples: Setback regulations that would render a single, odd-shaped piece of property unbuildable; or where a lessening of the required front-yard setback would remove the necessity of building an excessively steep, inaccessible driveway that may cause drainage problems.*

Public comment relevant to the types of requests described in (1) is considered in the Staff presentation of a final recommendation to the Planning Commission.

2. A variance request generally will not receive a favorable recommendation from Staff if it is determined that a favorable recommendation would grant a special privilege

or mere convenience. *Example: A property owner decides to build a new home as far from the street as possible and requests a variance from the rear-yard setback solely for this purpose; this would be considered a request for a special privilege.* As a general rule, if the desired construction can somehow take place on the property within the framework of the Code requirements — even if it's not exactly as the applicant has requested — the application will not receive a favorable recommendation.

Public comment relevant to the type of requests described in (2) generally cannot, in and of itself, serve as a basis for Staff recommendations, because these types of requests must meet the Code's stated purposes of a variance.

- G. Advertising and Notification.** The Town advertises the public hearing in a local newspaper at least once prior to the hearing. Ten (10) days prior to the date of the public hearing, the Town provides written notice of the subject and date of the hearing to all adjacent property owners. The Town also posts a notice on the site continuously for at least ten (10) days prior to the hearing.

STEP 2: PUBLIC HEARING OF A VARIANCE APPLICATION.

- A. Public Hearing Process.** The application will be heard at a public hearing held by the Planning Commission. Before the Planning Commission conducts a public hearing, the proposal is to be reviewed on site by all members of the Commission. They may be accompanied by the Town Planner. They may make written recommendations to the full Planning Commission at the hearing regarding compliance of the proposal with the conditions for a variance and with the Town's adopted Comprehensive Plan. At the hearing, the applicant provides testimony supporting the written request and responds to any questions. This presentation should include the location of the request, the nature of the request, and the condition on the property that is causing the need for the variance. The presentation should be as thorough as possible; the applicant should assume no one knows anything about the property or the request. If the variance request presented at the initial meeting or at the public hearing differs substantially from the written application, the applicant must resubmit the written application. The Commission will take no further action until the application is complete and consistent with verbal testimony. After the applicant's presentation, Town staff then presents its recommendations, and the public is provided an opportunity to comment on the request. Following the conclusion of the public hearing, the Commission may either:
1. Grant the zoning variance upon finding that the application complies with the conditions in Step 1, Section B of this packet. In granting the variance, the Commission may impose any conditions it deems necessary to protect the public health, safety, and general welfare, or to ensure compliance with the Meeker Municipal Code and the Comprehensive Plan; or
 2. Deny the zoning variance, stating the specific reasons for denial.

B. Basis for Granting a Variance. The Commission's decision will be based on whether the written application and supportive testimony given at the public hearing fulfill the required criteria covered in Step 1, Section B of this packet. Again, these criteria include:

1. that the variance granted is without substantial detriment to the public good and does not impair the intent and purposes of the Code, including the specific regulation in question and the adopted Comprehensive Plan, which guides the town's development;
2. that there exists on the subject property exceptional topography, shape, or other extraordinary and exceptional situation — or a condition peculiar to the site, existing buildings or lot configuration — such that strict application of the zone district requirement would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the property owner;
3. that the exceptional situation or condition was not induced by any action of the applicant and is not a general condition throughout the zone district;
4. that the hardship noted above cannot practically be corrected except by a variance;
5. that the variance granted is the minimum necessary to alleviate the hardship.

C. Appeal. Any person aggrieved by the Planning Commission's decision may file an appeal to the Board of Trustees within ten (10) calendar days of the Commission's decision, pursuant to the procedures set forth in Section 18.1.151 of the Municipal Code. The Board's decision is considered final.

D. Decision Letter. The applicant is notified in writing of the final decision within two working days of the date of the decision.

STEP 3: WHEN A VARIANCE REQUEST IS APPROVED.

A. What happens after a variance is granted? Any and all variances granted take effect immediately following expiration of the appeal period (see paragraph C in Step 2) provided no appeal is filed. In the event of an appeal, the Board of Trustees action shall be controlling and the variance, if approved, shall take effect on the next business day following the decision. The grantee has twelve months from the date of the approval to make use of the variance. After the 12-month period, the variance terminates and becomes void, unless:

1. The applicant has obtained the necessary building permits from the Town within the 12-month period and commences on-site construction within the time provided in the Uniform Building Code; or

2. If the applicant is not required to obtain a building permit from the Town, the granted variance must be used within the 12-month period.

B. Expiration of a Variance. As noted above, the variance expires after 12 months if it is not used. The applicant will be notified of a pending expiration if the variance has not been used and will be notified that a request for a one-year extension must be submitted to the Planning Commission. The Commission is allowed to grant only one such extension, and the grantee is required to show good cause for granting the extension.

