

# Variations & Adjustments

## What is a Variance or an Adjustment?

Variance is a term that is highly misunderstood. A variance allows you to ‘break’ a zoning requirement in order to meet your design, if there is a justifiable reason. The Code also allows “adjustments.” Requesting a relief from a code requirement that is less than 10% from the standard is an adjustment, 10% or more is a variance. A variance and an adjustment are actual applications. Staff reviews adjustments. The Planning Commission can allow a landowner a variance from the requirements of the code *if* they can satisfy the *specific* criteria from the Code, see Chapters 5.02 and 5.03.

## What are the Criteria?

Adjustments and variances differ a little in their criteria, but both are rooted in a few simple points:

- **Something physical on the property is preventing me from complying with the Code.**

*This means a stream or some physical constraint is preventing you from complying with a setback or other standard. Financial hardships, or the fact that setbacks might not work with your design, do not count to satisfy the criteria. A strange lot configuration may satisfy the criteria if it is genuinely preventing you from complying.*

- **If you can change your design and still comply, you can't meet the criteria.**

*In other words, if the project can be designed in any other way to avoid the need for a variance, then you cannot use the variance.*

**But I really want to!**

“I really want to” is not adequate justification to support a variance request. You need to satisfy the Code requirements. Sometimes landowners insist that they deserve a variance because they have already incurred substantial costs. A financial hardship is not justification for a variance.

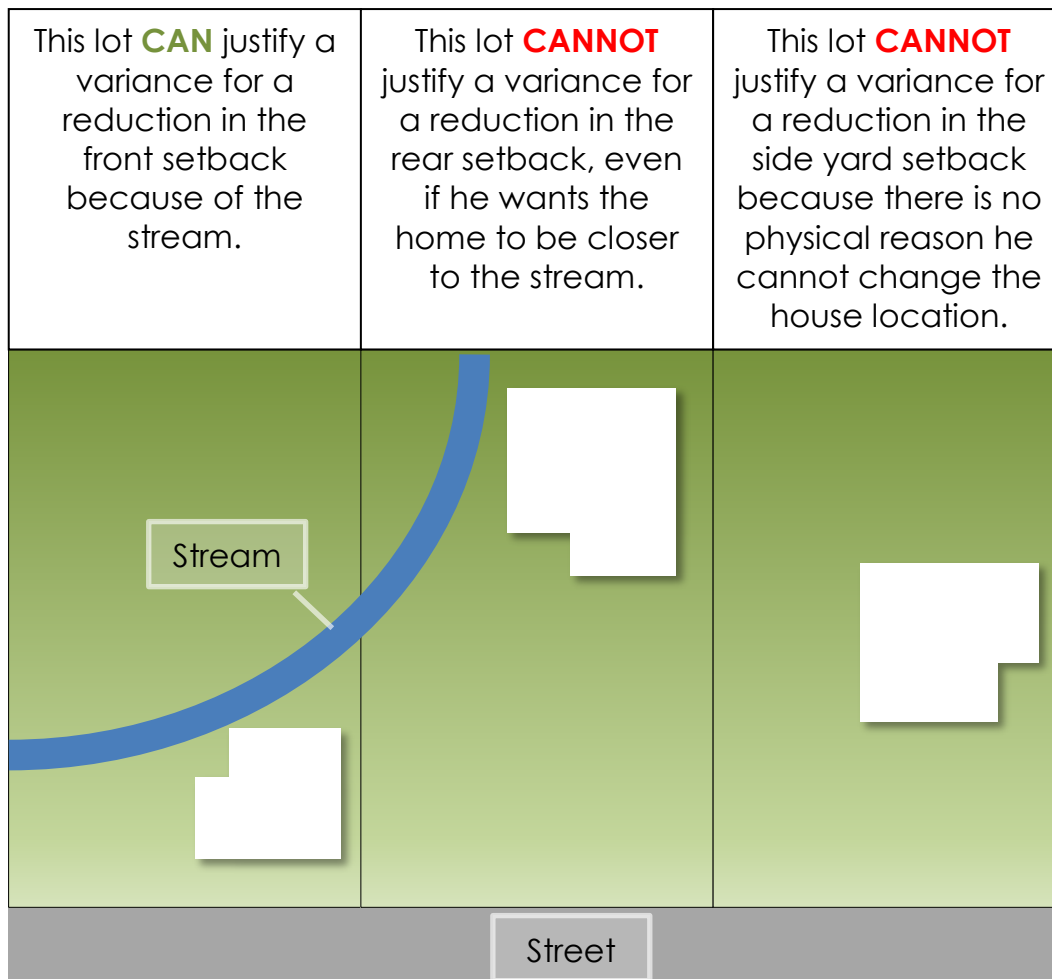
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| <b>What can be Varied or Adjusted?</b> | <b>Any Quantifiable Standard</b>                                       | Less than 10% =<br><b>Adjustment</b> | Decision at <i>Staff Level</i> , no hearing               |
|  | Such as a setback, height, or lot coverage<br><br>(not permitted uses) | More than 10% =<br><b>Variance</b>   | Decision by <i>Planning Commission</i> , hearing required |

## What do I need to provide?

- **A Site Plan.** You need to provide a site plan showing the property boundaries, structures, physical features, and the issue that is causing the need for a variance or adjustment.
- **The Narrative.** In Oregon it is the applicant's responsibility to show that they meet all City requirements or "criteria." The applicant **must** provide a narrative explaining how they meet each requirement of the Code, specifically those on the other side of this page. Try not to give short, declarative answers; we need detail rich responses to assure you meet the requirements. Yes or no answers will not suffice. Include any other details that show you meet the criteria.
- **Application and Checklist.** The City uses one application for all land use case-types. You can find the application here [www.cityofmillersburg.org/planning/page/land-use-application](http://www.cityofmillersburg.org/planning/page/land-use-application). For all other items you will need, see the application checklist.

## Who decides? How long does it take?

The Planning Commission decides a variance application and the process requires a hearing. The entire process usually takes about 2-3 months. If you are applying for other land use applications like Site Plan Reviews or Conditional Use Permits, the variance would be processed together with the other applications.



**But the neighbors don't mind!**

Neighborhood opinion can play a role in the hearing, but it does not help justify the request. Commissioners may feel a desire to respect the will of the residents, however, the request **must** meet Code requirements. Neighborhood opinion is not one of the stated criterion.