

**TOWN OF SARATOGA  
ORDINANCE NO. 889  
AN ORDINANCE AMENDING TITLE 18, CHAPTER 18.72, OF THE SARATOGA  
MUNICIPAL CODE TO ESTABLISH CLEAR VARIANCE STANDARDS, APPLICATION  
PROCEDURES, AND CRITERIA FOR APPROVAL; TO PROVIDE GUIDANCE TO  
APPLICANTS AND THE PLANNING COMMISSION; AND TO PROVIDE AN  
EFFECTIVE DATE.**

**WHEREAS**, the Town Council and Mayor of the Town of Saratoga find it necessary to clarify and improve the variance process to ensure fair application of zoning standards;

**WHEREAS**, variances are intended to address unique and extraordinary circumstances where enforcement of zoning requirements would cause unnecessary hardship and deprive a property owner of reasonable use of land;

**WHEREAS**, variances are not intended to allow uses prohibited by zoning, nor to serve as a convenience or to remedy self-imposed conditions;

**WHEREAS**, the Planning Commission has reviewed this ordinance, held a public hearing, and recommended adoption.

**NOW THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Saratoga, Carbon County, Wyoming:**

**SECTION 1:** That Title 18, Chapter 18.72, of the Saratoga Municipal Code shall be amended and replaced in its entirety to read as follows:

**§ 18.72.010. Variances**

1. What a Variance Is — A variance is a limited, case-specific adjustment from dimensional requirements of The Town of Saratoga Zoning Ordinance. (Saratoga Town Code Title 18) . Examples of dimensional requirements include setbacks, lot coverage, building height, yard definitions, frontage orientation etc. A variance is an approved deviation from these requirements in order to relieve an applicant from unnecessary hardship arising from special conditions peculiar to the property and not the result of the applicant’s actions. An approved variance must only be the minimum adjustment necessary; alternatives must be evaluated. The variance must also be in harmony with the Saratoga Zoning Ordinance as a whole and not injurious to neighboring property or the public welfare. A variance is not merely a mechanism that allows for personal preference. The criteria for approval are intentionally difficult to meet, in order to uphold consistent, fair, reasonable zoning regulations. Statutory findings and local criteria must be satisfied and supported by written findings of fact in order for approval. Burden of proof is on the applicant. To understand what criteria are used to determine if a variance application may be approved see section “§ 18.72.030. Approval Criteria.”

Examples in which a variance MAY apply:

- a) To allow the rebuilding of a non-conforming home after a house fire, granting a reduced setback, building on the same footprint.
- b) Reducing a front yard setback to allow the construction of a covered handicap accessible porch and access ramp.
- c) Allowing a decreased side yard setback to allow for the construction of a supporting member of a structure in order that the exterior wall of a pre-existing home will not collapse.
- d) Allowing increased lot coverage for a preexisting not conforming oddly shaped lot that would otherwise be unbuildable for the prime uses of the zoning district.

2. What a Variance Is NOT- though the following list is not all encompassing it provides guidance and examples of what a variance isn’t and what it does not and shall not allow:

- a) It is not based solely on personal preference or cost when reasonable, conforming alternatives exist.

- b) It does not cure self-created conditions (e.g., building without permits, ignoring property lines, knowingly designing to noncompliance).
- c) It does not waive procedures, definitions, or conditions imposed by another decision.
- d) It is not a rezoning, text amendment, or subdivision waiver.
- e) It does not authorize a land use not otherwise permitted (no use variances).
- f) It does not alter subdivision regulations.
- g) It does not change the development review process or code definitions.
- h) It does not waive conditions imposed by the Planning Commission, Town Council, or other reviewing authority.

**§ 18.72.020. Application Procedures:**

The following procedures are designed to assist commissioners, staff and applicants to understand the application process, what is expected and to better define how determinations are made. These steps are laid out chronologically.

