

## APPLICATION FOR VARIANCE

**Major Variances:** All of the development standards within the Land Development Code are potentially subject to a variance, except land uses. A potential change to a land use requires to be either be rezoned or the text of the Land Development Code be amended. Major variances are reviewed by the Zoning Board of Appeals (ZBA), which is a seven member quasi-judicial board that is appointed by the Mayor and confirmed by the City Council.

**Pre-Application:** Meeting with Planning Department staff prior to application submittal can help an applicant better understand the process and identify potential issues. An applicant may want to contact the neighboring property owners/tenants regarding the variance request prior to submitting the application to the City for formal consideration.

**Application Deadline & Completeness:** All required application information and payment of the application fee must be received by the deadline identified on the attached schedule.

All applications are evaluated by Planning Department staff, including the application form, fee, site plan and other relevant supporting information. If the materials submitted are deemed to be incomplete, Planning Department staff can reject the application and not place the item on the ZBA agenda.

**Application Information Required:** A site plan, drawn to scale including the following information, must accompany the application form with applicant(s) and owner(s) signature(s):

1. Property lines and dimensions
2. Size, location and use of all buildings
3. Parking stalls and drive areas
4. Points and widths of ingress and egress
5. Recreation and other open space areas
6. Facilities and uses of recreation areas
7. Landscaping features on the property (sod, seeded grass, trees, etc. including species and size at the time of planting), ornamental shrubs and bushes (including species and size at the time of planting), flower gardens, landscape rock, patios, sidewalks and other paved surface(s)
8. Property or use-related information deemed necessary to evaluate the request for a variance

### **Public Notification:**

**Public Notice Sign:** The St. Cloud Land Development Code requires the Planning and Zoning Department to provide the applicant a public notice sign to post on a property that will be subject to a future land use action. The sign must be placed in a visible location on the subject property at least ten (10) days prior to the date of the public hearing to be conducted by the ZBA. The sign must be removed by the applicant within 48 hours after the ZBA public hearing and returned to the Planning Office. Failure to post the sign may result in delay of permit processing and postponement of public hearing.

**Mailed Notification:** The St. Cloud Land Development Code requires written notice of the variance request be mailed at least ten (10) days prior to the public hearing date. Notice of the public hearing is sent by the Planning and Zoning Department to all property owners located within five hundred (500) lineal feet of or the nearest twenty (20) property owners to the subject property (whichever is greater).

**Published Notification:** The St. Cloud Land Development Code requires that a minimum of ten (10) days prior to the public hearing date, the Planning and Zoning Department have notice of the public hearing before the ZBA published in the legal section of the St. Cloud Times.

**Staff Review:** Staff will review all application materials and prepare a memorandum for the ZBA. The memo will contain City staff's recommendation to approve, approve with conditions, or deny. A copy of all application materials, including the staff memo, will be mailed to the applicant prior to the ZBA meeting. All materials will be available to the public through the City's website.

**Zoning Board of Appeals Meetings:** ZBA meetings are held on the third Tuesday of each month, unless there is a conflict with an election or holiday.

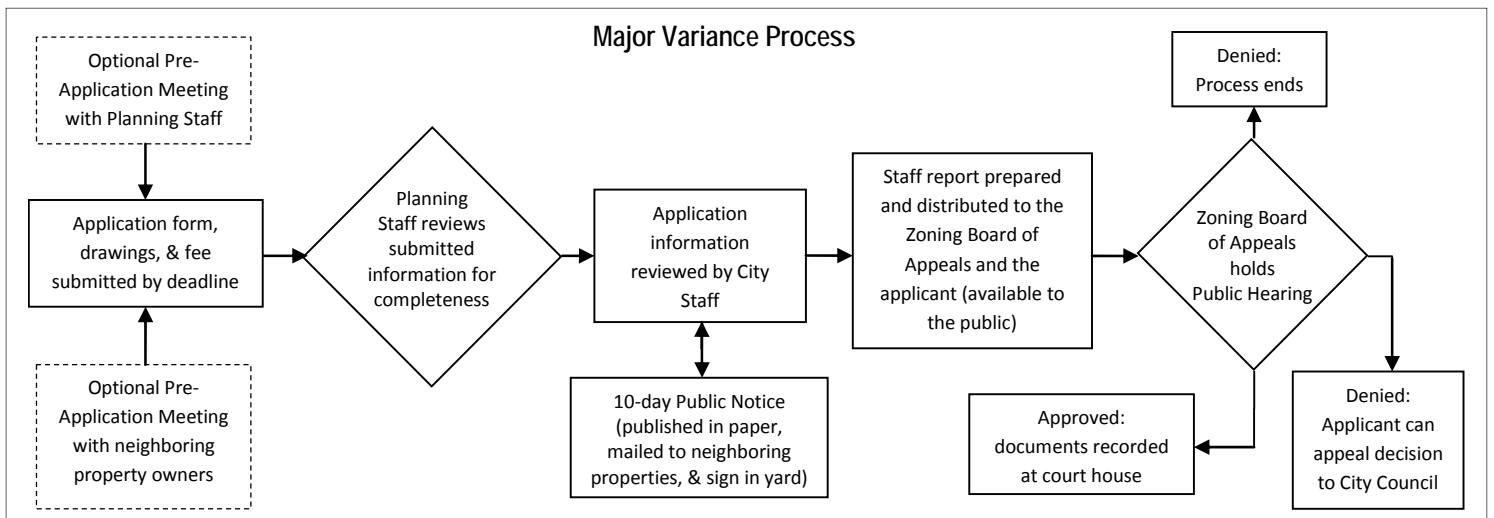
- In accordance with the ZBA's adopted rules of order and procedure, an individual board member will not accept or participate in any discussion or review/receipt of information related to any pending request outside of an official meeting of the ZBA (ex-parte contacts prohibited). All communications should be sent to Planning Department staff,

