

**CITY OF SHOW LOW
VARIANCE APPLICATION**

FILING FEE: **\$150.00**

NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

ADDRESS: (IF DIFFERENT THAN ABOVE) _____

PHONE: (BUSINESS) _____ (HOME) _____

ADDRESS OF PROPERTY UNDER CONSIDERATION: _____

PARCEL NO. _____

ZONING ORDINANCE SECTION FROM WHICH RELIEF IS SOUGHT: _____

APPLICANT'S INTEREST IN LAND: _____

WHAT IS THE PROBLEM? _____

WHAT IS UNIQUE ABOUT YOUR SITUATION? _____

WHAT KIND OF RELIEF ARE YOU SEEKING? _____

WHAT STEPS HAVE YOU TAKEN TO TRY TO COMPLY WITH THE STRICT TERMS OF THE ZONING ORDINANCE? _____

Please draw, or have drawn, two maps, one 8 ½" x 11" and the other 24" x 36" with the information described on the following page.

SITE MAP REQUIREMENTS

One (1) 24" X 36" site plan and one (1) 8 ½" X 11" site plan, drawn to scale.

- A. Lot dimensions.
- B. Proposed location size, height, and use of all buildings and structures.
- C. Size and dimensions of yards and space between buildings.
- D. Location and height of walls and fences.
- E. Location, number of spaces, dimensions, circulation patterns, and surface materials for all off-street parking and loading areas, driveways, access ways, and pedestrian walkways.
- F. The location, dimensions, area, materials, and lighting of signs.
- G. Location and general nature of lighting.
- H. Street dedications and improvements.
- I. Existing and proposed grades and drainage systems.
- J. The size and location of all existing and proposed public and private utilities. All easements must be shown.
- K. Natural features such as trees, mesas, rock outcroppings, or streams, and manmade features such as existing roads and structures with indication as to which are to be retained and which are to be removed or altered.
- L. A landscaping plan, including all surfacing materials, the names and location of plants to be placed around buildings and in all open spaces.
- M. A vicinity sketch showing the location of the site in relation to the surrounding street system. Adjacent properties and their uses shall be identified.
- N. A legal description of the land and/or lot included with the site plan; the name, address, and telephone number of the owner, developer, and designer.
- O. Any other information which the Community Development Director (or Planning and Zoning Administrator) may find necessary to best illustrate the problem.

INFORMATION CONCERNING VARIANCES

Any aggrieved person may appeal to the Board of Adjustment for a variance from the terms of the Zoning Ordinance if, because of special circumstances applicable to the property, including its size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance will deprive such property owner of privileges enjoyed by owners of other property of the same classification in the same zoning district. Any variance granted shall be made subject to such conditions as will assure that the adjustment authority shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the zone in which such property is located.

No nonconforming use or violations of this Ordinance with respect to neighboring lands, structures, or buildings in the same zoning district, and no permitted use of lands, structures of buildings in other zoning districts shall be considered grounds for granting a variance.

Every variance shall be personal to the applicant therefore and shall be transferable and shall run with the land only after completion of any structure or structures authorized thereby.

NO WORK, INCLUDING TREE REMOVAL, CLEARING, CLEANING, GRUBBING, EXCAVATION, OR GRADING MAY BEGIN UNTIL THE PROPER PERMITS HAVE BEEN SECURED!!



PLEASE NOTE: In accordance with City Code, Section 15-1-35(B) (3) and (4), you or your authorized representative must be present at all Planning and Zoning and/or City Council hearings or public meetings regarding this application. Below please list any person(s) authorized to represent you during this application process. Representations made during those meetings or hearings and designated in the record shall be deemed conditions of approval.

I certify that the information on this application form and attachments are true and correct to the best of my knowledge. I realize that any incorrect information may lead to the cancellation of any proceedings and the building permit, if a building permit has been issued.

Signature of Applicant

Date

Sec. 15-1-35. Appeals and variances.

- (A) *Purpose.* Appeals to the board of adjustment may be made by any aggrieved person or by any officer, department, or Board of the City affected by any decision or interpretation made by the director while administering this Chapter. A variance from the terms of this Chapter may be requested by any person, or their authorized agent, having an interest in the real property affected by the request.
- (B) *Application.*
- (1) Appeals and variance requests shall be made on an application form provided by the planning and zoning department, with other required documentation as specified by the director, and the appropriate fee. An application for an appeal of any decision or interpretation made by the director shall be filed with the City Clerk within fifteen (15) calendar days of the date of the decision or interpretation. After the City Clerk has determined that an application is complete, a public hearing with the board of adjustment will be scheduled.
 - (2) Any variance or appeal application, unless otherwise provided by law, shall stay all proceedings in the manner appealed from, unless the director certifies that a stay would cause imminent peril to life or property. In such cases, proceedings will not be stayed except by a restraining order granted by the board of adjustment, or by a court of record on application and notice to the director.
 - (3) **Mandatory applicant attendance:** Applicants, or their representative with authority to speak for and bind the applicant, shall be present at all meetings and public hearings required under this section.
 - (4) **Representations of applicant binding:** All representations by the applicant, or by the applicant's authorized representative, made in writing, or during any city public meeting or public hearing, or by any submitted plan, plat, drawing or other graphic depiction in support of the application, and designated in the record by the board of adjustment, shall be deemed to be conditions of approval.
 - (5) **Diminution of fair market value waiver required:** An executed, notarized waiver by the owner of the subject property of any and all claims for diminution in fair market value as defined by A.R.S. §12-1134 arising out of the subject application shall be submitted.
- (C) *Public Notice.* The board of adjustment shall hold at least one (1) public hearing on the application for a variance or an appeal within thirty (30) days after filing. Prior to the public hearing, notice shall be provided as follows:
- (1) A notice shall be placed in a newspaper of general circulation of the area, or as may be designated by the City Council for legal public notices. The notice

shall describe the type and nature of the request at least fifteen (15) days prior to the date of the scheduled hearing;

- (2) A notice shall be posted on or near the property in at least one (1) location on a form prescribed by the planning department for such public notice. The posted notice shall be placed on the property at least fifteen (15) days prior to the date of the scheduled hearing. It shall not be the responsibility of the City to maintain the posting once erected;
- (3) Additional notice may be provided when deemed necessary by the director;
- (4) Notwithstanding the notice requirements set forth in this Section, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the action for which the notice was given.