1. Pre-Application Consultation – Applicants are required to meet with planning staff prior to filing.
2. Application Filing – Application must be filed with the Zoning Officer 45 days prior to a regular scheduled Planning Commission meeting. Applications are forms provided by the Zoning Officer and filled out by the applicant. Items in the application include:
  - a. Completed variance application form and fee.
  - b. Site plan drawn to scale showing existing and proposed structures, setbacks, easements, lot dimensions, property line locations, building heights, photographs and any other information deemed pertinent by the Zoning Officer. Surveys may be required to verify an application's accuracy. All costs associated with the application and its verification shall be borne by the applicant. Applications that are incomplete or inaccurate may be denied by the Town Council.
  - c. Written responses to all variance approval criteria in section 18.72.030; including the specific dimensional zoning requirement being asked for relief. i.e. setback, building height, lot coverage. The variance must be specifically identified. A detailed description of the hardship is a required aspect of the application.
3. Public Notice – A public hearing shall be held on each application by the Planning Commission. Proper notification of this hearing shall be executed by the Zoning Officer. Each notice shall contain the date, time, and place of hearing as well as the purpose of variance. The following notice(s) shall be completed:
  - a. Two notices published in the newspaper of record (15 days prior to the hearing).
  - b. Certified letters sent by Zoning Officer to all adjacent property owners within a 300-foot radius of the property where the variance is being proposed. ( Sent 15 days prior to the hearing).
  - c. Notice posted on the proposed site of the variance a minimum of 2 foot by 3 feet in size. (Placed at least 15 days prior to the hearing).
4. Public Hearing – The Planning Commission shall hear testimony from the applicant, staff, and public. Written testimony must be received within 7 days of the public hearing.
5. Preliminary Decision (Planning Commission Recommendation)–The Planning Commission shall issue written findings and conclusions of law, and make a recommendation to the Town Council on approval or denial. The Planning Commission will consider all information and review the criteria in 18.72.030. While all criteria are required to be evaluated, there are certain components that must be clearly identified and clearly articulated in order for a variance to be considered for approval. The recommendation to Town Council shall be made within 75 days of the submitted date of the application. This written determination from the Planning Commission is then delivered to the Town Council for a final determination. The Planning Commission may make a determination at the same meeting as the public hearing, but applications that are controversial are encouraged to be tabled until a later or possible special meeting.

- a. The Planning Commission must be able to determine that the applicant is not merely asking for a personal preference or a convenience. Variances are only considered if a true hardship can be identified.
- b. The Planning Commission must be able to conclude the hardship was not created by the applicant.
- c. The Planning Commission must be able to conclude that the variance requested is the minimum required relief. They must consider alternatives and why the alternatives are not viable solutions.
- d. The Commission must be able to prove that the variance is a dimensional relief and not allowing a use, or placement of a building in a location where it is not allowed by the zoning ordinance.

6. Final Decision-The Town Council shall make a determination on all applications within 120 days of filing the application. Prior to its determination the Town Council may, in the best interest of the public, hold an additional public hearing on the application (Publication requirements in section 18.72.020.3 are required). Concluding findings shall be formally adopted with the Town Council's decision. The Town Council is responsible to determine if the application can be validated based on the approval criteria listed in 18.72.030.

- a. The Town Council must be able to determine that the applicant is not merely asking for a personal preference or a convenience. Variances are only considered if a true hardship can be identified.
- b. The Town Council must be able to conclude the hardship was not the created by the applicant.
- c. The Town Council must be able to conclude that the variance requested is the minimum required relief. They must consider alternatives and why the alternatives are not viable solutions.
- d. The Town Council must be able to identify that the variance is a dimensional relief and not allowing a use, or placement of a building in a location where it is not allowed by the zoning ordinance.
- e. If more information is required to make a determination on the application, it is the responsibility of the applicant to acquire this information prior to the expiration of the 120 day timeline as described above.

