



Baker City Hall
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 Baker City, OR 97814
 (541) 524-2030 / 2028
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File No. _____
 Applicant _____
 Received by _____
 Date _____
 Accepted as Complete by _____
 Date Accepted as Complete _____

Fee: \$425.00

VARIANCE APPLICATION Type A B C (circle one)

Variance: An administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this Code. The variance procedures provide relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other codes. The standards for nonconforming uses and development are intended to provide some relief from code requirements for older developments that do not comply.

SITE LOCATION & DESCRIPTION

Tax Map #(s) _____ Tax Lot #(s) _____ Zoning _____

Frontage Street or Address _____

Specific description of variance(s) sought and applicable Code Section(s)

Additional reviews pending? Yes No If yes, File # _____

On original application form, please print legibly using black/dark blue ink or type. Applicants are advised to review the list of submittal requirements and recommendations indicated on each land use application form and in the applicable Ordinances prior to submitting an application. Incomplete applications will not be scheduled for review until the Planning Department receives all required submittal materials. Failure to provide materials or address the approval criteria in sufficient detail may cause your application to be delayed or denied.

Submittal requirements:

- 1 Original application form signed by all parties. Multiple forms may be used if necessary.
- 2 copies for Type A & B; 10 for Type C of application with a narrative including all approval criteria and your responses.
- 2 copies for Type A & B; 10 for Type C of a site plan showing existing conditions and proposed changes. All site plans should be printed at 1" = 20' scale; 1:40 or 1:100 scale may be used for very large projects. If no new construction or exterior modifications are proposed, this requirement may be waived by the Planning Director.
- **Class A and B variance applications may include the original plus two copies of all materials.**
- All materials larger than 8 ½ X 11 shall be folded to 8 ½ X 11 size.
- All materials shall be submitted in complete, collated application packets. Packets shall be stapled, bound, or otherwise attached to prevent loss of individual sheets or parts.

APPLICANT / OWNERSHIP INFORMATION (Provide additional sheets as necessary)

Applicant _____ Signature _____ Date: _____

Mailing Address/State/Zip _____

Phone _____ Fax _____ Email _____

Applicant's interest in property _____

Owner _____ Signature _____ Date: _____

Mailing Address/State/Zip _____

Phone _____ Fax _____ Email _____

Does the owner of this site own any adjacent property? __ Yes __ No *(If Yes, list tax map and tax lots)*

Each current property owner of record must sign the application or provide a letter authorizing an agent or representative to act on his or her behalf. By signing this form, the applicant/property owner certifies that the information provided herein is accurate. Applicant/property owner further certifies that he/she is authorized to make the application and that there are no covenants, conditions or restrictions that may limit or prohibit the division of land.

ADDITIONAL PROJECT TEAM MEMBERS

Please include any other parties you wish to receive notice and staff report(s).

Planner/Consultant _____

Mailing Address/State/Zip _____

Phone _____ Fax _____ Email _____

Civil Engineer/Surveyor _____

Mailing Address/State/Zip _____

Phone _____ Fax _____ Email _____

Additional Personnel _____

Mailing Address/State/Zip _____

Phone _____ Fax _____ Email _____

Article 16 of the Baker City Development Code sets standards and criteria for variances:

Chapter 16.1 Variances

This article provides standards and procedures for variances and nonconforming situations (i.e., existing uses and development that do not comply with the Code). This code cannot provide standards to fit every potential development situation. The variance procedures provide relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other codes. The standards for nonconforming uses and development are intended to provide some relief from code requirements for older developments that do not comply.

16.1.100 Purpose

The purpose of this article is to provide flexibility in development standards, in recognition of the complexity and wide variation of site development opportunities and constraints. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met. Because some variances are granted using “clear and objective standards,” they can be granted by means of a Type I procedure. Other variances, as identified below, require a Type II or III procedure because they involve discretionary decision making.

16.1.200 Class A Variances

- A. The following variances are reviewed using a Type II procedure, as governed by Section 15.1, using the approval criteria in subsection B, below:
1. Front yard setbacks. Up to a 15 percent change of the front yard setback standard in the base land use district.
 2. Interior setbacks. Up to a 15 percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district.
 3. Lot coverage. Up to 15 percent increase of the maximum lot coverage required in the base zone.
 4. Landscape area. Up to 15 percent reduction in landscape area (overall area or interior parking lot landscape area).
- B. Class A Variance Approval Criteria: A class A Variance shall be granted if the applicant demonstrates compliance with all of the following criteria:
1. The variance requested is required due to the lot configuration or other conditions of the site.
 2. The variance does not result in the removal of trees or it is proposed in order to preserve trees, if trees are present in the development area.
 3. The variance will not result in violations of any design standards.