If you still have questions, please call the Planning Department at 878-5344.

TOWN OF MEEKER
APPLICATION FOR VARIANCE

FOR TOWN USE ONLY

DATE RECEIVED: _____ RECEIVED BY: _____

AMOUNT OF APPLICATION FEE: \$70.00

APPLICATION ACCEPTED BY: _____ DATE _____

Please answer the following questions as completely as possible. Staff will use this information to evaluate the proposed variance. Additional information may be provided on a separate sheet.

PROPERTY OWNER	MAILING ADDRESS	TELEPHONE
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APPLICANT (if other than owner)	MAILING ADDRESS	TELEPHONE
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LOCATION OF PROPERTY FOR WHICH VARIANCE IS DESIRED:

STREET ADDRESS	LOT(S)	BLOCK
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CURRENT ZONING OF PROPERTY: _____

VARIANCE REQUESTED:

ESTIMATED CONSTRUCTION DATES:

Start: _____ Completion: _____

IS A BUILDING PERMIT NECESSARY FOR THE ANTICIPATED CONSTRUCTION?

YES ___ NO ___ IF NO, EXPLAIN:

ARE THERE EXISTING USES ON THE SITE? YES ___ NO

IF YES, DESCRIBE THEM:

DESCRIBE THE EFFECTS, IF ANY, OF THE PROPOSED VARIANCE ON ADJACENT PROPERTIES:

EXPLAIN THE UNDUE HARDSHIP OR EXCEPTIONAL PRACTICAL DIFFICULTY IMPOSED ON YOUR PROPERTY AND WHY THE PROPOSED CONSTRUCTION CANNOT TAKE PLACE WITHIN THE FRAMEWORK OF THE STATED CODE REQUIREMENTS. BRIEFLY NOTE HOW TOPOGRAPHY, SHAPE OF THE PROPERTY, EXISTING BUILDINGS, OR OTHER EXTRAORDINARY OR EXCEPTIONAL PRACTICAL DIFFICULTY HAVE CAUSED THIS HARDSHIP:

DESCRIBE THE OVERALL TOPOGRAPHY OF THE SUBJECT PROPERTY, MAKING NOTE OF ANY SLOPES PRESENT ON THE PROPERTY. NOTE ANY UNUSUAL FEATURES, ESPECIALLY IN THE AREA OF THE VARIANCE REQUEST, AND THEIR CAUSE, EITHER NATURALLY OCCURRING OR MAN-MADE:

DESCRIBE ANY NATURAL DRAINAGE WAYS ON THE SUBJECT PROPERTY:

HOW WILL EXISTING UTILITY SERVICE OR UTILITY EASEMENTS ON THE SUBJECT PROPERTY BE AFFECTED?

PLEASE ATTACH THE FOLLOWING:

1. Proof of ownership of the land for which the application is made. Acceptable documents include one of the following: Warranty Deed, Quit-Claim Deed, Deed of Trust, or Title Policy.
2. A site plan drawn to scale depicting the location and boundaries of the existing and proposed lot and structures, as applicable.
3. Payment of \$70.00 variance fee

I (We), the undersigned, acknowledge that all the facts in this application are true to the best of my (our) knowledge.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF CO-APPLICANT

DATE

SIGNATURE OF OWNER
(IF OTHER THAN APPLICANT)

DATE

=====

THIS APPLICATION MUST BE SUBMITTED TO THE PLANNER NO LESS THAN (15) DAYS PRIOR TO THE NEXT PLANNING COMMISSION MEETING AT WHICH IT WILL BE REVIEWED. THE APPLICANT OR A REPRESENTATIVE MUST BE PRESENT AT THE PUBLIC HEARING.

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APPLICANT: _____

LOCATION OF PROPERTY FOR WHICH VARIANCE IS DESIRED:

STREET ADDRESS _____ BLOCK _____ LOT(S) _____

VARIANCE REQUESTED:

REVIWED ON SITE BY (LIST COMMISSION MEMBERS)

NAME	DATE
_____	_____
_____	_____
_____	_____
_____	_____

INITIAL REVIEW (DATE) _____ PUBLIC HEARING (DATE) _____

PLANNING COMMISSION DECISION: APPROVE _____ DENY _____

DATE: _____

REASONS FOR DECISION:

CONDITIONS, IF ANY:

WRITTEN NOTIFICATION SENT: _____ VARIANCE EXPIRES: _____

PLANNING COMMISSION CHAIRMAN

PLANNING COMMISSION SECRETARY

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EXTENSION OF VARIANCE TIME LIMIT:

REQUESTED BY: _____

REQUESTED EXTENSION: _____

MEETING DATE: _____

EXTENSION GRANTED? YES _____ NO _____

IF YES, GIVE EXTENSION DATE AND REASON:

PLANNING COMMISSION CHAIRMAN

DATE

PLANNING COMMISSION SECRETARY

DATE