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## CITY OF AZTEC

### Variance Requirements

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The requirements of a Variance is defined in Chapter 26 Land Use Regulations, Article IV., Division 5. More specifically in the following Sections:

#### **Sec. 26-551. Purpose and Hardship.**

The property owner seeking a variance on the grounds of “unnecessary hardship” must show:

1. Credible proof that the property will not yield a reasonable return if used in accordance with the ordinance; or
2. Must establish that the Land Development Ordinance gives rise to the hardship amounting to virtual confiscation; or
3. Disadvantage must be so great as to deprive the owner of all reasonable use of the property.  
(Code 2007, 26-551)

#### **Sec. 26-552. Process.**

1. Application. Where owing to special conditions a literal enforcement of the provisions of this ordinance would involve practical difficulties or cause unnecessary hardships within the meaning of this ordinance, the City Commission shall have the power upon appeal in specific cases to authorize such variation or modifications of the provisions of this ordinance with such conditions and safeguards as it may determine, so that public safety and welfare is secured and substantial justice done. The application must consist of the following:
  - (1) A completed " Application For Variance" form;
  - (2) A detailed site plan including the following:
    - (a) An outline, with boundary dimensions and total acreage, of the area proposed for the variance;
    - (b) Existing streets, roads, drainage courses and utility features expected to service the area;
    - (c) Proposed streets, private drives, parking area, and utility feature;
    - (d) Proposed locations of structures;
    - (e) North arrow, scale, and other geographic data. The site plan should be drawn on 8-1/2 by 11-inch paper for reproduction purposes.
  - (3) A legal description or proper street address of the subject property;
  - (4) A reason for the request of the variance and statement of hardship delineating how the variance relates to the specific parcel of land, is not a substantial detriment to the public good, and how any deviation would substantially outweigh any detriment caused by the variance.

2. Publication and Notification. All variance requests shall be published as provided for in Section 26-504-2(3) of this code and also the following:
  - (1) A signed petition of approval by a majority of surrounding neighbors within 100 feet is required.
3. Fees. A non-refundable fee of fifty dollars (\$50.<sup>00</sup>) is required.
4. Approval or Denial. Approval of a variance shall be granted by the City Commission if the following conditions are met:
  - (1) That the variance will not allow a use other than a use permitted for the district;
  - (2) That under exceptional and extraordinary circumstances having to abide by literal enforcement of the provisions of this ordinance will result in unnecessary hardship;
  - (3) That the circumstances presented were not created by the owner of the property and are not due to or the result of general conditions in the district in which the property is located;
  - (4) That the development or use of the property for which the variance is sought, if limited by literal enforcement of the provisions of this ordinance, cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same district;
  - (5) That the variance will not substantially or permanently injure the appropriate use of adjacent property in the same district and conforming to the designated Land Development district;
  - (6) That the variance will not alter the essential character of the Land Development district in which the property is located within and for which the variance is sought;
  - (7) That the variance will not weaken the general purposes of this ordinance or the regulations established for the specific district;
  - (8) That the variance will not adversely affect the public health, safety or welfare;
  - (9) Administration and Fees
5. Duration. Every variance authorized shall not belong to the applicant or owners but shall run with the land and be transferable from owner to owner.  
(Code 2007, 26-552)