



HIGHLAND CITY

5400 West Civic Center Drive - Suite 1
Highland, UT 84003
Phone 772-4515 Fax 756-6903
Community Development Department

VARIANCE REQUEST APPLICATION

STAFF USE ONLY

Application Date: ___ / ___ / ___ Application Number: _____ Fee Owed: \$ 500.00
Received by: _____ Receipt #: _____ Cash/Card/Check (Check #: _____)
Variance Meeting Date: _____

PROJECT INFORMATION

Name: _____

Address: _____

Acreage/Property Size: _____

APPLICANT INFORMATION

Name: _____

Mailing Address: _____

Phone #: _____ Fax #: _____

Email Address: _____

Owner Information

Owner Name: _____

Owner Address: _____

Owner Phone #: _____ Owner Email Address: _____

Owner's Signature: _____



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 6903
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The following information and items are required for processing. An application will not be accepted without the following.

TO BE COMPLETED BY STAFF		DELIVERABLES
YES	NO	
		1. Detailed Site Plan.
		a. Include detailed plans for variance request.
		2. Questionnaire filled out completely (see pages 4 and 5).
		3. Review Fee: \$500.00.
		4. A detailed narrative of the specific action requested under this appeal including those reasons you feel qualified for granting your appeal.
		a. Please identify the specific section(s) of the Ordinance applicable to the issue.
		b. Include a list of affected properties and addressed and stamped envelopes for properties.

*The applicant should be aware that there may be requests to provide additional materials for staff review.

Signature: _____ Printed Name: _____

Date: _____ Phone Number: _____

If you have any questions regarding items on this checklist or the process, please contact the Community Development Department at 801-772-4506.

APPLICATION TO HIGHLAND CITY APPEAL AUTHORITY COMMENTS ABOUT THE APPEAL AUTHORITY AND APPLICATION FORM

In accordance with state law, Highland City has established an Appeal Authority to consider requests for variances and appeals from City decisions applying to its land use ordinances. The Appeal Authority cannot overturn or re-write City ordinances. When you are denied a request by the City, either directly or by application of a City land use ordinance, an appeal may be filed with the Appeal Authority.

The City can provide you with a written explanation of the appeal process and the form which must be completed to appeal a City decision. To initiate an appeal, you must complete the form describing your reasons for the appeal and provide any supporting information you consider appropriate, and submit it to the City. This appeal needs to include every theory of relief that can be presented to a District Court. The City will arrange a hearing date based on the parties' availability, and notify you in advance of the hearing date.

The hearing is a formal legal proceeding. At the hearing, the Appeal Authority will hear your presentation regarding the basis for the appeal and why you feel the appeal should be granted. The Appeal Authority will also hear from City staff and any other interested parties, both those favoring and those opposing the appeal. The Appeal Authority will have access to the City's records on the matter, and may view the property involved and request additional information at the hearing. Because the hearing is a legal proceeding, it is helpful to describe your basis for the appeal and present supporting information in the application and at the hearing.

After the hearing, the Appeal Authority will issue a written decision regarding the appeal. This decision will consider the information presented at the hearing, the City's record of the matter, and any other information requested by the Appeal Authority. The decision of the Appeal Authority constitutes the final City action on the appeal.

Any party dissatisfied with the decision of the Appeal Authority may appeal that decision within 30 days to the Fourth District Court. Completing the City's appeal process is necessary before the Fourth District Court will review the matter.

QUESTIONNAIRE

Please give detailed and complete answers on separate paper. Explanations for each question are listed below.

1. *Unreasonable Hardship*

The Applicants must prove “literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances.” Utah Code Ann. § 10-9a-702(2)(a)(i). In proving unreasonable hardship, the hardship complained of cannot be self-imposed or economic in nature. Utah Code Ann. § 10-9a-702(2)(b)(ii). Rather, the applicant must show that hardship relates to the property itself in that the hardship is located on or associated with the property for which the variance is sought. *Id.* § 10-9a-702(2)(b)(i)(A).

The hardship must come from circumstances peculiar to the property, not from conditions that are general to the neighborhood. *Id.* § 10-9a-702(2)(b)(i)(B). It is insufficient to show that the property for which the variance is requested is different in some way from the property surrounding it. *Xanthos v. Bd. of Adjustment of Salt Lake City*, 685 P.2d 1032, 1036 (Utah 1984). Rather, a hardship has been found when literal enforcement of an ordinance would deny access to a parcel and prohibit all development potential of that parcel. *Save Our Canyons v. Bd. of Adjustment of Salt Lake County*, 2005 UT App 285 ¶ 14, 116 P.3d 978, 983-984.

Please describe your proposed construction and specifically how it would not meet the requirements of the zoning ordinance. Does the literal enforcement of the ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances? Please Explain.

2. *Special Circumstances of the Property*

The Applicants must prove that “there are special circumstances attached to the property that do not generally apply to other properties in the same zone.” Utah Code Ann. § 10-9a-702(2)(a)(ii). An appeal authority may only make a finding of special circumstances if the circumstances relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zone. *Id.* § 10-9a-702(2)(c).

Please explain what special circumstances exist on the property, which do not apply to other properties in the same zoning district. (The law requires that the Board of Adjustment identify a property-related hardship before granting a variance, i.e., size, topography, etc. Such special circumstances may not be self-imposed or economic.)

3. *Essential to Enjoyment of Substantial Property Right*

The Applicants must demonstrate that “granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.” Utah Code Ann. § 10-9a-702(2)(a)(iii); *Save Our Canyons* 2005 UT App 285 at ¶ 14, 116 P.3d 978, 983.

Please explain how the variance will be essential to the enjoyment of a substantial property right possessed by other properties in the same zoning district.

4. *Effect on the General Plan and the Public Interest*

The Applicants must demonstrate that “the variance will not substantially affect the general plan and will not be contrary to the public interest.” Utah Code Ann. § 10-9a-702(2)(a)(iv).

Would the variance uphold the general plan and not negatively affect the public interest?

Yes No

Please Explain.

5. *Spirit of the Land Use Ordinance and Substantial Justice*

The Applicants must demonstrate that “the spirit of the land use ordinance is observed and substantial justice done.” Utah Code Ann. § 10-9a-702(2)(a)(v). Section 3-4101 of the Development Code indicates the purpose of the R-1-40 Zone:

The objective in establishing the R-1-40 Residential Zone is to support a very low density residential environment within the City which is characterized by large lots, ***well-spaced buildings***, well-kept lawns, trees and other landscaping with the nature of the environment substantially undisturbed, a minimum of vehicular traffic, and quiet residential conditions favorable for family life. (Emphasis added.)

Please explain how this variance will observe the spirit of the zoning ordinance and the general plan.