

Variance and Appeals

Process and Submittal Requirements

Town of Oro Valley
Community and Economic Development Department - Planning Division
Questions: 520.229.4800 | orovalleyaz.gov



VARIANCE

A variance is a modification of the literal provisions of the zoning code. The Board of Adjustment (BOA) determines that strict enforcement of the provisions would cause undue hardship owing to circumstances unique to the individual property for which the variance is granted. Examples may include (but, not limited to), a deviation of required setbacks or additional height to a structure.

APPEALS

Appeals of an Administrative Decision may be taken to the Board of Adjustment by persons aggrieved or by any officer, department, board or bureau of the municipality affected by a decision of an administrative official.

- Must be filed **within 30 days** of the decision
- Specify the grounds of the appeal

Appeals from a Planning and Zoning Administrators Interpretation may be taken to the Board of Adjustment by persons aggrieved by an interpretation

- Must be filed within **20 days** from the date the interpretation is published on the Town’s website

FEES

As specified in the OVZCR, all fees must be paid in full prior to acceptance of an application. Fees related to a variance or appeals are provided below.

Individual/homeowner(s) variance	\$150 per item/lot
Developer/commercial variance	\$600 per item/lot
For each additional simultaneous variance or appeal	\$100

SUBMISSIONS

To avoid delays in review, please be aware of the following:

- All applications must be submitted online.
- Project resubmittals are to be uploaded through the portal using the same project number the first application was provided. Please do not e-mail documents directly to staff as this may delay the submittal review process.
- All items must be submitted in PDF format.
- Please name PDF files in a self-explanatory manner such as *“Document Type – Date.”*
- All fees must be paid upon submitting. Reviews will not begin until all fees are paid. Fees may be paid online.

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SUBMITTAL CHECKLIST

- Narrative
- Site plan, if applicable
- Location map
- Supporting documents
- Letter of authorization

PROCESS

Variance or Appeal	Time*	Purpose
Formal Submittal	Applicant Driven	<ul style="list-style-type: none"> • Submittal of plans in accordance with Code requirements
Staff Review	2 Weeks	<ul style="list-style-type: none"> • Staff code compliance letter is provided within 10 business days of a complete submittal
Revised Submittal	Applicant Driven	<ul style="list-style-type: none"> • Applicant to address staff review comments relative to code compliance • Additional revised submittals may be necessary if code issues are not adequately addressed
Staff Review	1-4 Weeks	<ul style="list-style-type: none"> • Staff will review for Code Compliance. Additional review may be required prior to scheduling the application for the Board of Adjustment if the proposal is not code compliant
Board of Adjustment	1-4 Weeks	<ul style="list-style-type: none"> • Unlike other Town boards and commissions, the BOA is a quasi-judicial board with the authority to grant/deny requests and their decisions are final (not passed on to Town Council)

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SUBMITTAL ITEMS AND REQUIREMENTS

All items must be submitted in PDF format. Please name PDF files in a self-explanatory manner such as “Document Type – Date.”

- A. A Narrative that describes the details of the request. Ensure the narrative explains what you are proposing to build, the standard code requirement and the requested proposal.
- B. Also, the narrative is required to explain in detail answers to each of the following Five Findings. It is the applicant’s responsibility to provide thorough details about the proposal, including any potential impacts to the neighborhood. Please do not include yes or no answers only. Each answer must be clearly answered.

“Five Findings” as defined and required by the State

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| <p>1. That there are special circumstances or conditions applying to the property strictly related to its size, shape, topography, location or surroundings which do not apply to other properties in the district. Existing building configuration shall be included only when constrained by the special circumstances or conditions of the property; and</p> |
| <p>2. That the special circumstances or conditions as defined in subsection C.1 of this section were not created by a previous or current owner; and</p> |
| <p>3. That the authorizing of the variance is necessary for the preservation of privileges and rights enjoyed by other properties of the same classification in the same zoning district; and</p> |
| <p>4. That any variance granted is subject to such conditions as will assure that the authorizing of the adjustment shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and</p> |
| <p>5. That the authorizing of the variance will not be materially detrimental to persons residing in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.</p> |

- C. Site Plan of the entire lot, including:
 - i. The lot lines for the property
 - ii. All streets identified and labeled
 - iii. Location of the main house or building, including driveways and/or parking lot
 - iv. Location of any existing accessory structures

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- v. Highlight areas which are the subject of the variance request and include the size, height, width, distance to property lines, as applicable.

D. A Letter of Authorization from the property owner (if applicant is acting as agent).

E. Supporting Documentation, such as maps, photographs, construction documents, etc.

PUBLIC NOTIFICATION

All variance applications that have been scheduled for a BOA hearing require public notification. This notification is performed by Town staff and includes:

- Notice sent to all property owners within a minimum 300' foot radius of the subject property, as well as any affected homeowner associations
- Notice published in a local newspaper
- Notice posted on the Town's website and on the Town Hall campus
- Notice sign posted on the subject property

Any member of the public has the right to speak on the application during the public hearing portion of the BOA meeting.

NEXT STEPS

Since it is the burden of the applicant to make their case for the requested variance, the applicant should be prepared to make a presentation before the Board on the scheduled hearing date.

DECISION

The BOA is a quasi-judicial board with the authority to grant/deny requests and their decisions are final (not passed on to Town Council).

Any person aggrieved by a decision of the Board after hearing on application made by any taxpayer or municipal officer may petition for a writ of certiorari to review the Board's decision pursuant to A.R.S. Section 9-465 (1956) as amended.