7. Publication of Record and Appeal-The Town Council shall publish their determination in the newspaper. The date of publication shall begin a 30-day appeal period in which anyone may appeal the decision of the Town Council. The appeal shall be submitted in writing to the Town Council on a form provided by the Zoning Officer. The Town Council shall hold a hearing on the appeal. A time and date of the appellate hearing shall be held as soon as reasonably practicable. A notice of the hearing shall be published 15 days prior to the hearing. The Town Council shall make a determination on the appeal within 30 days of the hearing. The decision of the Town Council may be reviewed by the District Court and by the Wyoming Supreme Court upon an appeal thereto as provided in W.S. 1977, § 15-1-707

**§ 18.72.030. Approval Criteria:**

In order to determine whether or not an application can be considered for an approval it must comply with several criteria. These criteria are listed in this section (18.72.030). and are used to evaluate an application. This evaluation is used to ensure that the variance is providing relief from unnecessary hardship, the hardship was not self-inflicted, the variance is the minimum relief required to mitigate the hardship and there will be no damage to adjacent properties. Examples are listed with the criteria to help provide guidance to the Planning Commission on the purpose of the criteria. Also provided are examples of what type of proposed variances that MAY or MAY NOT satisfy the criteria. As reiterated throughout this section, there are crucial components that must be identified and clearly articulated in order for a variance to be approved. The Planning Commission may recommend, and the Town Council grant a variance, only if the listed criteria can be satisfied. The evaluation must begin with the Planning Commission's ability to identify the hardship of the applicant. If that is possible, the Planning Commission should continue through its evaluation of the application against the criteria. The need to satisfy these requirements including proper findings are held up by Wyoming Courts. See **Juroszek v. City of Sheridan Bd. of Adjustment** (Wyo. 1997), **Ebzery v. City of Sheridan Bd. of Adjustment** (Wyo. 1999), **Sorensen & Twiss v. Halling & Town of Afton** (Wyo. 2025).

The referenced criteria are listed below:

- I. Hardship: Literal enforcement of zoning would deprive the owner of reasonable use due to extraordinary physical conditions of the property (such as shape, slope, or topography) that are not common to other properties in the district. "Reasonable use" should be interpreted to mean that the property can be put to at least one basic primary use allowed within the zoning district where it is located. Reasonable use is not based on an owner's personal preferences if those preferences are not permitted by the zoning ordinance. The availability of reasonable use is evaluated objectively, including whether a different owner, with different preferences and a compliant proposal, could make practical use of the property while remaining compliant with the Saratoga Zoning Ordinance (Saratoga Town Code Title 18). As stated in this procedure this is a crucial criterion. The Planning Commission must be able to identify a hardship.

*Examples of acceptable findings that MAY satisfy the criteria:*

- a. Oddly Shaped Lot: A parcel that is unusually narrow, irregular, or has multiple angles such that standard setbacks cannot reasonably be applied without eliminating a buildable area. This does not mean that an applicant should be granted a variance so they can do as they please on this particular lot. A non-qualifying example would be buying an oddly shaped lot building a house and then coming and asking for a variance for an accessory building. These will be rare when bare lots are involved, reasonable use must be carefully contemplated and be used alongside the rest of the criteria.
- b. Steep Slopes: A lot where a significant portion of the land has a grade in excess of 20% slope (rise of 20 feet or more over 100 feet of horizontal distance), or where natural topography such as ravines, bluffs, or hillsides prevents reasonable placement of structures in compliance with setbacks.
- c. Floodplain, Drainage, or Wetland Areas: Lots encumbered by mapped flood hazard zones, drainageways, or wetlands. The age of the maps should be taken into consideration when determining if this is valid for the criteria.
- d. A house or structure built legally under older zoning rules that now creates a nonconforming condition;
- e. A lot subdivided or platted decades ago that does not meet modern code;
- f. Historic or Legal Nonconforming Parcels: A lot legally created prior to current zoning requirements, where dimensions are insufficient to meet dimensional requirements. A variance should not be used to create more dense development where non-conforming lots could be combined. i.e. an individual wants a setback reduction on two adjacent non-conforming lots to build two homes to increase profitability, when combining the lots and building a single conforming home is possible.
- g. Utility or Access Easements: Easements that restrict the usable portion of the lot.
- h. Nonconforming Structure Destroyed by Natural Disaster: A legally established structure that was involuntarily destroyed (such as by fire or natural disaster), where rebuilding within current dimensional standards is impractical. Such circumstances are recognized as undue hardship not caused by the applicant.

