

This brochure is provided as a guide to assist you in the preparation of your application for a variance and to explain the application process.

WHAT ARE VARIANCES?

A variance grants a property owner exception to zoning requirements when conditions unique to the property deprive them of the same enjoyment of their property as their neighbor.

VARIANCES

When May a Variance Be Granted?

A variance may be granted by the Bozeman City Commission in accordance with 38.35.060 of the City of Bozeman Municipal Code, which reads as follows:

- The Variance will not be contrary to and will serve the public interest.
- Is necessary, owing to conditions unique to the property, to avoid an unnecessary hardship which would unavoidably result from the enforcement of the literal meaning of the Unified Development Code:
 - Hardship does not include difficulties arising from actions, or otherwise be self-imposed, by the applicant or previous predecessors in interest, or potential for greater financial returns; and
 - Conditions unique to the property may include, but are not limited to, slope, presence of water courses, after the fact imposition of additional regulations on previously lawful lots, and governmental actions outside of the owners control;
- The variance will observe the spirit of the Unified Development Code, including the adopted growth policy, and do substantial justice;
- In addition to the criteria specified above, in the case of a variance relating to the flood hazard provisions of article 31 of the Unified Development Code:
 - Variations shall not be issued for areas within a floodway if any additional increase in flood elevations of velocities after allowable encroachments into the floodway fringe would result;
 - Variations shall only be issued upon:
 - + A determination that the granting of a variance will not result in increased flood hazards, present additional threats to public safety, be an extraordinary public expense, create nuisances, cause fraud, victimize the public, or conflict with existing state and local laws;

- + A determination that the proposed use would be adequately flood-proofed as specified in article 31 of the Unified Development Code;
- + A determination that a reasonable alternate location outside the floodplain is not available;
- + A determination that the variance requested is the minimum necessary to afford relief, considering the flood hazard; and
- + Approval of the Montana Department of Natural Resources and Conservation, upon request from the city, prior to formally approving any permit application that is in variance to these regulations.

WHAT INFORMATION IS REQUIRED FOR A VARIANCE? Application Form

Visit the City of Bozeman Department of Community Development (DCD) to determine if what you are proposing would require a variance. A staff member will review your proposed project and answer any of your questions. If a variance is required, you will be given the appropriate forms, advised of the materials and application fee, and informed of the time period when the application will be processed.

WHAT IS THE APPLICATION PROCESS FOR A VARIANCE? Staff Review

When your application is submitted to the DCD it will be assigned to a staff planner who will process your application. The staff planner will also prepare a staff report evaluating your variance request against the variance review criteria.

Notice

A notice will be posted at the site, sent to adjoining property owners within 200 feet of the property, and will be published in the newspaper informing the public of the date, time and place of the public hearing before the City Commission. The public hearing gives citizens a chance to comment on the proposed variance.

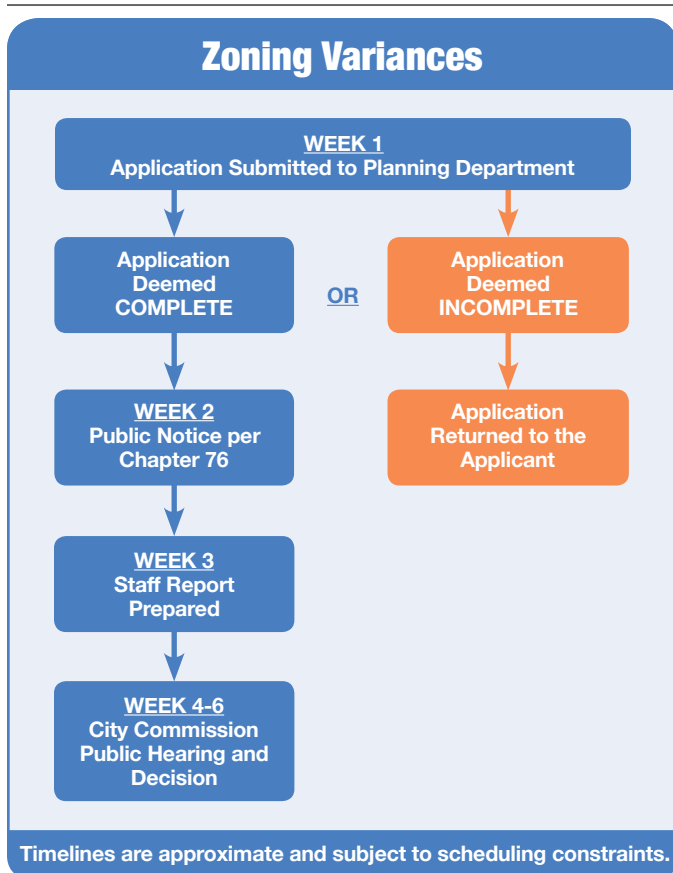
Bozeman City Commission Public Hearing

All requested variations, and proposed deviations (exceeding 20% of requirement) in the Neighborhood Conservation Overlay District or Entryway Corridor Overlay District, shall be heard by the City Commission. For more information on deviations and the Neighborhood Conservation Overlay District and Entryway Corridor Overlay District, please consult the informational guide for Certificate of Appropriateness.

A super-majority vote is required to grant a variance. It is important to note that variances cannot be granted from the permitted or conditional uses of a zoning district. For example, a variance application cannot be filed to allow industrial uses in an area not specified for such uses in the Unified Development Ordinance (UDO).

Project Approval

If the City Commission approves your application for a variance, your approval becomes effective. However, a building permit must be obtained within six months of your approval or the approval expires.



QUESTIONS? NEED MORE INFORMATION? CONTACT:

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