16.1.300 Class B Variances

- A. Class B Variances. Due to their discretionary nature, the following types of variances shall be reviewed using a Type II procedure, in accordance with Section 15.1:
1. Variance to Vehicular Access and Circulation Standards. Where vehicular access and circulation cannot be reasonably designed to conform to Code standards within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the City may grant a variance to the access requirements after finding all of the following:
 - a. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement.
 - b. There are no other alternative access points on the street in question or from another street.
 - c. The access separation requirements cannot be met.
 - d. The request is the minimum adjustment required to provide adequate access.
 - e. The approved access or access approved with conditions will result in a safe access.
 - f. The visual clearance requirements of this ordinance will be met.
 2. Variances to Street Tree Requirements. The City may approve, approve with conditions, or deny a request for a variance to the street tree requirements in Ordinance No. 2917, after finding any of the following:

- a. Installation of the tree would interfere with existing utility lines.
 - b. The tree would cause visual clearance problems.
 - c. There is not adequate space in which to plant a street tree. If a variance is approved, replacement landscaping must be provided elsewhere on the site.
3. Variance to Parking Standards
- a. The City may approve variances to the minimum or maximum standards for offstreet parking upon finding all of the following:
 - (1) The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity.
 - (2) The need for additional parking cannot reasonably be met through provision of onstreet parking or shared parking with adjacent or nearby uses.
 - (3) All other parking design and building orientation standards are met.
 - b. The City may approve a reduction of required bicycle parking per this ordinance, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
 - c. The City may allow a reduction in the amount of vehicle stacking area required for drivethrough facilities, if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available, and other pertinent factors.
- B. Variances to Transportation Improvement Requirements. The City may approve, approve with conditions, or deny a variance to the transportation improvement standards of this ordinance, based on the criteria for granting variances provided in 3.4.100(B). When a variance request cannot be supported by the provisions of that Chapter, then the request shall be reviewed as a Class C Variance.

16.1.400 Class C Variances

- A. Purpose. The purpose of this section is to provide standards for variances which exceed the Class A and Class B variance criteria in subsections 16.1.2 and 16.1.3. Class C Variances may be granted if the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create a hardship to development which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (i.e., the same land use district); except that no variances to “permitted uses” shall be granted.
- B. Applicability.
- 1. The variance standards are intended to apply to the individual platted and recorded lots only.
 - 2. An applicant who proposes to vary a specification standard for lots yet to be created through a subdivision process may not utilize the Class C Variance procedure.
 - 3. A variance shall not be approved which would vary the “permitted uses” of a land use district.
- C. Approvals Process and Criteria.
- 1. Class C Variances shall be processed using a Type III procedure, as governed by subsection 15.1.5, using the approval criteria in subsection 2, below. In addition to the application requirements contained in subsection 15.1.5, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection 2.
 - 2. The City shall approve, approve with conditions, or deny an application for a variance based on finding that all of the following criteria are satisfied:
 - a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity.
 - b. A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (i.e., the same land use district).
 - c. The use proposed will be the one permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land.

- d. Existing physical and natural systems, such as, but not limited to, traffic, drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard.
- e. The hardship is not self imposed.
- f. The variance requested is the minimum variance which would alleviate the hardship.

16.1.500 Variance Application and Appeals

The variance application shall conform to the requirements for Type I, II, or III applications, as applicable. In addition, the applicant shall provide a written explanation of the reason for his/her request, alternatives considered, and why the subject standard cannot be met without the variance. Appeals to variance decisions shall be processed in accordance with the provisions of Section 15.1.

MAKING FINDINGS:

A variance may be approved if the Planning Department or Planning Commission finds the application conforms to the criteria found in the Development Code. Before the Planning Department or Planning Commission can approve an application, the applicant must submit information that adequately supports the application. **The applicant bears the burden of proof to make findings showing the criteria are met.**

FORMAT FOR FINDINGS:

Statements addressing individual criteria consist of two parts:

1. Factual information, such as the distance between buildings, the width and type of streets, the particular operating characteristics of a proposed use, etc. Facts should reference their source: onsite inspection, a plot plan, City plans, etc.
2. An explanation of how those facts result in a conclusion supporting the criterion.

EXAMPLE:

Criterion: The variance requested is the minimum variance which would alleviate the hardship.

Response: *State fact(s) relating to the question* “Table 2.1.130 of the Baker City Development Code establishes a maximum lot depth of three times the lot width. The site is 16,800 square feet, with a present width of 100 feet along X Street and a depth of 168 feet, backing up to the Powder River. When partitioned into two equal-width parcels (each 50 feet wide), the lot depth will exceed the lot width by 3.36 times. There is no practical way to divide the property with any less depth. Dividing the property with one wider parcel would negate the need for the variance on the wider parcel only, and would result in a very narrow second parcel whose depth exceeds its width by an even greater margin.”

Conclusion: *State your conclusion* “The variance requested allows for the only practical way to divide the property to meet all other Code standards, and is the minimum variance which would alleviate the hardship.”