who will distribute the information to all board members. ZBA members may visit the subject property prior to the meeting.

- The ZBA chairperson will open the public hearing. It is recommended that the applicant, or their designated representative, testify first at the public hearing by outlining what the request is and why it should be approved. The speaker may be asked to respond to questions/concerns expressed by interested parties, ZBA members, or the general public.
- When the public hearing is closed, no additional testimony will be accepted from neither the applicant nor any other interested party. The ZBA members will proceed to discuss and debate the request amongst themselves and with Planning Department staff.
- The ZBA has the option of approving the request, approving the request with conditions, denying the request, or tabling a decision on the matter to their next meeting.
- If the applicant is not satisfied with the decision of the ZBA, the applicant has the opportunity to appeal the decision to the City Council within ten (10) days of the ZBA meeting.

**Findings of Fact:**

- The ZBA is required to make a findings of fact based on information provided by the applicant.
- In granting the variance, the ZBA may attach conditions. The variance allowed and conditions attached must be completed within one (1) year of ZBA approval or the variance will become null and void. The ZBA cannot, in accordance with the municipal zoning ordinance and state zoning act, make exceptions without satisfactory proof or certification of peculiar circumstances or special conditions related to the property (not the owner or occupants of the property) which would cause practical difficulties if the ordinance were literally enforced.
- The ZBA may grant a variance provided that: 1) The condition causing the practical difficulties that are unique to that property; 2) The variance is proved necessary in order to secure the applicant a right or rights that are enjoyed by other owners in the same area or district; 3) Granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the neighborhood; 4) Granting of the variance will not be contrary to the management policies of the area or district.
- No variance shall be granted simply because there are no objections or because those who do not object out-number those who do, nor for any other reason than proven practical difficulties. Granting of a variance is also subject to the conditions in Minnesota State law.
- The St. Cloud Land Development Code requires the ZBA to make a determination within fourteen (14) days after closing the public hearing. A copy of the determination will be mailed to the applicant(s).



**Administrative Variances:** Under certain conditions, the Zoning Administrator is authorized to render final decisions on applications for variances. These conditions include:

- Development on non-conforming lots of record, when the lot area or lot width requirements are at least 90% of the required minimum for the district, provided all other bulk requirements are met
- Reduction of setbacks, provided the reduction is no more than 10% or 2', whichever is less
- Increase in maximum lot coverage by no more than 5%
- Reduction in the number of off-street parking spaces, by no more than 10% of the number of spaces required
- Approve the increased projection of a wall sign over 12" when mounted on a slanted surface
- Approve accessory structures within the AG District that exceed the maximum building height

Variance requests to the Floodplain, Shoreland or Scenic Rivers Overlay Districts are not eligible for Administrative Variances.

