

# Board of Adjustment Variance Process Guide

Clear Creek County Planning Department  
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## **Board of Adjustment Variance Process Guide**

### **Overview**

Applications for variance requests are processed through the County Planning Department because the requests pertain to specific zoning regulations of *Clear Creek County*. Variance requests identified in this process guide are heard before the Board of Adjustment (BoA) who has the authority to approve or deny a variance request.

The BoA meets the first Tuesday of each month unless otherwise determined by the Chairperson.

The deadline for a full application submittal for a variance request is the first Friday of each month in order to be included on the following month's BoA agenda (e.g. – applications received by the first Friday in September will be scheduled to be heard by the Board during the October hearing).

### **Purposes of Variances**

The purpose of a zoning variance is to grant a landowner relief from certain standards in the Clear Creek County Zoning Regulations where, due to exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of the regulations would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the property owner.

The Board of Adjustment has the authority to grant or deny the following variance requests:

- **Request to encroach into a setback**
- **Acknowledge an existing setback encroachment**
  - *This can be done administratively if the encroachment is more than 5 years old and had been constructed with a building permit. Encroaching structures constructed with no permit require BoA approval.*
- **Request to amend a previously approved variance**
  - *An amendment to a previously approved variance may be requested at a reduced cost for ONLY the following criteria:*
    - *An increase of square footage (with the same general footprint) of no more than 10%*
    - *An increase of the approved setback encroachment of no more than 10%*
    - *An expansion of the approved structure or deck along the approved setback of no more than 10%*
    - *An increase the approved height by no more than 10%*
    - *An increase in the approved sign square footage by no more than 10%; an increase in the approved sign height by no more than 10%*
- **Request to exceed sign restrictions**
- **Request to exceed height restrictions**
- **Request to decrease lots less than one (1) acre in size**
  - *This request is only applicable to legally created parcels which are less than one acre in size, zoned MR-1 or M-1, and contain an existing permitted principal use (e.g. – a single family residence).*

### ***Granting a Variance***

The BoA will examine the following criteria in relation to the parcel(s) when determining whether or not to grant a variance:

1. Is there:
  - a) Exceptional narrowness, shallowness, or shape to the property which creates an exceptional practical difficulty or exceptional and undue hardship upon the owner (e.g. – odd-shaped corner lots which limits feasible building sites); or
  - b) Exceptional topographical conditions of the property which creates an exceptional practical difficulty or exceptional and undue hardship upon the owner (e.g. – the parcel contains large rock outcroppings or steep slopes); or
  - c) Other extraordinary and exceptional situations or conditions of the property which create an exceptional practical difficulty or exceptional an undue hardship upon owner (e.g. – dedicated right-of-way or easement reduces size the size of property considerably)

*Only one of the above needs to be met.*

2. Can the variance be granted without detriment to the public good?
3. Can the variance be granted without substantially impairing the intent & purpose of the zoning regulations?
4. Can it be determined that the owner/applicant did not create this hardship and that it is not self-imposed? (A variance cannot be granted for a self-imposed hardship.)
5. Is the variance being requested for personal convenience, profit, or special privilege? (e.g. – requesting a use that would not otherwise be allowed by the zoning regulations.)
6. Is the variance being requested for reasons other than the economic hardship of complying with the zoning regulations?
7. Does the parcel comply with all other zoning regulations?

## **Process**

This process is applicable to all variance requests.

1. **Pre-application Conference:** prior to submittal of any variance application, the applicant(s) shall meet with the Planning Department to determine whether the request meets the criteria for a variance and to explain the procedure and submittal requirements.
2. **Application Submittal:** The applicant shall provide the Planning Department with a complete application that meets the submittal requirements.
3. **Staff Review:** The application shall be reviewed in a timely manner for completeness by the Planning Department. The applicant shall be notified of any missing or incomplete documentation. An incomplete application will not be processed.
4. **Public Notice:** The applicant shall pick up public notice signs from the Planning Department. The applicant shall post and maintain signs on the parcel(s) under consideration a minimum of fifteen (15) calendar days prior to the BOA hearing. The signs shall be placed within ten (10) feet of the property line and visible from the right-of-way, and shall be maintained until the BOA makes a decision.
5. **Site Visit:** The Planning Department shall conduct a site visit to determine any additional submittal requirements needed and will notify the applicant. The applicant is strongly encouraged to be present during the site visit.
6. **Adjacent Property Owners & Referral Agencies:** The Planning Department will notify property owners whose boundaries are within 100 feet of the subject parcel and any referral agencies that may be affected by the proposed variance. The applicable agencies shall be determined per case and based upon the property development considerations.
7. **Comment Period:** Adjacent property owners and referral agencies shall be given ten (10) calendar days prior to the BOA public hearing to comment.
8. **Staff Report:** Based upon the submittal documentation, property development consideration, and comments received, the Planning Department will prepare a staff report and provide a recommendation to the BOA for the public hearing.
9. **BoA Hearing:** During the public hearing, the BOA shall evaluate the submittals, referral comments, staff report, and public testimony, and make a decision to approve, approve with conditions, or deny the application. The BOA may also decide to continue the public hearing.
10. **Post Hearing:** Following the BOA decision, the Planning Department shall notify the applicant of what is required to finalize the decision, prepare the final resolution and obtain the BOA Chairperson's signature. The fully executed resolution and all applicable attachments shall be recorded with the County Clerk and Recorder's Office.
11. **SVF/BEC:** All building permit applications are required to complete a Surveyor Setback Verification Form and / or a Building Envelope Compliance Form, prepared by a licensed Colorado surveyor, which shows that all structures are in conformance with the variance that was granted by the BOA, and / or that shows the structures are located within the existing building envelope.

### ***Submittal Requirements***

1. Prior to accepting a completed application, the Planning Department shall require written approval from the following agencies, if applicable:
  - Environmental Health Department: to ensure that the request will comply with all current On-Site Wastewater Treatment System (OWTS) regulations. This is only required if there is an OWTS system on site or if one could be installed on the property in the future.
  - Road & Bridge: to determine if the request will have an adverse impact on County roads and if any mitigation will be required. This is only required if the requested variance will impact setbacks from a County road.
2. Application form as provided by the Planning Department.
3. A narrative, possibly including supplemental materials, which explains in detail how all of the criteria listed above - in the ***Granting a Variance*** section - are met.
4. The appropriate fee, as established by the BOCC.
5. Deeds or other proof of ownership for the subject property(s). A Deed of Trust is not proof of ownership.
6. A notarized letter of authority from the landowner permitting a representative to process the application, if the applicant is other than the owner(s) of record. The original shall be submitted.
7. Scaled Site Plan – the drawing shall, at a minimum, depict the following:
  - (i) Scale and north arrow designated at true north.
  - (ii) All existing structures, roads, driveways, easements, rights-of-way, streams, utilities, wells, leach field, and other features.
  - (iii) All proposed structures, roads, driveways, and other features.
  - (iv) Boundaries of the property on which the variance is proposed.
  - (v) Delineate all applicable setbacks. For any setback affected by an approved variance, a surveyor setback verification form will be required for existing structures. For proposed structures, a surveyor setback verification form may be required as part of the building permit process.

***An application will not be accepted unless all of the above materials have been submitted.***

# WARNING!

The following pages are form fill pages.  
Not all browsers submit the following pages properly.  
**DO NOT USE GOOGLE CHROME**  
At this time, Google Chrome will not work with form fill.  
Please choose another browser to complete your  
application.  
As always, save a copy for your files and call to verify  
that your form submitted properly.

**DO NOT ASSUME THAT WE HAVE  
RECEIVED YOUR APPLICATION.**

If you are attempting to make payment please wait for someone at Clear Creek  
County to call you to collect payment. **DO NOT SUBMIT YOUR FORMS WITH  
ANY CREDIT CARD INFORMATION.**

Checks made out to Clear Creek County can be sent to the following address:

Clear Creek County  
Land Use Department  
PO Box 2000  
Georgetown, CO 80444  
Phone: 303-679-2436 Fax: 303-569-1103  
[planning@co.clear-creek.co.us](mailto:planning@co.clear-creek.co.us)

Please call with any questions or to verify that your permit has submitted  
successfully!

**BOARD OF ADJUSTMENT VARIANCE APPLICATION**

CLEAR CREEK COUNTY PLANNING DEPARTMENT

P.O. Box 2000  
Georgetown, CO 80444  
303-679-2436

**Application Fees:**

No Violation Exists: \$1,000.00  
Amend a Previously Approved Variance: \$400.00

1<sup>st</sup> Zoning Violation: \$1,300.00  
2<sup>nd</sup> Zoning Violation: \$1,500.00

APPLICANT(S) \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

HOME PHONE \_\_\_\_\_ WORK PHONE \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

PROPERTY OWNER (if other than applicant) \_\_\_\_\_

PARCEL #: \_\_\_\_\_ PHYSICAL ADDRESS: \_\_\_\_\_

CURRENT ZONING: \_\_\_\_\_ PARCEL SIZE: \_\_\_\_\_

WATER SUPPLY SOURCE: \_\_\_\_\_ SEWAGE TREATMENT METHOD: \_\_\_\_\_

**PLEASE INDICATE THE VARIANCE(S) YOU ARE APPLYING FOR:**

- Request to encroach into setback(s)
  - Are eaves and overhangs requested/accounted for on the site plan:
    - NO  YES
  - Indicate the setbacks requested for all applicable lot lines; Front: \_\_\_\_\_ Rear: \_\_\_\_\_ Sides: \_\_\_\_\_
  - Indicate the square footage of the structure(s) which will be encroaching: \_\_\_\_\_
- Request for acknowledgement of existing setback encroachment (SVF needed at submittal)
- Request to amend a previously approved variance
- Request to exceed height restriction; Height requested: \_\_\_\_\_
- Request to exceed sign restriction; Square-footage: \_\_\_\_\_ Height: \_\_\_\_\_
- Request to decrease a lot(s) less than one (1) acre in size

I (we) do hereby certify that the information contained in or presented in connection with this application is true and accurate to the best of my (our) knowledge and belief. I (we) do hereby further agree to abide by the agreements, conditions and stipulations that are a part of this request. I (we) are aware that the applicant remains bound by all county regulations and state laws not specifically waived by this variance, if successful. I (we) am further aware that any false statement of fact made by the applicant in connection with this application, intentional or not, may cause any variance granted hereunder to be declared null and void, by action of the Board of Adjustment.

I (we) understand that the Planning Department staff will need to go onto my (our) property in order to process this request.

APPLICANT(S) \_\_\_\_\_ DATE: \_\_\_\_\_

OWNER(S) \_\_\_\_\_ DATE: \_\_\_\_\_