



INFORMATION ON THE VARIANCE PROCESS

What Is a Variance? A variance is a grant of relief by the Board of Adjustment, the City Commission, or the City Manager from the requirements of the Land Development Code. The Land Development Code (LDC) is a set of ordinances enacted by the City of St. Pete Beach for the regulation of any aspect of subdivision and the development of land.

There are three types of variances available:

Undue and unnecessary hardship variance: An unnecessary and undue hardship variance is a relaxation of the terms or provisions of the Land Development Code where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the Land Development Code would result in unnecessary and undue hardship on the property. This type of variance is appropriate for all properties and uses. It requires a full hearing before the Board of Adjustment or City Commission.

Practical difficulty variance: A practical difficulty variance is a relaxation of the terms or provisions of the Land Development Code which is less rigorous than the unnecessary and undue hardship standard. Practical difficulty variances shall only be applicable to impervious surface ratio, setback lines, or landscaping for single family homes located on single lots in the established residential districts (RU-1, RU-2, RLM-1, RLM-2, and RM). If a practical difficulty variance is granted, the maximum reduction in the required pervious area of a property shall be 50 percent. A practical difficulty variance for a reduction in the required pervious area of a property shall only be granted by the city one time per property. The standard provides for a variance where a literal enforcement of a zoning regulation will create a practical difficulty in the use of the parcel of land for the purpose or in the manner for which it is zoned. Practical difficulty variances require a full hearing before the Board of Adjustment or City Commission.

Administrative (de-minimis) variance: When the literal or strict enforcement of the provisions of the Land Development Code causes unusual, exceptional, unnecessary difficulties or injustice because of the size of the tract, parcel or lot, the topography, the condition or nature of adjoining areas or the existence of other unusual physical conditions. The sum of all variances approved by the City Manager under these administrative procedures shall not exceed 12 inches for setbacks and accessory structure height for each property or lot. Administrative variances shall be granted a preliminary determination by the City Manager after review, and any objections shall be heard during a subsequent 30-day period. At the conclusion of the 30-day period, the City Manager shall approve, approve with modifications and/or conditions, or deny the administrative variance request by written development order.

How do I apply for a Variance? An applicant for Variance must submit the following documents to the Community Development Department:

- A complete and signed application. Incomplete applications will not be processed and will be returned. As such, all applicants are **STRONGLY ENCOURAGED** to meet with Community Development staff prior to submission deadlines to discuss plan submissions and the review process. Appointments can be made by calling 727.363.9253.
- A completed and signed agent authorization form if someone else will be representing the property owner at the public hearing.
- An accurate, legible, and appropriately scaled survey of the property including all existing and proposed improvements. The survey shall have been performed not more than ten (10) years prior to the date of application and not less than two (2) copies of the survey are required for submittal.
- Scaled drawings depicting the request. The drawings can be sized from 8.5"x11" to a maximum of 24"x36" in size. These drawings are necessary to assist staff and the BOA or City Commission in the review of the request. Seven (7) copies of the drawings must be submitted with application for an unnecessary and undue hardship variance or practical difficulty variance. Two (2) copies of the site plan must be submitted with application for an administrative (de-minimis) variance.
- Cash or check made payable to the City of St. Pete Beach for the amount of the application plus mailing fees. The application fee for an unnecessary and undue hardship variance or practical difficulty variance is \$500. The application fee for an administrative (de-minimis) variance is \$250.
- The mailing fee for an unnecessary and undue hardship variance or practical difficulty variance can be calculated for you when you turn in your application, or you can calculate it yourself by searching for your property on the Pinellas County Property Appraiser's office website (www.pcpao.org), clicking on radius search at the top of the page, typing in 300 feet for the radius, and multiplying the number of properties times .70. For example, if 40 properties are within 300 feet of you, then the mailing fee would be \$28.00. The mailing fee for an administrative (de-minimis) variance can be calculated by staff at the time of turn-in.
- Staff may request additional information, if necessary.

What is the Board of Adjustment and when do they meet? The Board of Adjustment is a Quasi-Judicial public board whose members are appointed by the City Commission. Under the Quasi-Judicial process the Board acts in the role of a judge and is required to follow certain procedures and base their decisions on factual evidence. The Board meetings are normally one time per month on the last Wednesday at 2:00pm, in the City Commission Chambers at 155 Corey Avenue (City Hall).

What do I do after my Variance is granted? You will receive a notice from the City immediately following your hearing or 30 days following determination by the City Manager for an administrative (de-minimis) variance. This notice is called a Development Order (DO) and it will summarize the results of the hearing or determination including the decision to deny, approve, or approve with conditions. If approved, the owner/applicant will have one (1) year from the date the development order is signed to obtain a building permit for the proposed work. The permit must remain active during the life of the project. If a permit is not obtained within a year or if a permit does not remain active, the variance will expire.

What happens if my approved Variance is appealed? Although rare, sometimes a neighbor or other affected party will appeal the BOA decision to the Circuit Court, or a decision of the City Manager to a hearing officer appointed by the City Commission. Any such appeal must be taken within 30-days from the date of the decision. Should this occur, the City is normally removed from the appeal process and has no control over the timeframe or decision of the Court or hearing officer. The one-year timeframe for permit issuance noted above would begin from the Court's final decision date provided the applicant has properly advised the City of said appeal.

