

**Town of Minturn
Development Review Process:
Guide To**

Variations

*This guide describes the **Variance Process**. This guide should be utilized in conjunction with the Town of Minturn Zoning Regulations, Town of Minturn Comprehensive Plan and the guide to Pre-Application Review.*



PLANNING AND ZONING DEPARTMENT
302 PINE STREET / PO BOX 309 MINTURN, COLORADO 81645
PHONE: 970-827-5645 FAX: 970-827-5545
<http://www.minturn.org/government/zoning.html>



LAND DEVELOPMENT APPLICATION

TOWN OF MINTURN PLANNING AND ZONING DEPARTMENT

P.O. Box 309 302 Pine Street
 Minturn, Colorado 81645-0309
 Phone: 970-827-5645 Fax: 970-827-4262 Email: planner@minturn.org

APPLICANT:		ADDRESS:		SIGNATURE:	
				NAME:	
		PHONE:	FAX:		
		EMAIL:		TITLE:	
OWNER(S) OF RECORD:		ADDRESS:		SIGNATURE:	
				NAME:	
		PHONE:	FAX:		
		EMAIL:		TITLE:	
DEVELOPER:		ADDRESS:		CONTACT PERSON:	
		PHONE:	FAX:		
		EMAIL:			
ENGINEERING FIRM:		ADDRESS:		CONTACT PERSON:	
		PHONE:	FAX:		
		EMAIL:			
Presubmittal Date		Presubmittal Planner:			
Parcel ID Number		<i>(Example: 210326325001) from your full card printout</i>			
Address or Intersection					
Brief Legal Description					
Subdivision Name & Filing #					
Project Description					
	Existing			Proposed:	
Zoning:					
Land Use:					
Total Acres:					
F.A.R./Density:					
Project Name:					
Related Case #'s:					
CASE TYPE					
PUD CDP: Concept Dev. Plan	PP: Prelim. Subdivision Plat	DRB – P: Des. Rev. Bd. Prelim	A-FP: Fence Permit		
PUD PDP: Prelim. Dev. Plan	FP: Final Subdivision Plat	DRB – F: Des. Rev. Bd. Final	A-MOD: Modification/Add		
PUD FDP: Final Dev. Plan	MS: Minor Subdivision	ADM: Admin. Des. Review	A-MIN: Minor Ext. Mod.		
PUD ASP: Admin. Site Plan	ASR: Admin. Subdivision Replat	A-SIGN: Admin. Sign Review	ANNEX: Annexation		
PUD FDP A: Amendment	V: Vacation of Easement	A-DIG: Admin. Dig Permit	TU: Temporary Use		
LU-V: Land Use – Variance	R.O.W. Vacation	A-DEMO: Admin. Demo Per.	CU: Conditional Use		
NU –V: Non Use – Variance	REZ -Rezoning –Straight Zoned	A-LTD: Admin. Limited Use	APPLS: Appeals		
This section for OFFICE USE ONLY					
Case No:	Case Mgr.	Case Eng.			
Fees Paid	Y	N	\$	Dates Referred Out	
Dates to be Returned				Planning Comm Date:	
<p>This development application shall be accompanied with the applicable fee and shall not be considered valid until the <u>total application fee is received.</u> Submittal of this application does not mean you will receive automatic approval, nor does it establish a vested property right in accordance with C.R.S. 24-68-105(1). Further processing and review of this application may require additional information, and/or meetings, as outlined in the Town of Minturn Zoning and Development Code</p>					

