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City of Avon Variance Process

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Variance Process Overview

The Zoning Ordinance contains many dimensional requirements (i.e., lot line, road, highway, and navigable water setbacks, minimum parcel size requirements etc) together with numerous other restrictions. Due to unique property circumstances, it may not be possible for these requirements to be met in all cases. The purpose of the Variance Application is to allow relief from the provisions **(dimensional requirements only)** of the Zoning Ordinance in these situations. The Planning Commission is the body that reviews applications and makes recommendation to the Avon City Council.

To qualify for a variance, the applicant must demonstrate that their property meets each of the following three requirements, commonly referred to as the "**Three-Step Test**".

Unique property limitations

- Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements.
- The circumstances of the applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances.

- Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.

No harm to public interests - A variance may not be granted which results in harm to public interests. These interests may include:

- Public health, safety and welfare.
- Water quality.
- Fish and wildlife habitat.
- Natural scenic beauty.
- Minimization of property damages.
- Provision of efficient public facilities and utilities.
- Achievement of eventual compliance for nonconforming uses, structures and lots.
- Any other public interest issues.

Unnecessary hardship

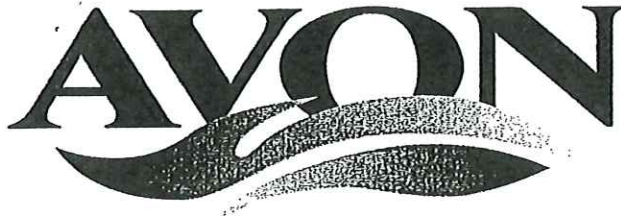
- The applicant must demonstrate that strict compliance with the terms of the zoning ordinance is unnecessarily burdensome.
- An applicant may not claim hardship because of conditions which are self-imposed or created by a prior owner.
- Economic or financial hardship does not justify a variance.
- When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel.

Steps in the Variance Process

The following steps will be used if you feel that your request for a variance meets the requirements of the Three-Step Test. The Planning Commission meets once a month on the 3rd Tuesday at 6:30 pm in the City Hall.

1. The property owner will need to obtain a Variance Application and a copy of the appropriate zoning ordinance from the Zoning Administrator located at Avon's City Hall.
2. Complete ALL areas in specific detail of the Variance application. **Note:** Incomplete application will delay the overall process!
3. Return the completed Variance application, along with application fee, to the Zoning Administrator. **Note:** The Variance application is required to be submitted a minimum of 15 days before the next Planning Commission meeting for the process to work effectively.
4. The Zoning Administrator will;
 1. review, and if accepted, place your variance request on the docket for the next Planning Commission meeting.
 2. provide the Planning Commissioners a copy of your request.

3. schedule a “tentative” date and time for the Planning Commissioners to view the property and see the specific details of your request.
4. Publish legal notice of the request
5. The Planning Commissioners will review the property associated with the variance application.
6. At the Planning Commission meeting;
 - a. The variance request will be read by the Zoning Administrator
 - b. The applicant **must be present** and will have the opportunity to publicly state why the variance meets the requirements of the Three-Step Test.
 - c. The Planning Commission will seek public input on the variance request
 - d. If the Planning Commission finds that the facts presented in the matter justify approval, it may recommend to the City Council approval of the request, or a portion thereof, and it may specify any conditions deemed necessary to preserve the intent of the Zoning Ordinance. If the Planning Commission finds that the facts presented do not justify approval, it will recommend to the City Council to reject the request and will specify the reasons for the negative recommendation.
7. The final approval, including conditions or denial will take place at the next City Council meeting.



Planning Case #: _____
Fees: _____
Date Received: _____

Land Use/Development Application

General Information:

Property Owner: _____

Owner Address: _____

Applicant: _____

Applicant Address: _____

Telephone: _____ Email: _____

Address of Property Involved: _____

Property Identification Number: _____ Current Zoning: _____

Type of Request:	_____	Subdivision
	_____	Lot Consolidation
	_____	Rezoning
	_____	Concept/Preliminary/Final Plat
	_____	Site and Building Plan Review
	_____	Comprehensive Plan Amendment
	_____	Administrative Permit
	_____	PUD (concept plan/development
	_____	Ordinance Amendment (text or map)
	_____	Other _____

Description of Request:

Certified Land Survey and Site Plan Requirements

The City of Avon requires the submittal of a certified land survey and site plan(s) for all development projects in the City. Please contact the City Zoning Administrator for a complete list of all requirements.

True and accurate representation of the following requirements is the responsibility of the applicant. In all cases, the survey and site plan shall contain: Please see the Zoning Administrator for any additional information that may be needed.

Complete Incomplete N/A

General Information:

- Legal Description
- North point and graphic scale
- Benchmark Information
- Date of Survey
- Name of surveyor and registration number

Project Information:

- Name of project
- Location of project and assigned site address
- Name and address of owner/developer
- A separate written statement describing the intended use of the property and why the City should approve the request (including hardship statement if application is for a variance)

Site/Building Plan Information:

- Boundary lines of project site including dimensions at a scale of not less than (1) inch to fifty (50) feet (Iron monuments must be shown)
- Existing and proposed topographic information at two (2) foot intervals extending 100 feet from the exterior boundary
- Adjacent streets and rights-of-way
- Principal building location(s), dimensions and setbacks
- Preliminary annotated exterior elevations and building floor plans drawn to a minimum scale of 1/8"=1'
- Accessory building location(s), dimensions, and setbacks
- Driveway and sidewalk location with materials noted
- Fences and retaining wall locations

Environmental Information:

- Shoreland boundary (including official OHW elevation)
- Wetland boundary (including a copy of the delineation report)
- Floodplain/floodfringe boundary including elevations at building and lot corners
NOTE: The lowest floor elevation (including basement) must be included

Easement Information:

- Private and public easement locations and dimensions
- Utilities and rights-of-way easements including man-hole elevations, pipe elevations and sizes

Utilities and Infrastructure Information:

- Grading plan. Existing and proposed contours shall be provided in two (2) foot contours.
- Traffic study including traffic flow and existing and projected volumes in and around the subject property. NOTE: Information must be prepared by a professional engineer.

