



Pershing County Planning and Building Department

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Variance Application Guide

The variance process exists to allow approval to be granted for a deviation from the strict application of the Development Code where owing to special conditions a literal enforcement of the code will in an individual case result in unnecessary hardship. The granting of a variance must not result in a substantial detriment to the public good, substantial impairment of affected natural resources or substantial impairment of the intent and purpose of the Development Code. A variance may not be granted to increase the density or intensity of development beyond that allowed by current land use district regulations or to allow any use not otherwise authorized in the current land use district.

Application Submittal Requirements. The following information must be submitted in order to process an application:

1. Completed application with signed and notarized owner affidavit.
2. Site plan (see requirements below)
3. \$250.00 application fee. Checks should be made out to Pershing County.

Note: the applicant must provide evidence showing how the findings for approval (listed below) are met.

Review Procedures. The review procedures for Variance applications are as follows:

1. Application Review. Upon receipt of an application, the Planning Department will have seven (7) working days to review the materials and determine if the application is complete. If an application is found to be incomplete the application will be returned to the applicant or the applicant will be notified of any additional information needed. Once an application has been determined complete, it will be scheduled to be heard by the Planning Commission.
2. Public Hearing. A public hearing will be conducted by the Planning Commission within 65 days from the date the application is accepted as complete.
3. Action Required. The Planning Commission may take action to approve, approve with conditions, modify, modify with conditions, or deny the variance request at the conclusion of the public hearing, but shall take action no later than 65 days after the complete application is accepted. An extension of time for the Planning Commission to take action may be granted if mutually agreed upon by the applicant and the Planning

Commission. Failure of the Planning Commission to hold a public hearing or take action within the time frame required will constitute approval of the application.

Findings. Prior to approving an application for a variance, the Planning Commission must find that all of the following apply to the property:

- A. Special Circumstances. One or more of the following special circumstances are applicable to the property:
 - 1. Exceptional narrowness, shallowness or shape of the specific piece of property.
 - 2. Exceptional topographic conditions.
 - 3. An extraordinary and exceptional situation or condition of the property and/or location of surroundings exists.
 - 4. Strict application of a regulation results in exceptional and undue hardship on the property owner.
- B. No Detriment. Approval will not create substantial detriment to the public good and will not substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted.
- C. No Special Privileges. Approval will not constitute a granting of special privileges inconsistent with the limitations on other properties in the vicinity and the same regulatory land use district in which the property is located.
- D. Use Authorized. Approval will not authorize a use or activity which is not otherwise expressly authorized by the regulations governing the property.

Effective Date of Action. The Planning Commission's action on the variance application, unless otherwise specified, will become effective upon expiration of the appeal period.

Appeals. An appeal of the Planning Commission's final decision may be made to the Board of County Commissioners within 10 days after the date of the final decision. Refer to Section 17.710 of the Pershing County Development Code for additional information on the appeal process.

Expiration. A variance will expire according to the following:

- A. Time Period. A variance will expire at the time specified within the approved variance. If no time is specified, the following will apply:
 - 1. A variance will expire 24 months after its effective date except where construction and/or use dependent on the variance has commenced prior to expiration.

2. A variance will expire 5 years after its effective date if any required building permit associated with the variance has not been extended or has lapsed and become void.

B. Extension. The Planning Commission may approve an extension on the time period of a variance. Approved extensions will be for a period of 12 months at a time. Requests for time extensions must be submitted in writing prior to the expiration date of the variance. The request must state the reason for the extension.

Revocation. A variance may be revoked according to the following:

Initiation of Action. The Planning Commission or the Board of County Commissioners may initiate an action to revoke a variance.

Grounds for Revocation. A variance may be revoked upon a finding of any one (1) or more of the following grounds:

1. Variance approval was obtained or extended by fraud.
2. One or more of the conditions of approval has been violated.

Procedures. A public hearing will be conducted by the Planning Commission concerning revocation of a variance. The Planning Commission will make findings based on one or more of the grounds stated above. The Planning Commission will then forward these findings and a recommendation on the revocation to the Board of County Commissioners. A public hearing will be conducted by the Board of County Commissioners. Following the public hearing, the Board may take action to revoke the variance or to continue the variance.

For additional information regarding revocation of a variance, refer to Section 17.602.50 of the Pershing County Development Code.

One year wait on denials. After a variance application has been denied, no applications for the same or similar variance request may be accepted for one (1) year after the date of denial. This regulation does not apply to applications denied without prejudice, which may be refilled at any time.

Site Plan. A site plan is required to be submitted with an application for a variance. The intent is to ensure the proposed development conforms to the regulations contained within the Pershing County Development Code and Building Code. The site plan must clearly show how any regulations will be deviated from. Some site plans may be required by the Planning Department to be prepared by a registered architect, engineer, landscape architect or surveyor. Specific requirements of the site plan may be waived by the Planning Director.

Requirements for submittal. A site plan must be prepared on a sheet no less than 8.5 x 11 inches and no more than 24 x 36 inches. It must be drawn to scale and must include the following information:

1. Address or location of the project
2. Name, address, and telephone number of applicant and/or property owner
3. North arrow, scale and date
4. Dimensions of the lot, and total area in acreage or square feet
5. A complete legal description of the property. The Planning Commission may require a boundary survey.
6. A vicinity map clearly identifying the location of the project and its relationship to the surrounding community
7. Land use of the property and on adjacent properties.
8. Location of proposed construction
9. Location of any existing structures
10. Location of existing or proposed water wells
11. Location and configuration of septic systems, with required open area, or interim wastewater treatment facility, if required
12. Location and configuration of water and sewer system infrastructure and connection points.
13. Distance between existing and proposed structures, utilities and lot lines
14. Minimum required building setbacks
15. Any existing or proposed easements for roadways, access, utilities or other uses
16. Location of irrigation ditches, head gates and related facilities
17. Location and height of any walls and fences
18. The location, height, and size of all signs
19. Buffer and screening areas