SUBMITTAL REQUIREMENTS / CHECKLIST

App.	Staff	
<input type="checkbox"/>	<input type="checkbox"/>	Name and Address of the Owner and/or Applicant -- Statement proving the applicant has permission of the owner to make application and act as agent for the owner.
<input type="checkbox"/>	<input type="checkbox"/>	Letter of Intent (As Detailed as Possible) -- What is the Purpose of the Project including; Relevant Background, Current Status of the Site, All Proposed Uses and Structures, How the Proposal Differs from what Already Exists, Any Relevant Information Regarding Easements or Dedicated Tracts, etc.
<input type="checkbox"/>	<input type="checkbox"/>	Application Form (Please fill out the Form and Return with the Packet)
<input type="checkbox"/>	<input type="checkbox"/>	Vicinity Map -- Directional Map indicating how to get to the Property involved in the Request.
<input type="checkbox"/>	<input type="checkbox"/>	Copy of Town Zoning Map with the Subject Parcel Indicated -- Legal Description, Street Address, and other data identifying the site
<input type="checkbox"/>	<input type="checkbox"/>	Map and/or Sketch Plan (Please show as many of the following as possible) -- Current and Proposed Zoning, Maximum Densities/Units/Acreage, Building Heights and Setbacks, Natural Features, Amount and Location of Open Space, Street Lay-Out and Access, Internal Traffic Circulation, Type and Location of Proposed Uses (Retail, Single or Multi-Family Residential, Commercial, Industrial)
<input type="checkbox"/>	<input type="checkbox"/>	Site Plan showing the Precise Nature of the Proposed Use -- Includes Topography, Building Locations, Parking, Traffic, Circulation, Usable Open Space, Landscaped Area, Utilities, and Drainage Features.
<input type="checkbox"/>	<input type="checkbox"/>	Site Plan Elements -- Scale, North Arrow, Date Prepared, Proposed and Existing Street Pavement, Location and Width of Existing and Proposed Access Points, Location of Existing Driveways and Intersections, Approximate Location of Existing Wooded Areas and Rock Outcrops, Location and Type of Existing and Proposed Easements, Lot Dimensions and Area and Entire Site Acreage, Landscape Plan.
<input type="checkbox"/>	<input type="checkbox"/>	Preliminary Building Plans and Elevations -- Indicates Dimensions, General Appearance, Scale, and Interior Plan for the Buildings.
<input type="checkbox"/>	<input type="checkbox"/>	Application Fee (Non Refundable Application shall be Collected) -- Variance, Conditional Use, Temporary Use, Design Review Board, Concept Plan, Preliminary Plan, Final Plan, Preliminary Plat, Final Plat, Amended Final Plat, Minor Subdivision (6 lots or less), Vacation of Public Easements or Rights-of-Way.

PLANNING COMMISSION AND TOWN COUNCIL DEVELOPMENT REVIEW PROCESS

Applicants requesting a Design Review Board, Planning and Zoning Commission, and/or Town Council Review must submit to a pre-submittal conference and complete a formal application. The pre-submittal review process is completed within a period of 14 working days depending on the day of pre-submittal. The pre-submittal review provides valuable information regarding Town requirements for the formal application.

The public hearing process requires the Planning and Zoning Commission to review, consider, and render interpretations of Section 16 of the Minturn Municipal Code and the Official Zone District Map based upon an understanding of the purposes intended by the Town Council in its adoption.

The Town Planner shall have the following powers and duties:

- **Zoning Compliance** – To review, consider, and approve, approve with conditions, or deny applications for building permits, limited use permits, conditional use permits, and temporary use permits based on compliance with this Section.
- **Process Applications** – To receive applications for development permits for processing pursuant to the terms of Section 16 of the Minturn Municipal Code.

The public hearing process consists of five basic steps:

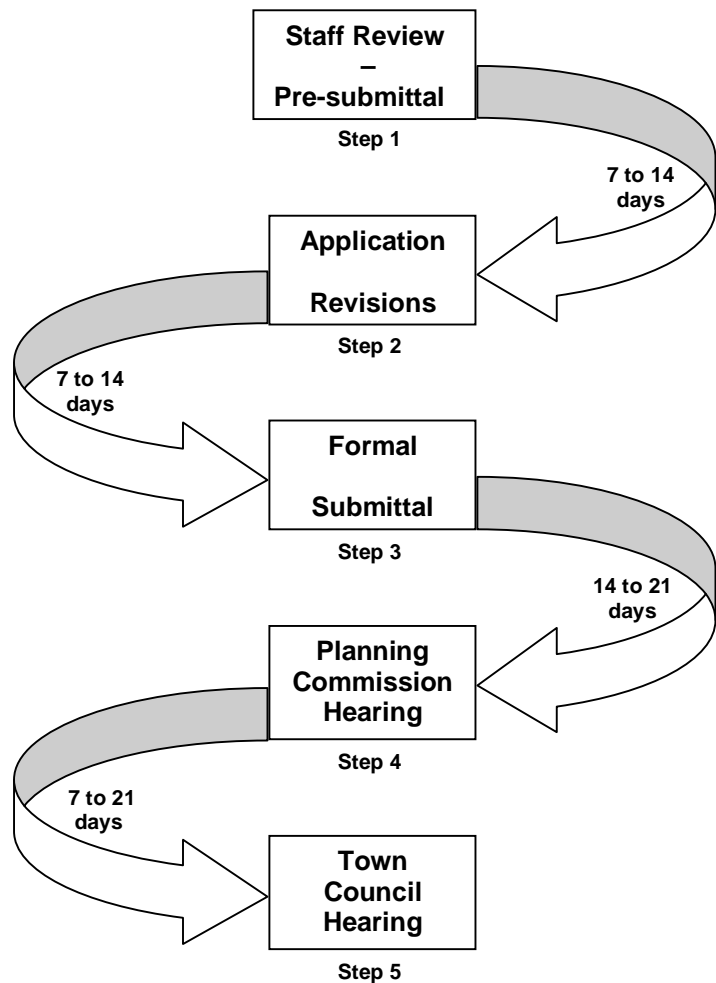
- **Pre-submittal Review by the Town Planner**
- **Application Revisions**
- **Formal Submittal**
- **Planning and Zoning Commission public hearing**
- **Town Council public hearing**