*Examples of acceptable findings that MAY NOT satisfy the criteria:*

- a. Personal preference for larger buildings or additional square footage; Seeking a larger structure or otherwise meeting personal preferences on property that does not have a physical constraint or established nonconforming setback.
- b. Purely financial hardship (e.g., cost to comply);
- c. Self-created conditions, such as building without permits or failing to verify property boundaries.
- d. Self-Created – The hardship was created by the applicant.
- e. Not accurately locating property lines prior to construction, thereby building the structure in violation of setbacks.
- f. Purchasing a lot without researching the zoning requirements first (failure to perform due diligence).
- g. Claiming that construction will cost more to bring the property into compliance with the Town's Zoning Requirements (Saratoga Zoning Ordinance Title 18).

2. Minimum Relief Necessary – The variance requested is the least modification possible to afford reasonable use of the property. Relief granted must be the minimum adjustment that accomplishes the purpose; the Planning Commission shall note feasible narrower alternatives considered and rejected. This is a crucial criterion. The purpose of the variance is to provide reasonable use and mitigate the hardship. It must be determined that there is a hardship and that the variance requested is only the minimum required to provide reasonable use and hardship relief. i.e.

*Examples of acceptable findings that MAY satisfy the criteria:*

- a. Reducing a setback by only a few feet to allow construction of a standard-sized home;
- b. Slightly adjusting building height to accommodate floodplain foundation requirements.
- c. An applicant needs a variance to install a garage so they can get in and out of their handicap accessible van easier in poor weather. Minimum relief would be an adequate setback reduction to install a one car useable garage not a setback relief to install an oversized 2 car garage that would serve more than the intended purpose.

*Examples of acceptable findings that MAY NOT satisfy the criteria:*

- a. Major setback reductions where a smaller one would suffice;
- b. Requests for maximum lot coverage far beyond what is typical for the district.
- c. Large setback reductions for building additions on conforming homes that are consistent in size with the neighborhood.

3. Permitted Uses Maintained – The variance does not authorize a use other than those allowed in the zoning district.

*Examples of acceptable findings that MAY satisfy the criteria:*

- a. Accessibility-driven stoop/ramp encroachment. A minimal setback reduction for a building code-compliant entrance ramp serving a permitted dwelling; no change of use. ADA compliance.
- b. Single family home where dwellings are permitted.
- c. Through-lot frontage clarification. Recognizing the functional “front” on the block-pattern side to maintain consistent setbacks; no change of use results.
- d. FEMA freeboard height relief (residential). A +2' height variance strictly to meet BFE + freeboard; no change in use and no additional story or unit is introduced.
- e. Garage placement adjustment (residential). A minor side-yard reduction to attach a garage to the principal home where lot shape limits feasible locations; the use remains accessory to a permitted dwelling.

*Examples of acceptable findings that MAY NOT satisfy the criteria:*

- a. Converting a detached garage into a separate dwelling unit where the district prohibits ADUs (use variance).
- b. Event venue in a residential district (use variance).
- c. Home-based auto repair shop open to the public in a residential district (use variance).
- d. Short-term rental / lodging where not permitted in the underlying district (use variance).
- e. Second detached dwelling in a single-family district that does not allow two principal units (use variance).

4. No Injury to Adjacent Property – The variance will not injure adjoining conforming properties.

*Examples of acceptable findings that MAY satisfy the criteria:*

- a. Reduced setback where the structure is screened and does not affect neighboring use or value.
- b. Variance aligning with existing neighboring structures, preserving consistency.

*Examples of acceptable findings that MAY NOT satisfy the criteria:*

- a. Blocking sunlight, access, or drainage for a neighbor.
- b. Increasing traffic, noise, or density inconsistent with the neighborhood.
- c. Decreasing EMS, Police, or Fire Service access.
- d. Increasing damage risk to adjacent property, i.e. fire safety

5. District Character Preserved – The variance will not alter the essential character of the zoning district.

*Examples of acceptable findings that MAY satisfy the criteria:*

- a. A garage placement that matches the neighborhood pattern.
- b. A minor height adjustment consistent with nearby homes.