Complete Incomplete N/A

Utilities plan—sizes and locations:

- _____ Sanitary sewer & water main
- _____ Natural gas & electrical load
- _____ Storm sewer design, catch basin inverts and locations, NURP pond dimensions and dimensions
- _____ Surface water collection and conveyance features including arrows indicating the direction of surface water flow over the map of proposed contours
- _____ Surface water ponds, drainage ditches and wetlands.
- _____ Drainage (storm water) calculations, including curve numbers for the property

Other Considerations:

- Parkland dedication (for subdivisions creating more than two lots)
- Samples of proposed building materials
- Landscaping plan with species and sizes of plants
- Lighting plan, including specifications of proposed lighting and photometric plan
- Proposed signage
- Photographs showing the location of the proposal and its relationship to the site and existing buildings
- Dumpster location(s)

Complete/Incomplete Applications

An incomplete application will delay the processing of land use requests. The application review period commences and an application is considered officially filed when the Zoning Administrator has received and examined the application and determined that the application is complete. The application shall be deemed complete or incomplete within fifteen (15) business days following the submittal of the application. The applicant will be notified regarding the completeness of the application.

Payment of Fees and Filing Requirements

The City requests that you make a pre-application meeting with the Zoning Administrator to discuss the application process, filing requirements, fees, deadlines, and draft plans. The undersigned acknowledges that she/he understands that before this request can be considered, the required application fee must be paid to the City in advance. *If additional fees are required to cover costs incurred by the City, the Zoning Administrator has the right to require additional payment from one or more of the undersigned, who shall be jointly liable for such fees.* Such expenses may include (but are not limited to) consultant review of the application by the City Attorney, City Engineer or other professionals.

Agenda Deadline and Meeting Schedule

The deadline for submittal of land use applications is listed in the table below. There are **no exceptions**. All regularly scheduled Planning Commission meetings are held in the City Hall Council Chambers beginning at 6:30 p.m. The Planning Commission, regularly meets on the Third Tuesday of each month, and the City Council regularly meets on the first Monday of each month. Applicants are advised that additional meetings and/or workshops are scheduled when necessary.

Notice of Meeting Attendance

In order for the Planning Commission to consider any application, the property owner, applicant, or representative previously designated in writing must be present at the scheduled meetings. If not, the matter will be tabled until the next available agenda.

Notification of Minnesota Statutes Section 15.99

On July 1, 1995, the Minnesota State Legislature passed a law that required approval and/or denial of all planning requests by a governmental agency within sixty (60) days from when the application was determined to be complete. In order to allow adequate time to thoroughly consider an application including allowance for public input, appropriate design and environmental review and compliance with the City of Avon's Comprehensive Plan, applicable ordinances, and consistent with City policy, staff may extend the review period an additional sixty days and may request further extension of this review period from the applicant.

Acknowledgement and Signature

I acknowledge that I have read all of the information listed in the City of Avon Land Use Application and fully understand that I am responsible for consultant costs incurred by the City related to the processing of this application. **I understand that there may be additional information that the City may request. I fully understand that I am responsible for submitting any additional information requested by the City that may not be listed on this application.**

Applicant

Date

Property Owner

Date

**CITY OF AVON – AVON TOWNSHIP
ORDERLY ANNEXATION AREA**

**AGRICULTURAL AREA NOTIFICATION
POLICY**

Per Section 10, Subdivision H - 4 of the CITY OF AVON – AVON TOWNSHIP ORDERLY ANNEXATION AREA AGREEMENT the CITY OF AVON – AVON TOWNSHIP JOINT PLANNING BOARD requires that developers seeking to develop land within the Orderly Annexation Area provide notice to potential builders and homeowners that their land is located in an agricultural area and, as such, is subject to sounds and smells associated with agricultural production. Notification shall be incorporated into the City of Avon’s developer agreements and shall be recorded with approved plats. All notifications shall be approved by the Joint Planning Board.

Policy adopted:

Date: _____

By: _____

Chair

**LEGAL SERVICES REIMBURSEMENT POLICY
CITY OF AVON, MINNESOTA**

All property owners and developers seeking annexation to the City of Avon or technical assistance from the City of Avon with regard to the development of real property and/or business interest in the City of Avon shall be responsible for reimbursement to the City of Avon for all legal fees incurred by the City of Avon in relation to petitions for annexation as well as opinions and legal services rendered to the City relation to tax increment financing projects, housing projects, development projects, subdivision questions and other matters which the City of Avon, through its legal counsel, deems appropriate to seek legal assistance on and with regard to.

All such legal services shall be rendered for the benefit of the City of Avon and shall be billed to the City of Avon, but shall be reimbursed by the property owner, developer, or business interest.

At all times the legal services shall be the legal services deemed appropriate by the City Council and shall be billed at normal City rates. The City shall forward a copy of all statements for legal services so rendered and they shall be reimbursed directly to the City of Avon within 30 days of submission by the City to the property owner, developer, or business concern.

The City Council shall have the right to waive reimbursement requirements, especially for those projects through which reimbursement will occur by reason of tax increments received by the City.

Terms of City of Avon Policy Accepted by:

Upon signature of this document and acceptance of the terms of this policy the person signing this policy, indicating acceptance, shall be bound by the terms of this policy.

Dated this _____ day of _____, 2003