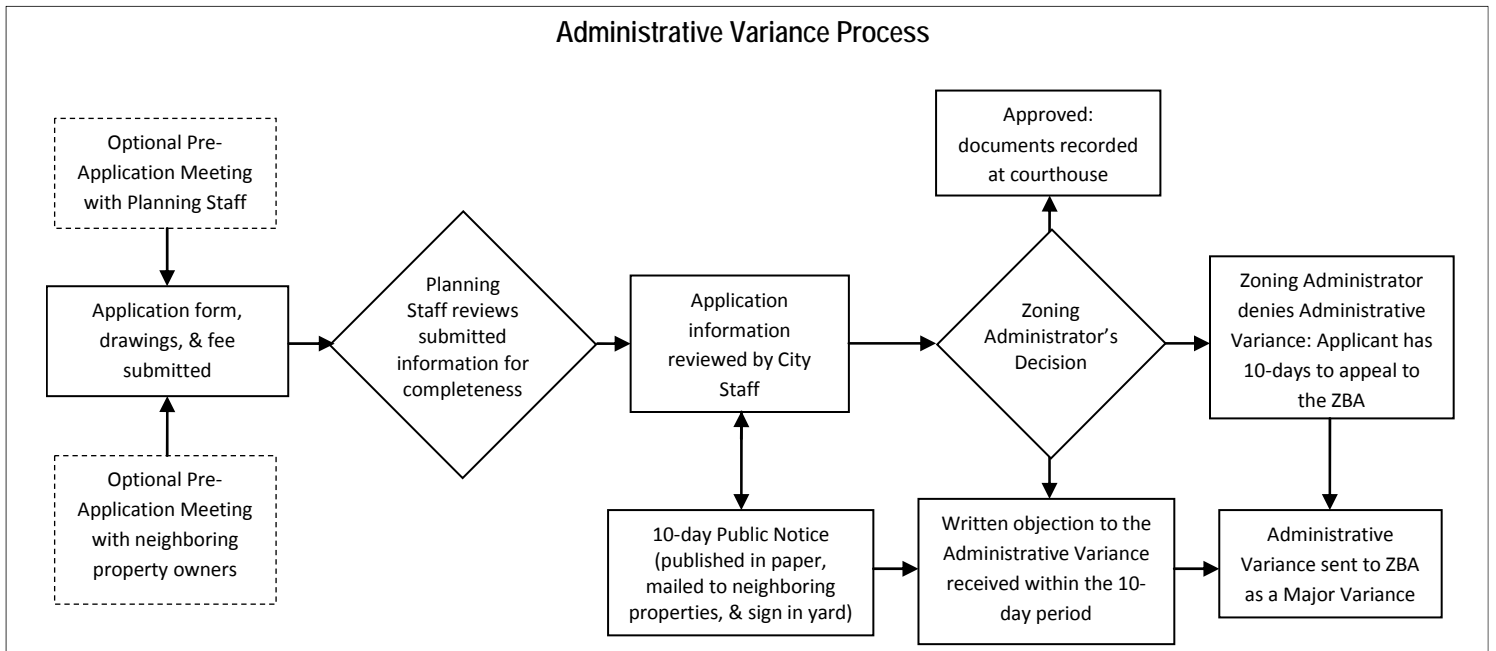
**Administrative Application Completeness:** All applications are evaluated by Planning Department staff to see if they are eligible as a potential Administrative Variance. All of the same information required for a Major Variance is required for an Administrative Variance, which includes: application form, fee, site plan and other relevant supporting information (see Application Information Required section on Page 1 of this application). If the materials submitted are deemed to be incomplete, Planning Department staff can reject the application.

**Public Notification:** The public notification requirements for an Administrative Variance are the same as a Major Variance (see Public Notification section on Page 1 of this application). Staff will allow a ten (10) day comment period for notified property owners to express opposition in writing.

**Staff Review:** Staff will review all application materials and will approve, approve with conditions, or forward it to the ZBA as a Major Variance.

**Opposition:** If staff receives any written objection to the Administrative Variance during the 10-day notification period, the variance will be placed on the next ZBA agenda as a Major Variance request.

**Zoning Administrator's Decision:** If the Zoning Administrator denies the Administrative Variance request, the applicant has ten (10) days to appeal the decision, at which time the variance request will be placed on the next ZBA agenda as a Major Variance request. If the Zoning Administrator approves the Administrative Variance, Planning Department staff will record the variance documents with the appropriate county.



**Withdrawal and Refund Policy:**

- All withdrawal requests must be submitted by the applicant to the Planning Department in writing.
- Refund of the application may be possible if the withdrawal request occurs prior to the public hearing. The amount of the refund will depend on where the application is in the review process.

**Note to Applicant:** Please be aware that any written information you provide with your application or at a public hearing, including pictures, becomes the property of the City. All comments made at all meetings of the Planning Commission, Zoning Board of Appeals and City Council becomes part of the public record. Virtually all Planning Commission, Zoning Board of Appeals and City Council meetings are broadcast live on cable Channel 19 in St. Cloud and rebroadcast at later dates.