(D) *Findings for an Appeal.*

- (1) When considering an appeal of a decision or interpretation made by the director, the board of adjustment shall make its determination based on the following:
 - (a) The director did or did not evaluate all relevant provisions of this Zoning Ordinance; or
 - (b) The director did or did not consider all relevant information related to the decision or interpretation; or
 - (c) The director's decision was in error.
- (2) If the board of adjustment determines that the decision or interpretation made by the director was made in error, the resulting decision by the Board shall not constitute an amendment to the Chapter by permitting a use which is not otherwise allowed, or waive the development standards of the zoning district in which the property is located.

(E) *Findings for a Variance.*

- (1) The purpose of a variance is to restore equity when, due to special circumstances or conditions, the Chapter restricts one (1) property more severely than other properties in the same zoning district. The circumstances or conditions must be beyond the control of the owner and relate to the property as opposed to the owner. Personal hardship or inconvenience does not justify a variance. The burden of proof is on the property owner.
- (2) The board of adjustment shall make the following findings based on the evidence in the record prior to granting a variance:

- (a) There are special circumstances or conditions applicable to the property including its size, shape, topography, location, or surroundings which were not self imposed by the owner;
 - (b) Due to the special circumstances, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties in the same classification in the same zoning district;
 - (c) The variance is the minimum necessary to alleviate the property hardship;
 - (d) Granting the variance will not have a detrimental effect on the property, adjoining property, the surrounding neighborhood, or the City in general; and
 - (e) In granting a variance, the board shall impose such conditions and safeguards as are appropriate to ensure that the purpose and intent of this Section will be fulfilled.
- (3) The board of adjustment shall not grant a variance when:
- (a) The special circumstances applicable to the property are self-imposed by the owner. This includes:
 - 1) A hardship that has been intentionally, knowingly, or recklessly created.
 - 2) The failure of the owner to consider other reasonable alternatives which do not require a variance.
 - (b) The variance would constitute a change to the uses permitted in any zoning district.
 - (c) The variance would constitute a grant of special privileges inconsistent with the limitations on other properties in the zoning district.
 - (d) No nonconforming use or violations of this Chapter with respect to neighboring lands, structures, or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for granting a variance.

(F) *Applicability and time limits.*

- (1) Every variance shall be personal to the applicant and shall be transferable and shall run with the land only after completion of any structure or structures authorized thereby.
- (2) The construction of any improvements allowed by a variance shall commence within twelve (12) months or as otherwise stipulated by the board of adjustment and must be completed within eighteen (18) months or as otherwise stipulated by the board of adjustment in accordance with the development plan, unless extended by the board of adjustment, otherwise the variance shall become null and void.

(G) *Appealing Board of Adjustment decision.* The decision of the board of adjustment shall be final, provided, however, that any person aggrieved by a decision of the board of adjustment may, at any time within thirty (30) days after the Board has rendered its decision, file a special action complaint with the Navajo County Superior Court for review of the Board's decision. Filing the complaint shall not stay proceedings upon the decision appealed from, unless the court shall grant a restraining order.

(H) *Revocation and enforcement.* When provisions of this Chapter related to the variance, or conditions or stipulations, made a part of the variance approval, have not been satisfied, the variance may be revoked as follows:

- (1) The board of adjustment shall, by certified mail, notify the holder of the variance of its intention to hold a hearing to consider revocation of the variance. The notice shall be made at least fifteen (15) days prior to the date of the scheduled hearing. At the hearing, the board of adjustment shall consider the evidence from all interested parties, and after deliberation, may revoke the variance or take any actions as may be necessary to insure compliance with the regulations or conditions of the approved variance.

(I) *Re-application.* Where a variance or appeal has been denied no application for a variance or appeal for the same or substantially the same issue on the same or substantially the same site shall be filed within one (1) year from the date of denial.

(Ord. No. 281, 3-1-88; Ord. No. 360 (Res. 623), §§ 1, 3, 4-6-93; Ord. No. 473 (Res. 858), §§ 1 – 4, 6-6-00; Ord. No. 2006-07, § 4, 3-07-06; Ord. No. 2007-03, § 1, 1-16-07

WAIVER OF CLAIMS UNDER ARIZONA REVISED STATUTES § 12-1134

I, _____, the owner of the property described as A.P.N. _____, Show Low, Arizona, hereby waive any and all claims for diminution in value to my property which may arise under A.R.S. § 12-1134 as a result of my request and application for a _____ (for rezoning, subdivision, conditional use or other land use action). Further, I agree to defend, indemnify and hold harmless the City of Show Low, its officers, employees and agents from and against any and all such claims for diminution in value to my property as defined in A.R.S. § 12-1134 arising out of my application or request for the applicable land use action as described above.

DATED this ____ day of _____, 20__.

Signature of Property Owner

STATE OF ARIZONA)
) ss.
County of _____)

SUBSCRIBED AND SWORN before me this ____ day of _____,
20__, by _____.

Notary Public

My Commission Expires: