



ZONING VARIANCE PROCESS

All property within the City of El Paso is assigned a zoning classification and the property can be used only in accordance with the zoning regulations for that district. Under certain types of special circumstances, a parcel of land may not be suitable for development due to the shape of the land, the character of the surrounding neighborhood, or practical difficulties that create an unforeseen hardship for the property owner. This is often the case with lots that were platted in the original town area of the City that complied with zoning regulations at that time but do not conform to the current zoning regulations.

Variances are subject to strict review criteria and are to be used sparingly. As a result, a property owner applying for a variance is not guaranteed that his/her application will be approved by the Board of Zoning Appeals or the City Council.

There are two types of variances that an applicant may seek:

Use Variance

A use variance is an application to permit an otherwise unpermitted land use in that zoning district. These types of variances are the most difficult to obtain because the list of permitted uses is effectively expanded for this single parcel of land.

Area Variance

An area variance is an application to lift or modify minimum acreage, height, area, set-back, side or back yard, or other dimensional requirements required by the zoning district and there is no prohibition on the petitioner's use of the property.

Step 1- Pre-Application Meeting

Prior to submitting an application for a variance, the applicant or property owner is required to meet with City staff and discuss the project. The purpose of the meeting is to allow staff to review the concept the applicant intends to submit and provide general feedback. Staff will discuss the overall process required for approval and answer any questions the applicant may have including Zoning Ordinance requirements.

The pre-application meeting is designed to achieve the following:

- Acquaint the applicant with the procedural requirements of the City of El Paso;
- Provide for an exchange of information regarding the applicant's proposed deviation from the zoning regulations, restrictions and requirements, the Comprehensive Plan, the Zoning Ordinance and other development requirements;
- Discuss alternative means of achieving the applicant's development goals outside of the variance process;
- Review the compatibility with adjacent developments, either proposed or existing;

Step 2- Filing an Application

An application for a variance must be completed and submitted to the City of El Paso with the proper filing fee, payable to the City of El Paso. The filing fee is non-refundable and will not be refunded should the variance be denied. An application may be withdrawn at any time upon written request; however, no refund will be made after the application has been accepted.

Variance applications must include all items required on the rezoning application checklist. All additional supporting information must be submitted with the application. Failure to meet the application submittal requirements checklist may delay the review and approval of the variance request.

Variance Requirement Checklist

Submittal Requirement	Yes	No	<i>NIA</i>
Completed application form with names and addresses of developer, owner, engineer and/or architect.			
Application fee			
Twelve (12) scaled drawings of the property and proposed structures/uses.			
All supplemental information as may reasonably be required by the City Engineer or City Administrator.			

Applications missing any of the required items will not be processed

VARIANCE APPLICATION
CITY OF EL PASO, ILLINOIS

☐ Use Variance

☐ Area Variance

USE REQUESTED FOR VARIANCE _____

LOCATION OR PROPERTY ADDRESS _____

LEGAL DESCRIPTION _____

TAX PARCEL ID _____ ZONING OF PROPERTY _____

AREA OF SUBJECT PROPERTY (ACRES/SQ. FT) _____

CURRENT LAND USE _____

PROPERTY OWNER'S NAME _____

MAILING ADDRESS _____

STREET

CITY

STATE

ZIP

PHONE NUMBER _____ EMAIL ADDRESS _____

APPLICANT/AGENT'S NAME _____

MAILING ADDRESS _____

STREET

CITY

STATE

ZIP

PHONE NUMBER _____ EMAIL ADDRESS _____

ENGINEER/ARCHITECT'S NAME _____

MAILING ADDRESS _____

STREET

CITY

STATE

ZIP

PHONE NUMBER _____ EMAIL ADDRESS _____

By signing below, I understand that there is a fee of \$250.00 for a Variance Request.

Owner/Agent Signature _____ **Date** _____

Office Use Only- Date Paid: _____ Payment Type: _____

Step 3 - Staff Review

Every application shall be reviewed in detail by staff. All plans will be reviewed by the City Administrator/City Planner, City Engineer, Public Works Director, Utilities Director, and other staff members as needed. Following review, a staff report will be prepared and will be sent to the Board of Zoning Appeals for final action; a letter will be mailed to the applicant informing him/her of the time and date of the public hearing for the variance request.

Step 4- Board of Zoning Appeals Hearing

A public hearing is required for a variance request before the Board of Zoning Appeals (BZA). The BZA meets on an as needed basis, typically on Thursday evenings at 6:00 p.m., in the Council Chambers of City Hall, located at 125 W. Front Street.

The chairperson will open the public hearing for each case to hear presentations by City staff, the owner or authorized agent, and the audience, respectively. After all parties have had the opportunity to speak, the BZA will close or continue the public hearing to a later date. After the public hearing is closed, discussion will be limited to the BZA members and action will be taken in the form of a recommendation for approval or denial to the City Council.

The BZA will review a number of factors which include, but are not necessarily limited to, the following:

- The effects the requested use or deviation from the code will have on adjacent properties.
- The plight of the owner and how it related to unique circumstances surrounding this property and that the variance, if granted, will not alter the essential character of the locality.
- The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.

All three of these criteria must be satisfied for a variance to be granted. The following paragraphs provide additional explanation of these requirements.

Effects on Adjacent Properties

This test is rather straightforward and falls largely on the opinions of the officials making the determination. No two properties are the same; thus, what may adversely impact the use of one property may not impact another and the BZA and City Council have wide latitude in determining what is appropriate. However, consistency is very important, and decisions made in one permit approval/denial should hold true with all others.

Unique Circumstances of the Property

This test refers to the configuration of the property and the configuration creates a situation that prohibits the use of the land. If the property is unique and dissimilar in layout to the surrounding property, then this test may be satisfied. Other properties are very important in evaluating this test and the hardship conditions shall not be generally applicable to a similar situation in the same zoning district. If that were the case, then the zoning of the district would be materially changed. Uniqueness relates to hardship, which refers to the land and not to the personal circumstances of the applicant or owner.

Practical Difficulty and Hardship

The test essentially applies to the variety of uses that could be developed on the land and is the most difficult test for a variance to pass. The applicant or owner must show more than a loss. The applicant or owner must demonstrate that there would be a loss or lack of reasonable return from each and every permitted use on the property. In fact, the courts have ruled that the owner must show the value of the property has been reduced to zero and there are no uses in the permitted district that could bring about a reasonable return.

As a general rule, if the owner is making use of the land or a structure is currently located on the property, such as a single-family home, then reasonable use of the property is occurring at this time and a variance would likely not be warranted.

Step 5 - City Council Action

Variance requests require approval by the City Council, which typically meets on the first and third Monday of each month in the Council Chambers of City Hall located at 125 W. Front Street at 7:30 p.m. The format of the meeting is similar to that used by the BZA and applicants should be prepared to answer questions posed by the City Council. If necessary, after the City Council has listened to the presentations and to any public comments, they will discuss the application and then take action. The City Council can approve the variance, approve with conditions, deny, or remand the application back to the BZA for further review.

The City Council meeting is not a public hearing, and the Council may choose to limit comments.

Step 6 - Building Permit

If the City Council approves the applicant's variance request, the final step in the process is to obtain a building permit from the City of El Paso. Building permits are available at city hall, which is located at 125 W. Front Street.

For non-residential, multifamily, and some single-family projects, an additional level of review is required following the rezoning process. A special use permit, site plan review, or a preliminary and final plat may be required. As indicated on page 1, these reviews can be approved concurrently with the rezoning request provided the applicant submits these documents together.

If the documents are not submitted with the rezoning application, then a separate review process is required. Please see the additional application packages provided by the City for further details.