**Questions / Submit Completed Application To:**  
 Planning & Zoning Department  
 400 2<sup>nd</sup> Street South  
 St. Cloud, MN 56301  
 Phone: (320) 255-7218 Email: [planner@ci.stcloud.mn.us](mailto:planner@ci.stcloud.mn.us)  
 Fax: (320) 255-7258 Website: [www.ci.stcloud.mn.us](http://www.ci.stcloud.mn.us)

The City of St. Cloud's mission is to "provide high quality public services for our residents in a cost effective, responsive, innovative and professional manner given the changing needs and resources available."

**APPLICATION FOR VARIANCES INCLUDING: ZONING; FLOODPLAIN MANAGEMENT;  
SCENIC RIVERS; SHORELAND MANAGEMENT; SUBDIVISION REGULATIONS VARIANCES**

- Application for Administrative Zoning Variance
- Application for Major Zoning Variance
- Application for Floodplain Management Variance
- Application for Scenic Rivers Variance
- Application for Shoreland Management Variance
- Application for Subdivision Regulations Variance

List the Article(s) and Section(s) of the Land Development Code the applicant is seeking a variance from:

**REQUIRED APPLICATION INFORMATION**

**APPLICANT INFORMATION:**

Name(s): \_\_\_\_\_

Address, City, State, and Zip Code: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_ E-mail Address: \_\_\_\_\_

**PROPERTY OWNER INFORMATION:**

Name(s): \_\_\_\_\_

Address, City, State, and Zip Code: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_ E-mail Address: \_\_\_\_\_

Street Address of Subject Property \_\_\_\_\_

Applicant's Interest in Subject Property:     Contractual (Attach Evidence)     Freehold

Total Area (Acres or Square Feet) of Subject Property \_\_\_\_\_

Complete Legal Description of Subject Property:

1. State exactly what is intended to be done on or with the property which does not conform with the present Land Development Code:

2. What reasonable use of your property is lost (practical difficulties) by the strict enforcement of the Land Development Code? Please distinguish loss of property rights from personal preference.

3. Please answer the following questions as they relate to your specific variance request:

A. In your opinion, is the variance in harmony with the purposes and intent of the Land Development Code? Why or why not?	Yes <input type="checkbox"/> No <input type="checkbox"/>
B. In your opinion, is the variance consistent with the City's Comprehensive Plan? Why or why not?	Yes <input type="checkbox"/> No <input type="checkbox"/>
C. In your opinion, does the proposal put property to use in a reasonable manner? Why or why not?	Yes <input type="checkbox"/> No <input type="checkbox"/>
D. In your opinion, are there circumstances unique to the property? Why or why not?	Yes <input type="checkbox"/> No <input type="checkbox"/>
E. In your opinion, will the variance maintain the essential character of the locality? Why or why not?	Yes <input type="checkbox"/> No <input type="checkbox"/>

The Zoning Board of Appeals must make an affirmative finding on all five criteria listed above in order to grant a variance.  
The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied.

I HEREBY CERTIFY THAT I HAVE READ, EXAMINED AND UNDERSTAND THIS APPLICATION AND THAT THE INFORMATION SUBMITTED HEREIN AND ATTACHED HERETO IS TRUE, ACCURATE AND CORRECTLY STATES MY INTENTIONS.

Applicant Signature(s) \_\_\_\_\_ Print Name \_\_\_\_\_ Date \_\_\_\_\_

Property Owner Signature(s) \_\_\_\_\_ Print Name \_\_\_\_\_ Date \_\_\_\_\_

STAFF USE ONLY

Application Fee Received by \_\_\_\_\_ Date Received \_\_\_\_\_

Request for variance from Article \_\_\_\_\_, Section \_\_\_\_\_ for the Land Development Code requires \_\_\_\_\_

\_\_\_\_\_

# ZONING BOARD OF APPEALS

## 2021 Schedule of Meetings

<b>Meeting Date</b>	<b>Submittal Deadline</b> (all materials must be submitted by 4:30 p.m. unless otherwise denoted)
Tuesday, January 19	<b>Monday, January 4</b>
Tuesday, February 16	Friday, January 29
Tuesday, March 16	Friday, February 26
Tuesday, April 20	Friday, April 2
Tuesday, May 18	Friday, April 30
Tuesday, June 15	Friday, May 28
Tuesday, July 20	Friday, July 2
Tuesday, August 17	Friday, July 30
Tuesday, September 21	Friday, September 3
Tuesday, October 19	Friday, October 1
Tuesday, November 16	Friday, October 29
Tuesday, December 21	Friday, December 3