



Variance Request

Information and Instructions

Gallatin County's zoning district regulations provide for variances when, because of exceptional circumstances affecting the applicant's property, strict application of the zoning regulation would result in an **undue hardship**. A variance will not be granted to confer special privileges inconsistent with limitations placed upon other property or to allow uses that the zoning regulation does not permit.

PROCESS:

- Applicant submits a digital copy and single hard copy of the complete application to the Planning Department.
- Planning staff determines whether the application packet contains the information necessary to process the application (see checklist on following page) and requests additional information as needed.
- The Planning staff distribute digital copies of the application packet to appropriate departments and agencies for review and comment.
- The Planning staff schedules public hearing.
- Planning staff distributes public notice:
 - By certified mail to adjacent property owners list provided by the applicant.
 - In appropriate newspaper.
- Planning staff conducts a site visit of the property.
- Planning staff analyzes the application materials and comments received from other departments/agencies and prepares a staff report that is distributed to the governing body and posted online the week before the public hearing.
- Public hearing is held:
 - The applicant or applicant's representative should be present (in person or online) at the hearing to answer questions raised by the governing body or public. Please contact staff if this is not possible.
 - Governing body decides on the request (*unless postponed*).
 - In most cases, the governing body attaches conditions (actions the applicant must take or permits they must apply for) when variance applications are approved. Failing to meet the conditions of approval is a violation of the zoning regulation and jeopardizes the legitimacy of the variance approval.
- Decisions on variances may be appealed to the court of record within 30 days of being made.

For 101 district or “Part 1” Zoning Districts*

- The Planning and Zoning Commission and County Commission typically hold a joint public hearing at which they consider the staff report, applicant presentation, and public comment. The Planning and Zoning Commission makes a recommendation on the request to the County Commission, who then decides on the request.
- If the Planning and Zoning Commission are not able to hold a joint hearing, the County Commission may consider the request at a separate hearing.

For 201 districts or “Part 2” Zoning Districts*

- The hearing and decision-making body varies depending on which 201 Zoning District the property requesting the variance is in.
- For most variances, the Board of Adjustment holds a public hearing at which it considers the staff report, applicant presentation, and public comment. The Board of Adjustment votes on whether to approve or deny the variance.

**State statutes (76-2-101 and 76-2-201 MCA) allow for two different types of zoning districts, each with different standards for processing variance requests.*

VARIANCE APPLICATION CHECKLIST:

Pre-submittal meeting. While not required, it is highly recommended for applicants to contact the Planning Department to schedule a pre-submittal meeting to discuss application requirements and hearing procedure.

Cover letter. Prepare a cover letter describing:

- The overall project and why a variance is required
- How the project complies with the applicable development standards of the zoning district
- A discussion of the applicable variance criteria, which varies between Part 1 and Part 2 zoning districts but generally includes discussion on:
 - Exceptional or extraordinary circumstances apply to the subject property that do not apply generally to other properties in the same Sub-district or vicinity due to lot size or shape, topography, or other circumstances over which the owners of the property have had no control since enactment of the District Regulation;
 - The Variance is necessary for the preservation of the applicant’s property right that is substantially the same as that possessed by owners of other property located within in the same Sub-District or vicinity in which the subject property is located;
 - The approval of the variance will not be materially detrimental to property located within the same Sub-district or vicinity in which the subject property is located; and
 - The Variance requested is the minimum Variance needed to alleviate the hardship.

Attachments.

- Prepare a site plan, including all existing and proposed structures, architectural projections such as eaves, decks/porches, driveways, parking spaces, landscaping, signage, property lines, watercourses, and easements.

- This must be no larger than 11" x 17", drawn to scale and/or with measurements clearly labeled. If topography is pertinent to the variance request, also show contours/slope angles.
- Depending on the request, floor and elevation plans may also be required to provide a full description of the project.
- Reference the appropriate section of the zoning regulation and/or state statute and include any other applicable supplemental information as needed to demonstrate compliance (e.g., parking plans, lighting plans, etc.)

Certified Mail. Prepare the Certification of Adjacent Property Owners form (included in variance application).

- List the names, mailing addresses and legal descriptions of the property of the owners adjacent to/adjoining the exterior the subject property on the form. **There is a fee per mailer.**
- Adjacency includes property located across the road/highway, watercourses, ditches, etc. as well as "kitty corner." If an adjacent road is owned in fee title, please include the owner of the road on property owner list.
- Provide three sets of mailing labels for each adjacent/adjoining landowner.
- Labels must be smaller than 1" x 2-5/8" (like [Avery 5160](#) / 30 per sheet)

Submittal. Compile the above documents and completed variance application form. In your submittal, include:

- One physical copy of the complete application.
- One complete digital copy of the complete application (no file greater than 20 MB); email to planning@gallatin.mt.gov.
- Submit [required fee\(s\)](#); checks payable to Gallatin County Planning Department.

Please note: Once your application is deemed complete by a Planner, they will let you know how many additional hard copies of the application to turn in for the hearing. If you have any questions regarding the application or need any assistance filling out any part of the application form, please contact the Planning Department.