Once the formal application is submitted to the Town Planner, the process can proceed to the Planning and Zoning Commission then forwarded with a recommendation to the Town Council.

The flow chart to the right describes the ideal application process. The application can be stalled by a few factors:

- **Incomplete application materials**
- **Changes in application requested by the Planning Commission or Town Council**
- **Application being tabled for further discussion by the Planning Commission or Town Council**

There may be other factors that influence the timing of an application through the public hearing process, but the flow chart gives the applicant a basic knowledge of the public hearing process.



PURPOSE OF THE VARIANCE

(Section 16.21.10 (A) Minturn Zoning Code)

This Section sets forth the procedures and conditions for a Variance Permit from certain standards of these Land Use Regulations. Variances are deviations from the terms of these Land Use Regulations that would not be contrary to the public interest when owing to special circumstances or conditions e.g.: exceptional topographic conditions, narrowness, shallowness, or the shape of a specific piece of property. And that the literal enforcement of the provisions of these Land Use Regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owners of the property.

GENERAL REQUIREMENTS

(Section 16.21.10 (A) Minturn Zoning Code)

1. **Initiation.** Applications for a Variance Permit may be submitted at any time to the Planning Director by the owner, or any other person having a recognizable interest in the land for which the Variance is proposed, or their authorized agent. The application shall contain the following materials:
 - (a.) A drawing of the site, showing existing and proposed features
 - (b.) And those limitations of the underlying zone district that are relevant to the review of the proposed variance.
2. **Review of Applications.** The submission of an application for a Variance Permit, determination of its sufficiency, staff review, and scheduling of a public hearing for an application for a Variance Permit shall comply with the procedures established in Article XXI of Chapter 16.
3. **Decision of the Hearing Officer.** The Hearing Officer shall conduct a public hearing on an application for a Variance Permit. At the public hearing, the Hearing Officer shall consider the application, the relevant support materials, the Staff Report, and the public testimony given at the public hearing. After the public hearing, the Hearing Officer shall render a decision either to approve, approve with conditions, or disapprove a Variance Permit based on the standards in Section XXI, Chapter 16.

All action and recommendations by the Hearing Officer deciding or recommending decisions on applications under the land use regulations shall be by written resolution setting forth findings of compliance or non-compliance for each applicable standard and further setting forth all conditions of approval.

APPLICATION PROCESS FOR A VARIANCE

(Section 16.21.10 (A) Minturn Zoning Code)

Each application for a Variance shall be in writing on such forms and in accordance with such procedures as prescribed by the Town and shall be supported by documents, maps, plans and other material containing, at a minimum, the following information:

1. The name and address of the owner and/or applicant and a statement that the applicant, if not the owner, has the permission of the owner to make application and act as agent for the owner.
2. A copy of the Town zoning map or portion thereof, with the subject parcel indicated. A legal description, street address, and other data identifying the site will be required.
3. A description of the precise nature of the proposed use and its operating characteristics and measures proposed to make the use compatible with other properties in the vicinity.
4. A site plan showing proposed development of the site, including topography, building locations, parking, traffic, circulation, usable open space, landscaped area, utilities and drainage features.
5. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance, scale, and interior plan of the buildings.

6. Such additional material as the Town Planner may prescribe or the applicant may submit pertinent to the application. For example, the applicant may be required to submit an Improvements Location Certificate if there appear to be setback or property line encroachments.

ADMINISTRATIVE PROCEDURES AND EFFECTS OF A VARIANCE

(Section 16.21.10 (A) Minturn Zoning Code)

1. **Conditions in Development Permit.** All conditions imposed upon any Variance Permit, with the exception of conditions made applicable to such approval by the express terms of these Land Use Regulations, shall be expressly set forth in the Variance Permit.
2. **Effect of Issuance of a Variance Permit.**
 - a. **General.** Issuance of a Variance Permit shall be deemed to authorize only the particular development for which it is issued. A Variance Permit shall run with the land.
 - b. **Time Limitations.** All Variance Permits shall expire three (3) years from the date of issuance if no Building Permit has been issued to establish the use authorized in the Variance Permit, or if the use does not require a Building Permit, the use is not established, ongoing, and in operation. Permitted time frames do not change with successive owners. Upon written request, one (1) extension of time may be granted by the Hearing Officer for a period not to exceed six (6) months for good cause shown. No request for an extension shall be considered unless a written application requesting the extension is submitted to the Planning Director no later than thirty (30) calendar days prior to the date the Variance Permit is to expire. Failure to submit an application for an extension within the time limits established by this Section shall render the Variance Permit null and void.
3. **Subsequent Development Permits.** Development of the Variance shall not be carried out until the applicant has secured all other development permits required by these Land Use Regulations. A Variance Permit shall not ensure that the development approved as a Variance shall receive subsequent approval for other applications for development unless the relevant and applicable portions of these Regulations are met.
4. **Amendment to Variance Permit.** A Variance Permit may be amended, extended, varied or altered only pursuant to the standards and procedures for the original approval of a Variance Permit pursuant to this Section.
5. **Variance from provisions of Article 3 character Area and Zone Districts of these Land Use Regulations**
 - (a.) **General.** The **HEARING OFFICER** shall have the authority to approve, approve with conditions, or disapprove variances from the standards set forth in Article III **character Area and Zone Districts** of these Land Use Regulations. Any person seeking a variance from these standards shall file an application with the Planning Director. The application shall be determined sufficient, and a staff report prepared.
 - (b.) **Standards.** The Hearing Officer must find that all of the following standards are met.
 - (l) **Special Circumstances Exist.** One of the following circumstances or conditions exist with respect to the specific piece of property:
 - (i) Exceptional narrowness, shallowness or shape, of the property at the time of the enactment of the regulation in question;
 - (ii) Exceptional topographic conditions of the property;
 - (iii) Other extraordinary and exceptional situation or condition of the property.
 - (c.) **Not a Result of the Actions of Applicant.** The special circumstances and conditions found pursuant to Section _____ have not resulted from any act of the applicant.

- (d.) **Strict Application Consequences.** Because of the special circumstances and conditions found pursuant to Paragraph _____ the strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship on, the owner of the property.
 - (e.) **Variance is Necessary for Relief.** The granting of the variance from the strict application of the provisions of the regulation is necessary to relieve the owner of the peculiar and exceptional practical difficulties or exceptional and undue hardship.
 - (f.) **Not Detrimental to the Public Good.** Granting the variance will not cause substantial detriment to the public good.
 - (g.) **Variance Will Not Impair the Zoning Plan and Ordinances.** Granting the variance will not substantially impair the intent and purpose of the Character Area and the Zoning of the land.
6. **Solar Energy Devices Considered.** In determining whether difficulties to, or hardship upon, the owner of the subject property exist, the adequacy of access to sunlight for solar energy devices installed may properly be considered.
 7. **Is Exempt From Prosecution.** No appeal to the Hearing Officer shall be allowed for building use violations that may be prosecuted pursuant to (Section 30-28-118) of the Colorado Revised Statutes.
 8. **Conditions and Restrictions.** The Hearing Officer may, in approving a Variance Permit, impose restrictions and conditions on the approval it determines are required by the general goals, objectives and policies of the Master Plan and these Land Use Regulations in order to prevent, or to minimize, adverse effects from the Variance Permit on other lands in the neighborhood or on the general health, safety, and welfare of the Town.

VARIANCE FROM IMPROVEMENT STANDARDS

1. **General.** Any person seeking a variance from the improvement standards shall file an application with the Planning Director, or shall consolidate said application with any other application the applicant is submitting. The application shall be determined sufficient, and a staff report prepared.
2. **Standards.** In determining whether to approve, approve with conditions, or disapprove the application for Variance, the Town Council in the appeal application shall balance the hardships to the applicant of not granting the Variance against the adverse impact on the health, safety, and welfare of persons affected, and the adverse impact on the lands affected. In approving or approving with conditions said Variance, the Town Council may impose such conditions that are necessary to ensure compliance with the terms of this Subsection, these Regulations, and the Community Plan.