*Examples of acceptable findings that MAY NOT satisfy the criteria:*

- a. A structure dominating the streetscape or appearing out of scale.
- b. Features inconsistent with residential use, such as excessive parking or lighting.
- c. Placement of structures in locations not allowed by code.

6. No Undue Advantage – The variance will not result in extraordinary gain in use, service, or income compared with nearby conforming properties.

*Examples of acceptable findings that MAY satisfy the criteria:*

- a. A garage placement that matches the neighborhood pattern;
- b. A minor height adjustment consistent with nearby homes.

*Examples of acceptable findings that MAY NOT satisfy the criteria:*

- a. Oversized signage or extra parking capacity beyond what's typical or allowed (use/service advantage).
- b. Setback cut to enable a materially wider house than typical on the block when smaller, feasible layouts exist (program/size advantage).
- c. Lot-coverage jump to build a large accessory building used for commercial operations or storage exceeding residential scale (service/income advantage).
- d. Height increase to add an extra story or a roof deck to capture premium views (superior amenity and income potential beyond neighbors).
- e. Front setback to 5' primarily to fit a triple-bay garage or oversized façade dominating the block (marketability/size advantage beyond neighborhood norms).

7. Consistency with Public Welfare – The variance is in harmony with the purposes of this Code and will not adversely affect public health, safety, or welfare.

*Examples of acceptable findings that MAY satisfy the criteria:*

- a. Flood-safety enhanced. A height variance strictly to achieve foundation height for a building to be in compliance with flood plain regulations, improving resilience and public safety.
- b. Access and circulation safety. A footprint shift that meets driveway spacing, keeps sidewalks passable, and maintains emergency access widths.
- c. Fire/life-safety maintained. A side-yard reduction with 1-hour fire-rated construction, no openings within required distance, and compliant eave/fascia details.
- d. Drainage and easements protected. A setback adjustment with an engineer-stamped drainage plan that maintains pre-/post-runoff, avoids icing, and does not encroach into recorded utility/drainage easements.
- e. Sight-triangle preserved. A minor front-yard encroachment that does not intrude into required sight triangles at intersections/driveways (documented on the site plan).

*Examples of acceptable findings that MAY NOT satisfy the criteria:*

- a. Noise/lighting intensification (e.g., wall-mounted lights and equipment placed closer to neighbors without mitigation) incompatible with the residential setting.
- b. Blocking emergency access (e.g., narrowing a required fire lane or obstructing hydrant access).
- c. Variance that redirects runoff onto adjacent parcels or public sidewalks, causing icing or flooding.
- d. Building or paving over a recorded utility/drainage easement, risking service disruption or flooding.
- e. Corner-lot setback reduction that encroaches into the clear sight triangle, impairing visibility for drivers/pedestrians.

**§ 18.72.040. Variances recorded**

All variances approved and the findings of facts adopted shall be recorded at the office of the Carbon County Clerk upon the closing of the appeal period.

**§ 18.72.050. Variances non-conforming**

Every variance approved by the Saratoga Town Council shall be considered a non-conforming use and dealt with as determined by the Saratoga Town Code. See Town Code section 18.66.

**SECTION 2: Severability**

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, or its application to any person or circumstances is held invalid, the remaining portion of this Ordinance shall remain in full force and effect, and the application of the provision to other persons or circumstances shall not be affected.

**SECTION 3: Methodology**

For purposes of clarifying the amending procedures all code sections are listed in full in the above sections. This ordinance is intended to replace Chapter 18.72 in full.

**SECTION 4: Effective Date**

This ordinance shall take effect upon passage, approval, and publication as required by law.

PASSED ON FIRST READING this \_\_\_ day of \_\_\_\_\_, 2026.

PASSED ON SECOND READING this \_\_\_ day of \_\_\_\_\_, 2026.

PASSED AND ADOPTED ON THIRD READING this \_\_\_ day of \_\_\_\_\_, 2026.

ATTEST:

\_\_\_\_\_

Town Clerk

APPROVED:

\_\_\_\_\_

Mayor