What can I do if my Variance is not granted? You may correct your plans to meet current code requirements or you may file an appeal of an unnecessary and undue hardship variance or practical difficulty variance to the Pinellas County Circuit Court with 30-days of the final decision. Appeals of administrative (de-minimis) variances are to a hearing officer designated by the City Commission, and must be filed in writing on or before 30 days from the day of the final administrative decision. If any application filed under the provisions of this Code is denied, no subsequent application seeking substantially the same or similar approval shall be filed within six months of the final decision on the original application.

How are my application fees used? The application fee is primarily used to cover staff review costs. A Variance application will typically involve reviews from multiple City agencies and may include County, State, or even Federal reviews depending on the nature of the request. All Variance applications are required to be properly advertised and require notification to adjacent property owners. The mailing fees are used offset the cost incurred in meeting these requirements including the preparation of a legal ad and mailing costs associated to adjacent property owner notice. The City shall re-advertise a request, at no expense to the applicant, if a scheduled application is not heard due to an error by the City (i.e. lack of a quorum). Otherwise, the applicant will be responsible for any additional costs incurred as a result of his or her own (in) action.

What is the process for commercial variance requests that require site plan review? All commercial variance requests must first be reviewed by the Technical Review Committee prior to the Board of Adjustment, where the preliminary plans will be reviewed by representatives from the Building, Planning & Zoning, Public Services, Public Safety/Code Enforcement, & Recreation Departments. A schedule of the TRC's deadlines and meeting dates can be found on the Planning & Zoning page at www.stpetebeach.org. If the variance(s) is/are approved, the plans will go through TRC for a full site plan review.

When will my unnecessary or undue hardship variance or practical difficulty variance be heard? Applications are accepted at any time, and unnecessary and undue hardship variances and practical difficulty variances shall be scheduled pursuant to the deadlines below (or the TRC deadlines) provided the application is determined to be complete. In fairness to all applicants, there will be **NO** exceptions to this schedule so please plan accordingly. Applications are due by **12:00pm** on the date listed. The 2020 schedule is as follows:

| Board of Adjustment (Variances) 2020 | |
|---|---------------------|
| <u>Deadline</u> | <u>Meeting Date</u> |
| 12/11/2020 | 1/27/2021 |
| 1/8/2021 | 2/24/2021 |
| 2/12/2021 | 3/31/2021 |
| 3/12/2021 | 4/28/2021 |
| 4/9/2021 | 5/26/2021 |
| 5/14/2021 | 6/30/2021 |
| 6/11/2021 | 7/28/2021 |
| 7/9/2021 | 8/25/2021 |
| 8/13/2021 | 9/29/2021 |
| 9/10/2021 | 10/27/2021 |
| 10/1/2021 | 11/17/2021 |
| 10/29/2021 | 12/15/2021 |
| Meeting time is 2:00pm in the City Commission Chambers unless otherwise posted | |
| Incomplete Applications Will Not Be Accepted | |

When will my administrative (de-minimis) variance be decided? Preliminary decisions on administrative variances are rendered by the City Manager within 14 days of the application deadline. Following the date of the preliminary decision, a 30 day period commences during which legal notice is made, a mailing is sent to adjacent property owners, and a sign is posted on the subject property. At the end of the 30 day period, the City Manager shall approve, approve with modifications and/or conditions, or deny the administrative variance by written development order. The 2020 schedule for administrative variances is as follows:

| <u>Application Deadline</u> | <u>Preliminary Decision Date</u> | <u>Final Decision Date</u> |
|---|----------------------------------|----------------------------|
| 12/11/20 | 12/23/2020 | 1/27/2021 |
| 1/8/21 | 1/22/2021 | 2/24/2021 |
| 2/12/21 | 2/26/2021 | 3/31/2021 |
| 3/12/21 | 3/26/2021 | 4/28/2021 |
| 4/9/21 | 4/23/2021 | 5/26/2021 |
| 5/14/21 | 5/28/2021 | 6/30/2021 |
| 6/11/21 | 6/25/2021 | 7/28/2021 |
| 7/9/21 | 7/23/2021 | 8/25/2021 |
| 8/13/21 | 8/27/2021 | 9/29/2021 |
| 9/10/21 | 9/24/2021 | 10/27/2021 |
| 10/1/21 | 10/15/2021 | 11/17/2021 |
| 10/29/21 | 11/12/2021 | 12/15/2021 |
| Incomplete Applications Will Not Be Accepted | | |

Who decides if the Variance should be granted? The Board of Adjustment is authorized to hear and make final determinations on all variance requests with the exception of variance requests that are part of a conditional use application and administrative (de-minimis) variances. In the case of variances associated with conditional use requests, the City Commission makes the final determination. In the case of administrative variances, approval or denial is issued by the City Manager. Variance requests must meet certain criteria as outlined by the Land Development Code.