



Citizens Guide to Variances

Board of Adjustments and Appeals City of Greenwood Village

This guide discusses the purpose, application requirements, review criteria, and process for a variance.

What is a variance?

A variance is a deviation from the City's development regulations. A variance can be requested when a proposed residential project does not comply with zoning regulations of the Land Development Code (LDC). If a building permit does not comply with regulations, the homeowner may either revise the project to bring it into compliance or apply for a variance for review by the Board of Adjustments and Appeals (BOAA).

Who reviews a variance?

Planning staff will review the application and serve as the case manager. The BOAA, a citizen board that is appointed by the City Council, reviews all variance requests in a public hearing and renders a decision. The BOAA is granted authority by the Greenwood Village Charter and Municipal Code (Charter Section 10.02 and Municipal Code Chapter 2, Article 12), in accordance with Colorado State Law.

What is the process for a variance?

Step ONE: Pre-application Meeting

- Meet with Planning staff to discuss the variance request. Bring a drawing of the site with the proposed project design. The discussion will include the applicable zoning regulations and the nature of the request.

Step TWO: Alternative Design

- Explore design alternatives with Planning staff. In the evaluation of alternative designs, applicants should consider the variance review criteria established in the Land Development Code (see page 3 of this guide).
- If the alternative design process does not yield a plan that conforms to regulations, the homeowner will have the choice to proceed with the variance application.

Step THREE: Submit Application

- Requires a hard copy and digital copy of the following information:
 - Complete notarized application form
 - \$50 application fee
 - Proof of ownership
 - Letter of description and justification

- Alternative design
- Site plan
- Land survey
- Elevation drawings and floor plans (if applicable)
- Neighborhood input is encouraged. Letters of support on behalf of neighboring properties are appropriate.
- The hearing will be scheduled once the application is reviewed and deemed complete (generally 30 days after the application is submitted).

Step FOUR: Noticing Requirements - Mailed Notice and Sign Posting

- Mailed Notice - Applicant must mail a notice of the public hearing to adjacent property owners and the Homeowners Association of record for the property if applicable (LDC Sec. 16-2-580). Staff will provide an address list based on Arapahoe County records. The letter should be reviewed by staff prior to mailing. The notice is to be sent by the applicant via First Class mail a minimum of 15 days prior to the scheduled hearing date. The Affidavit of Mailing must be submitted to staff prior to the BOAA hearing.
- Posted Notice - A sign will be provided to the applicant by the City to notify the public of the date and time of the hearing. The sign must be posted on the property facing the public street(s) and public open space (if adjacent) a minimum of 15 days prior to the hearing. The Affidavit of Posting and a photo of the sign must be submitted to staff prior to the BOAA hearing. Please return the sign to the City after the hearing.

Step FIVE: Marking or staking the property with the location of the Variance request(s).

- BOAA members will visit the site a week before the hearing. This helps to gain a full understanding of the request, the site and the neighborhood.
- If applicable, please mark the location of the proposed variance and encroachment. Suggested material includes: stakes, flagging tape, spray paint, or similar markings. This illustrates the proposed footprint of the structure or fence that is the subject of the variance request.
- By completing and signing the variance application, the applicant authorizes BOAA members to visit the site at an undisclosed time prior to the hearing. Please do not communicate with BOAA members regarding the case. The BOAA is instructed not to communicate with the applicant or the residents in the area prior to the public hearing in order to ensure a fair hearing.

Step SIX: Public Hearing and BOAA Decision

- Staff will present the case to the BOAA. This includes the findings based on the review criteria established in the Land Development Code (Section 16-2-120) and a recommendation to approve or deny the request(s).
- The applicant or representative are given an opportunity to present. Visual aids are preferred. BOAA members will ask the applicant questions about the proposal.
- Public hearings are open for comment. Neighbors and the general public are encouraged to attend.
- The BOAA will deliberate and render a decision at the public hearing.

What are the criteria for a variance?

The Land Development Code establishes criteria for reviewing a variance (LDC Section 16-2-120). The applicant is responsible for demonstrating that the variance meets the review criteria. Staff will make findings on the criteria and a recommendation to approve or deny the request(s) based on the findings. The BOAA will apply the same criteria to approve or deny an application.

The variance request(s) must meet ALL of the criteria listed in Section A, and at least ONE of the criteria listed in Section B.

In order for a variance to be granted, the request must meet ALL of the following four criteria:	AND	At least ONE of the following three criteria:
<p>Section A</p> <p>(1) The variance will not constitute a grant of special privilege inconsistent with the limitations upon similar properties or buildings in the vicinity and in the same zone district; AND</p> <p>(2) The variance will be in harmony with and not alter or weaken the spirit and purpose or essential character of the zoning for the zone district in which the property is located; AND</p> <p>(3) The variance will not substantially or permanently injure the appropriate use of adjacent property in the same zone district; AND</p> <p>(4) The variance will not be detrimental to the public health, safety or welfare.</p>		<p>Section B</p> <p>(1) The existence of special conditions or circumstances, such as size, shape, location, topography or surroundings of the land, structure or building involved, which deprive the applicant of privileges enjoyed by owners of other properties in the vicinity or in the same zone district; OR</p> <p>(2) The variance is necessary and appropriate to make possible the reasonable use of the land or the structures on the property; OR</p> <p>(3) The variance will ameliorate a difficulty which did not result from the acts or omissions of the applicant.</p>

What are the possible outcomes of a variance hearing?

Approval: If the variance request(s) is approved, the applicant/homeowner may apply for building permit(s). The applicant will have one year in which to complete the modifications subject to the variance or a modified time period as approved by the BOAA. The applicant may request an extension.

Denial: If the variance request is denied, the improvements cannot proceed. The applicant cannot apply for another variance that is substantially similar for a period of one year.

Continuance: The applicant can request a continuance to provide the opportunity to modify the design. The motion for a continuance would establish a date for the case to come back before the BOAA. The applicant would be given the opportunity to modify the design.

Withdrawal: The applicant can withdraw the application at the hearing if it is evident that the Board cannot support the request in its current configuration. Should the applicant proceed with a different design, then a new application is required.

Contact Information:

To discuss a variance, please contact the Planning Staff in the Greenwood Village Community Development Department to set up a meeting.

**Community Development Department
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