

About Variances

*This explains 1) what a “variance” is,
2) how variances fit into our efforts to shape our surroundings, and
3) how you can participate in the decision-making process.*

What is a Variance?

Land use rules say what kinds of uses can go where in a community. They also regulate what happens on an individual piece of property. Things like building height limits and parking space requirements are examples of these kinds of rules. Typically these rules are found in a city or county’s zoning code.

A landowner may feel that one or more rules impose a unique hardship. If so, one option is for the owner to request to be excused from complying with that rule. This is called a *variance* (because the owner is allowed to “vary” from the rules that usually apply).

General Concept

Landowners tend to ask for a variance when the physical aspects of property pose unique challenges. Examples include lot size, shape, terrain, location, or surroundings. For example, lot with large heritage trees may need an exception to a setback requirement in order to be built on.

The goal of granting a variance is to enable property to be used in a practical manner. Variances are, in essence, permission to break rules that others must follow. As a result, variances are not granted easily.

When deciding whether to grant a variance, decision-makers must make written findings explaining why a variance is or is not justified. These explanations must be backed up with facts that also become part of the written record of the decision. Generally, financial hardship, community benefit, or the worthiness of the project is not a consideration in determining whether to approve a variance.

What if the problem is that a landowner wants to use property in a way that is not allowed in a zone? An example is someone who wants to locate a business in a residential zone. The solution to that problem would be to seek a zone change, not a variance.

To Learn More

- Planner’s Training Series, “The Variance” Governor’s Office of Planning and Research (1997) available at www.ceres.ca.gov/planning/var/variance.htm#what_anchor
- *The Planning Commissioner’s Handbook*, League of California Cities, 2005, Chapter 4: The Planning Framework (www.ca-ilg.org/pch4)
- California Government Code section 65906 (accessible from www.leginfo.ca.gov/calaw)
- Solano Press (www.solano.com) also offers a number of land use related publications for purchase

Key Questions

- ☐ What special circumstances justify granting a variance?
- ☐ How does enforcing of the rules deprive the property owner of privileges that others enjoy?
- ☐ What kinds of conditions can be imposed on a variance to make sure that everyone is treated fairly?