



State of Utah Variance Criteria

State law requires that a variance can only be granted if **ALL** of the following conditions are met. If even one of them is not met, the Board of Adjustment is required to deny it. Therefore, you must prove to the Board that all of the following conditions are met:

- **Unreasonable Hardship.** “Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship, the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship.
 - (1) is located on or associated with the property for which the variance is sought; and
 - (2) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. The hardship cannot be self-imposed or economic....; and”
- **Special Circumstances.** “There are special circumstances attached to the property that do not generally apply to other properties in the same zone. The Board of Adjustment may find that special circumstances exist only if the special circumstances:
 - (1) relate to the hardship complained of; and
 - (2) deprive the property of privileges granted to other properties in the same zone; and”
- **Substantial Property Right.** “Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone....”
- **General Plan.** “The variance will not substantially affect the General Plan and will not be in contrary to the public interest; and”
- **Spirit of the Law.** “The spirit of the zoning ordinance is observed and substantial justice is done.”



Orem City DRC Packet

Variance



Step 1: Apply

- Create a concept plan of what you would do with the property if granted the variance request.
- Schedule a pre-application meeting to be held with City staff. Staff will discuss with you the likelihood of your proposal being approved by the Board of Adjustment.
- Complete the DRC application, checklist, and questionnaire.
- If you pass the pre-application meeting, complete all required documents and submit them to the City with your concept plan.
- **See page 3 of this packet for detailed instructions.**



Step 2: DRC

- 1. Submit Plans.** Submit a complete set of documents by Monday at 12pm.
- 2. DRC Review.** The DRC will review those documents. Reviews are held from Tuesday to Tuesday.
- 3. Redlines.** If there are redlines, they will be sent on the Tuesday after reviews are done. Fix them and resubmit by Monday at 12pm.
- 4. DRC steps 1-3 will repeat until the plans are approved by the DRC.**



Step 3: Board of Adjustment

- The Board of Adjustment is a group of citizens appointed by the City Manager with the advice and consent of the City Council.
- Board of Adjustment meetings are held once a month on the last Wednesday.
- Staff is required to notify the public two weeks in advance of the meeting. Your project must be approved by the DRC by that deadline.
- Per State Law, the Board is required to deny your project if any of the five criteria are not met.
- **Attendance at the Board of Adjustment meeting is required by the applicant or a representative of the applicant.**



Step 4: Development Process

- If the Board approves your proposal, you can begin the development process.

How to Apply

1. **Concept Plan.** Create a concept plan of what you would do with the property if granted the variance or the appeal request.
 2. **Schedule a Pre-Application Meeting.** Staff will discuss with you the likelihood of your proposal being approved by the Board. Staff may recommend that your application be denied if it is determined that you do not meet the State requirements for a variance. You can schedule this by calling Development Services at 801-229-7058.
 3. **Complete the Application.** Fill out the application. Check the appropriate boxes. The application fees are listed there.
 4. **Complete the Checklist.** Each box must either be checked off or have a note that explains why it is not. If you do not complete the checklist, you must instead provide a written document that explains why you do not have the checklist.
 5. **Complete the Questionnaire.** The questionnaire asks you to justify how you qualify for all five of the State requirements for a variance. If these questions are not answered, your application will be rejected.
 6. **Email the completed documents and a complete set of plans** to jrharding@orem.org and chvargas@orem.org.
 7. **Pay Application Fees.** You can pay these by check, cash, or card. You may call Development Services at 801-229-7058 to pay over the phone. If you'd rather, you may also pay in person in Room 105 at the Orem City Center located at 56 N State Street. The fees for your project are listed on the Application. Payment must be received by Monday at 12pm to be reviewed that week.
- **Important Note.** Incomplete applications will not be accepted.





DRC Checklist

Variance

This checklist must be filled out completely in order to apply for DRC. Each individual item must be checked off. If for some reason, you feel that a particular item is not applicable to you, you must explain why in writing.

Disclaimer: This information is an abridged version of Utah State Code 10-9-707. This information is for the benefit of the developer/applicant to help follow the required review and approval process for your project. **This checklist does not release the developer/applicant from the responsibility of reading and following all provisions listed in Utah State Code.**

Concept Plan

- Drawings must be to scale and include the following:
 - All property lines with dimensions.
 - Locations, dimensions, and labels of all structures existing and proposed.
 - Dimensions from structures to property lines.
 - Locations and dimensions of parking areas, driveways, and landscaped areas that are existing and proposed.
 - Topographical information that may be necessary in determining the variance.
 - Specific information pertaining to the variance sought.**

Submit with Application

- Payment of non-refundable Application Fee (\$906)
- Completed Development Review Committee (DRC) application and Questionnaire.
- Legal description of parcel(s) for which the variance is requested.



DRC Application

Variance

Applicant Information:		
Name:	Phone:	
Address:	City:	
Email:	State:	Zip:

Project Information:	
Project Name:	
Project Address:	

Fees:		Deadline:
All Variance Proposals	<input type="checkbox"/> Variance Fee	<p>Except in the case of a holiday, the deadline for DRC Applications is Monday at 12pm. Please call Development Services to determine the deadline in the event of a holiday.</p>
	<input type="checkbox"/> Neighborhood Notice Fee	
Total:		

Contact Person:		
Contact Person:	Phone:	Email:

Office Use Only:		
Project ID Number:	Date Paid:	Received By:



DRC Questionnaire

Variance

Please briefly describe your project. Why do you need a variance?

Use the space below to prove why your proposal meets the following State requirement:

“Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship, the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship. (1) is located on or associated with the property for which the variance is sought; and (2) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. The hardship cannot be self-imposed or economic.”

Use the space below to prove why your proposal meets the following State requirement:

“There are special circumstances attached to the property that do not generally apply to other properties in the same zone. The Board of Adjustment may find that special circumstances exist only if the special circumstances: (1) relate to the hardship complained of; and (2) deprive the property of privileges granted to other properties in the same zone.”

Use the space below to prove why your proposal meets the following State requirement:

“Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone....”

Use the space below to prove why your proposal meets the following State requirement:

"The variance will not substantially affect the General Plan and will not be in contrary to the public interest...."

Use the space below to prove why your proposal meets the following State requirement:

"The spirit of the zoning ordinance is observed and substantial justice is done."