

City of Fort Lupton Variance Process

Purpose

The Variance process is intended to provide relief to persons who are unable to conform to the provisions of this Chapter due to unusual circumstances or hardship, and who meet the criteria for issuance of a Variance by the Board of Adjustment.

Approval Criteria

All Variances shall be reviewed for compliance with the City of Fort Lupton Comprehensive Master Plan, the City of Fort Lupton Municipal Code (Chapters 16 and 17), The City of Fort Lupton Design Standards and all other applicable plans and standards.

Eligibility Requirements

The Board of Adjustment shall hear and decide all requests for a variance from the requirements of this Code. Such variance shall not be granted if it would be detrimental to the public good, create a conflict with the Comprehensive Plan, or impair the intent and purpose of this Code.

The Board of Adjustment shall not grant a variance to the Code, which:

1. Permits a land use not allowed in the zoning district in which the property is located; or
2. Is in the public right-of-way or on public property; or
3. Alters any definition of the Code; or
4. Is other than the minimum variance that will afford relief with the least modification possible to the requirements of the Code; or
5. Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to of the Code; or
6. Is based exclusively on findings of personal or financial hardship The board may consider the hardship the applicant may suffer, as long as the applicant did not create his or her own hardship. Buying property without being aware of available facts about the property does not create a hardship. Failing to verify or misinterpretation by the applicant of any City code does not create a hardship. Convenience, profit or caprice shall not constitute undue hardship; or

7. Will result in the extension of a nonconforming situation, use, building or lot; authorize the initiation of a nonconforming use of land, or conflict with the goals and policies of the Comprehensive Plan.

In order to grant a variance to the Code, the Board of Adjustment shall find that all the following have been satisfied:

1. That there are unique physical circumstances or conditions of the land such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical condition of the land particular to the affected property;
2. That because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of the Code;
3. That such unique physical circumstances or conditions are unique and unusual or nearly so, rather than one shared by many surrounding properties;
4. That due to such unique physical circumstances or conditions of the land, the strict application of the Code would create a demonstrated hardship;
5. That the demonstrable hardship is not self-imposed;
6. That the hardship or poor land use of which the applicant complains is one suffered by the applicant alone and not by neighbors or the general public;
7. That the variance, if granted, will not adversely affect the proposed development or use of adjacent property or neighborhood;
8. That the variance, if granted, will not change the character of the zoning district in which the property is located;
9. That the variance, if granted, is in keeping with the intent of the Code;
10. That the variance, if granted in a floodplain or floodway, meets the requirements of floodplains and floodways of this Code and any other applicable law;
11. That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of the City;
12. That the Variance requested is the minimum necessary to provide relief.

Please note: The applicant is responsible for having a representative at all meetings of the Planning Commission and of the City Council where the request is reviewed. Failure to have a representative present will be cause to have the item withdrawn from the agenda of that meeting

Variance Process (Summary):

- a. Pre-application with City Staff.
- b. Variance Application submittal.
- c. Staff confirmation of complete submittal.
- d. Application materials sent to referral agencies for review and comment.
- e. Board of Adjustment public meeting and action on Variance.
- f. Staff obtains all City signatures on Variance.
- g. City records Variance.
- h. Post-approval actions, including building permit application and applicable fees.

Submittal Requirements

Applications will not be accepted for review unless all information is present.

1. Completed Land Use Application and Fees (If the variance is granted than the fee shall be refunded).
2. A detailed written description of the proposal, the provisions of the Zoning Code for which a Variance is sought, the conditions that make compliance with the Code impractical, the minimum relief being sought, and maps and graphics as appropriate.
3. One (1) set of No. 10 envelopes, stamped with first-class postage, with the City's address as the return address, addressed to: owners of property located within five hundred (500) feet of the property being subdivided; owners of minerals and oil and gas leases on the property being subdivided; and other parties of interest as specified by the City. Also, a written statement by the Applicant, indicating the source of all addresses provided.
4. A copy of the recorded warranty deed and title commitment or updated title commitment current within thirty (30) days.
5. Such additional descriptive materials as the Planning Department may prescribe.

City of Fort Lupton Variance Checklist

PROJECT NAME: _____

APPLICATION CHECKLIST (check as completed):

<i>Applicant</i>		<i>City</i>
	<i>Pre-Application conference with staff. (Planning Department to fill in all items noted with **.) Date: _____</i>	
	<i>Comments from Pre-Application meeting returned to applicant. Date: _____</i>	

SUBMITTAL REQUIREMENTS:

	<i>Application Fee: \$ _____ **</i>	
	<i>Written description of the Variance request, conditions that make compliance with Code impractical, relief sought, maps and graphics.</i>	
	<i>Evidence of current ownership, acceptable to the City Attorney, such as a copy of the an updated title policy or commitment, current within thirty (30) days.</i>	
	<i>One (1) set of No. 10 envelopes, stamped with first-class postage, with the City's address as the return address, addressed to: owners of property located within one hundred (100) feet of the property. Also, a written statement by the Applicant, indicating the source of all addresses provided.</i>	
	11. Additional documents as required (list) **: _____ _____ _____ _____	

REVIEW PROCESS:

	<i>Board of Adjustment meeting to set hearing date. Hearing date: _____</i>	
	<i>Notice of hearing date sent to parties. Date: _____</i>	
	<i>Applicant notified of date and time of hearing. Date: _____</i>	
	<i>DRT meeting. Date: _____</i>	
	<i>Notice of hearing(s) to Newspaper. Date sent: _____ Date published: _____</i>	
	<i>Hearing notice posted by applicant and posting certified. Date: _____</i>	
	<i>Notice of Public Hearing sent to neighbors. Date: _____</i>	
	<i>Board of Adjustment Public Hearing and Resolution. Date: _____</i>	
	<i>Board of Adjustment decision and conditions sent to applicant. Date: _____</i>	
	<i>Resolution recorded with Weld County Clerk. Date: _____</i>	
	<i>Variance information recorded in official zoning records. Date: _____</i>	

COMMENTS: