

COUNTY OF NAPA  
PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES

**VARIANCE**

**APPLICATION PACKET**

1. Information/Application Procedures
2. Application Completeness Checklist
3. Application Form
4. Indemnification Form
5. Adjoining Property Owner List Requirements
6. Site Plan Requirements with Samples
7. Excerpts from County Code

**PRE-SUBMISSION REQUIREMENTS**

Prior to the submission of your application materials, please call Planning Division Secretary at (707) 253-4417 to schedule a pre-submittal application review meeting (See Completeness Checklist). The purpose of the meeting is to review your application to make sure it is complete for submittal. According to state law, your application will receive a determination of completeness within thirty (30) days after submittal.

NAPA COUNTY  
PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES

VARIANCE APPLICATION INFORMATION AND PROCEDURES

A VARIANCE is a procedure to be considered when the planned construction does not conform to established zoning requirements and where practical difficulties or unnecessary hardship results from the strict application of the standards and provisions of the Napa County Zoning Ordinance. Variances may be sought to such regulations as height and setbacks, but not to increase project density or use limitations.

A VARIANCE application must be supported by evidence of genuine hardship. Three (3) findings must be made to grant a variance:

1. That there are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to other land, buildings and/or use in the same Zone or in the immediate area.
2. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner.
3. That the granting of such application will not, under the circumstances of the particular case, adversely effect, the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood.

FOR ADDITIONAL OR DETAILED INFORMATION, WRITE OR CALL THE:

**NAPA COUNTY PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES**  
**1195 Third Street, Suite 210**  
**Napa, California 94559**  
**(707) 253-4417**

# VARIANCE

## APPLICATION COMPLETENESS CHECKLIST

1.    \_\_\_    Completed and Signed Application Form.
2.    \_\_\_    Narrative describing the project.
3.    \_\_\_    To-Scale Site Plan (including one black-line 8 1/2" by 11" reduction).
4.    \_\_\_    Title Insurance Co. Certified List of Property Owners within 1000 feet of the Subject Parcel, Specifying Name, Address, and Parcel Number.
5.    \_\_\_    Assessor's Pages Used in Compiling Adjoining Property Owners List.
6.    \_\_\_    Check for \$\_\_\_\_\_ made out to County of Napa.
7.    \_\_\_    Additional Information Required by the Planning Division.

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A Tradition of Stewardship  
A Commitment to Service

FILE # \_\_\_\_\_

**NAPA COUNTY**  
**PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES**  
1195 Third Street, Suite 210, Napa, California, 94559 • (707) 253-4417

**APPLICATION FORM**

FOR OFFICE USE ONLY

ZONING DISTRICT: \_\_\_\_\_ Date Submitted: \_\_\_\_\_  
TYPE OF APPLICATION: \_\_\_\_\_ Date Published: \_\_\_\_\_  
REQUEST: \_\_\_\_\_ Date Complete: \_\_\_\_\_

TO BE COMPLETED BY APPLICANT

PROJECT NAME: \_\_\_\_\_

Assessor's Parcel #: \_\_\_\_\_ Existing Parcel Size: \_\_\_\_\_

Site Address/Location: \_\_\_\_\_  
No. Street City State Zip

Property Owner's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
No. Street City State Zip

Telephone #: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ E-Mail: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
No. Street City State Zip

Telephone #: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ E-Mail: \_\_\_\_\_

Status of Applicant's Interest in Property: \_\_\_\_\_

Representative Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
No. Street City State Zip

Telephone # (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_ E-Mail: \_\_\_\_\_

**I certify that all the information contained in this application, including but not limited to the information sheet, water supply/waste disposal information sheet, site plan, floor plan, building elevations, water supply/waste disposal system site plan and toxic materials list, is complete and accurate to the best of my knowledge. I hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Planning Division for preparation of reports related to this application, including the right of access to the property involved.**

\_\_\_\_\_  
Signature of Property Owner Date Signature of Applicant Date

\_\_\_\_\_  
Print Name Print Name

TO BE COMPLETED BY PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES  
Total Fees: \$ \_\_\_\_\_ Receipt No. \_\_\_\_\_ Received by: \_\_\_\_\_ Date: \_\_\_\_\_

**REASONS FOR GRANTING A VARIANCE**

- 1. Please describe what exceptional or extraordinary circumstances or conditions apply to your property (including the size, shape, topography, location or surroundings), which do not apply generally to other land, buildings, or use and because of which, the strict application of the zoning district regulations deprives your property of the privileges enjoyed by other property in the vicinity and under identical zoning classification.

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- 2. Please state why the granting of your variance request is necessary for the preservation and enjoyment of your substantial property rights.

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- 3. Please state why the granting of your variance request will not adversely affect the health or safety of persons residing or working in the neighborhood of your property, and will not be materially detrimental to the public welfare or injurious to property or improvements in your neighborhood.

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## **VARIANCES:**

A variance is a constitutional safety valve to prevent a property from becoming unusable if the zoning code were strictly applied. It protects against an unconstitutional taking by allowing the owner to seek a deviation from the applicable zoning so as to enjoy the benefits (i.e., property rights) afforded to other properties in the vicinity and under the same zoning designation.

The findings for a variance must satisfy each prong of a four-prong test. Specifically, an applicant must demonstrate that: 1) they will suffer practical difficulties and unnecessary hardships in the absence of the variance; 2) these hardships result from special circumstances relating to the property that are not shared by other properties in the area; 3) the variance is necessary to bring the applicant into parity with other property owners in the same zone and vicinity; and 4) the proposed variance will not be contrary to public interest, safety, health, and welfare.

## **GENERAL:**

1. Courts view variances as an exception rather than the rule. The requirements for variances under California law are very strict.
2. Variance findings should be as detailed as possible, and provide specific facts and rationale to support each of the factors.
3. The justification for a variance shall be based solely on comparative information describing the disparities between the subject property and surrounding properties.
4. The burden of demonstrating that the variance findings are met shall be the responsibility of the applicant. Depending on the request, the applicant may need the assistance of professional engineers and attorneys to develop the necessary data and facts supporting their request.
5. Profit motive, benefit to community, practical difficulty, superior building standards, lack of opposition, operational efficiencies and attractive architectural features all may have value and be desirable from a planning perspective, but these factors are legally irrelevant when considering a variance application.
6. A variance cannot be granted to allow a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel or property.
7. An applicant must provide sufficient information to ensure that granting the variance does not result in a special privilege to the applicant and a method of doing that is through comparison to other properties within the vicinity under the same zoning designation. It is not a valid legal argument that a neighboring property received a variance in the past.

## **DEFINITIONS:**

**Unnecessary Hardship.** Hardship is generally evaluated based on economics and effective use. If the property can be put to effective use, consistent with its existing zoning, without the deviation sought, it is not significant that the variance sought would make the applicant's property more valuable, or that it would enable the applicant to recover a greater income, nor that it would relieve the applicant from undesired costs in compliance with the existing restrictions. An unnecessary hardship occurs where the natural condition or topography of the land, such as peculiarities of the size, shape or grade of the parcel, places the landowner at a disadvantage vis-à-vis other landowners in the area. The hardship must relate to a unique condition of the property and not be self-induced or pertain to the plight or desires of the owner. The hardship must be specific to the property; not personal to the owner or applicant.

**Special Circumstances.** An applicant must show special circumstances applicable to their property as compared to other properties in the vicinity and with the same zoning designation. Special circumstances can be documented through the use of GIS mapping to show the conditions of properties in the vicinity *compared* to the conditions of an applicant's property. Without such a comparison or other evidence in the record showing the conditions of surrounding properties, this finding cannot be made.

**Parity.** Variances are intended to bring the property up to parity with such other properties and must not amount to a grant of special privileges over and above those privileges enjoyed by such other properties in the vicinity and zone. Parity is based on equality of the property rather than equality of the owners. There must be an affirmative showing that the subject property differs substantially and in relevant aspects from other parcels in the zone, otherwise the granting of a variance would amount to a "special privilege."

**Effect of Variance on Public Welfare.** Any decision to grant or deny a variance must be consistent with public interest, safety, health, and welfare, and must not be contrary to the intent or spirit of the general plan or the zoning ordinance. This factor requires staff to consider whether the applicant's project serves other policy goals, including non-zoning regulations or policies. These non-zoning regulations may also contribute to the applicant's hardship by placing other restrictions that do not relate to zoning, but which might render a particular use impossible under current zoning regulations.

## INDEMNIFICATION AGREEMENT

Pursuant to Chapter 1.30 of the Napa County Code, as part of the application for a discretionary land use project approval for the project identified below, Applicant agrees to defend, indemnify, release and hold harmless Napa County, its agents, officers, attorneys, employees, departments, boards and commissions (hereafter collectively "County") from any claim, action or proceeding (hereafter collectively "proceeding") brought against County, the purpose of which is to attack, set aside, void or annul the discretionary project approval of the County, or an action relating to this project required by any such proceeding to be taken to comply with the California Environmental Quality Act by County, or both. This indemnification shall include, but not be limited to damages awarded against the County, if any, and cost of suit, attorneys' fees, and other liabilities and expenses incurred in connection with such proceeding that relate to this discretionary approval or an action related to this project taken to comply with CEQA whether incurred by the Applicant, the County, and/or the parties initiating or bringing such proceeding. Applicant further agrees to indemnify the County for all of County's costs, attorneys' fees, and damages, which the County incurs in enforcing this indemnification agreement.

Applicant further agrees, as a condition of project approval, to defend, indemnify and hold harmless the County for all costs incurred in additional investigation of or study of, or for supplementing, redrafting, revising, or amending any document (such as an EIR, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if the Applicant desires to pursue securing approvals which are conditioned on the approval of such documents.

In the event any such proceeding is brought, County shall promptly notify the Applicant of the proceeding, and County shall cooperate fully in the defense. If County fails to promptly notify the Applicant of the proceeding, or if County fails to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the County. The County shall retain the right to participate in the defense of the proceeding if it bears its own attorneys' fees and costs, and defends the action in good faith. The Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant.

\_\_\_\_\_

Applicant

\_\_\_\_\_

Property Owner (if other than Applicant)

\_\_\_\_\_

Date

\_\_\_\_\_

Project Identification

## **ADJOINING PROPERTY OWNER LIST REQUIREMENTS**

All applications shall include a list of the current owners of all the properties whose outer perimeters are within **1000 feet** of the property boundary of the project site. The list shall include the property owner's names, their addresses and the assessor's parcel numbers of the property owned.

Preparation, verification and submission of this list of property owners is the responsibility of the applicant. Lists of the property owners appearing on County tax rolls in the form required are available from all local title insurance companies. Each such list must be certified by a title insurance company as reflecting the most recent County tax roll information.

### **INSTRUCTIONS TO TITLE COMPANY**

Please prepare the property owners' list as follows:

1. Type the property owners' names, parcel numbers and mailing addresses on an 8½" by 11" sheet of Avery #5160 Laser Labels so that this information can be readily used in mailing by Planning, Building and Environmental Services
2. Submit a full page copy of the assessors' parcel book page(s) and a copy of the latest equalized assessment roll used to compile the property owners' list. Please indicate the location of all parcels listed, by check mark or colored parcel number circled on the pages.

If you should have any questions, please contact Planning, Building, and Environmental Services at 707/253-4417.

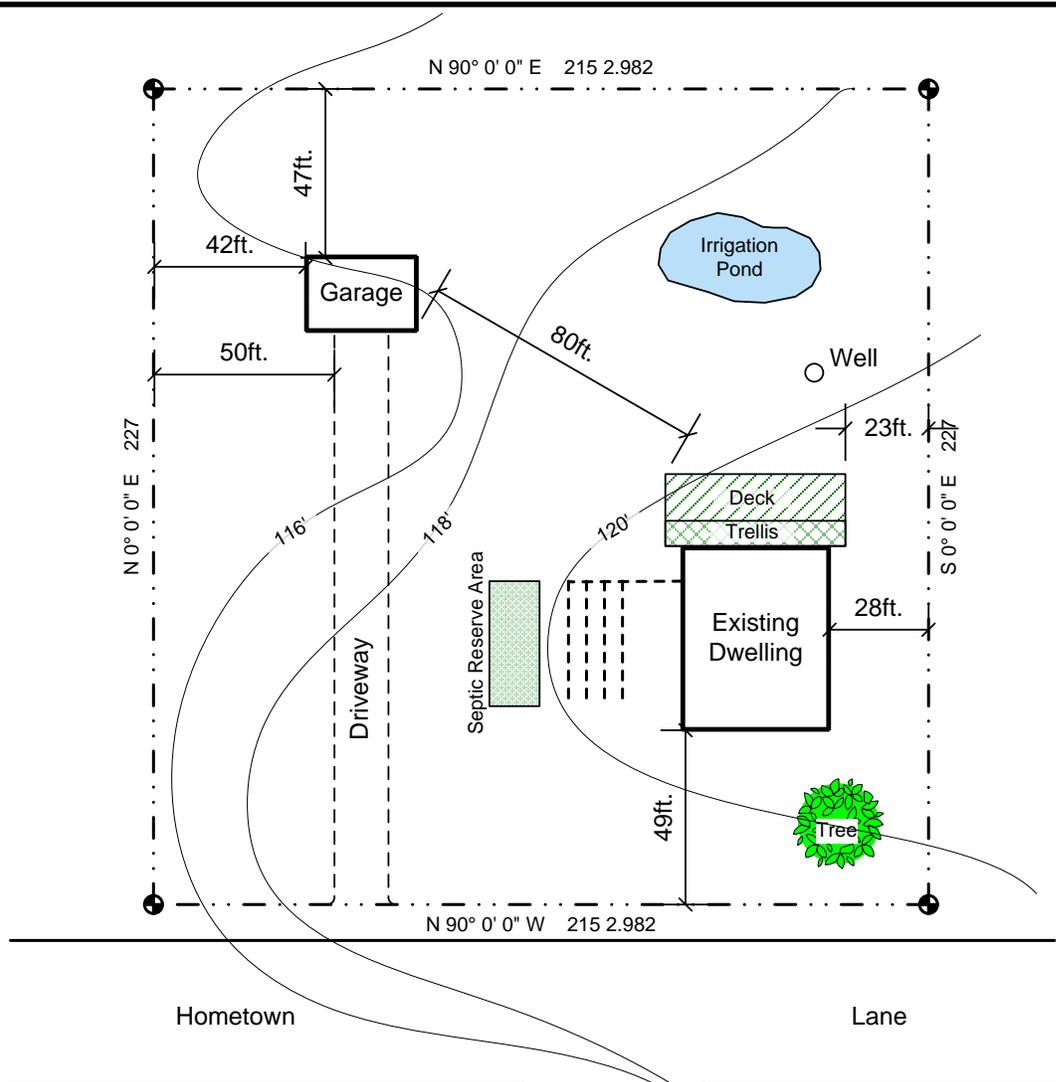
## SITE PLAN REQUIREMENTS

### SITE PLAN REQUIREMENTS

Four (5) copies of a plot plan drawn to scale showing the following information:

- a) Property lines of the subject parcel.
- b) Name of property owners and assessor's parcel numbers.
- c) Location and names of all streets and rights-of-way serving the parcel(s).
- d) Topography in sufficient detail to properly assess the relationship of the proposed project and/or use to the contour of the land.
- e) Location of any drainage courses, ponds or reservoirs on or adjoining the parcel(s).
- f) Location and setbacks of existing and proposed property improvements (structures, waste disposal systems, wells, access roads and parking, etc.) from the property line(s) of the subject parcel.
- g) North arrow, graphic map scale, date plan prepared, and applicant's name.

**Plans on sheets larger than 8½" by 11" shall be accompanied by one (1) clear, clean, readable, black-line reduction on 8½" by 11" paper. A graphic scale of the reduced plan shall be indicated.**

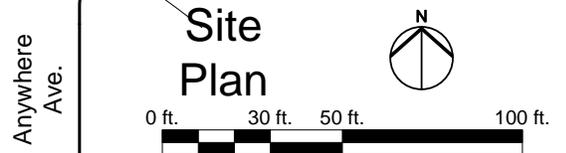


Each different plan shall fill a minimum 11" x 17" sheet of paper.  
 Plans and notes shall be legible.  
 Provide all of the information requested in the title blocks.  
 Indicate the scale and show a North Arrow on each site plan.  
 Did you remember to:

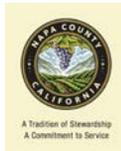
- Show access to property.
- Show all property lines and the distances of all structures to those property lines.
- Show all roads, streets, driveways, rivers, reservoirs, dams, creeks, streams, paths and the distance from centerline of roads, streets and highways.
- Show all buildings and/or structures on the property, existing and proposed and the distances between those buildings and/or structures.
- Show all easements.
- Show all water wells, fire hydrants, water storage tank(s), LP gas tank(s).
- Show all septic system(s) and required 100% expansion area (reserve area). \*
- Show stock pile(s) of dirt, soil, rocks and/or earth.

Five copies of the site plan are required for all building permits.

\* Reserve area is a County code requirement. You must identify an adequate reserved area on your site plan. This reserve area will be reviewed on a case by case basis. If you have a very small parcel or a parcel with unusual site constraints you may be required to prove reserve area before a clearance on your building permit may be issued.



APN:
Name:
Address:
Phone:



**COUNTY of NAPA**  
 OFFICE OF PLANNING, BUILDING & ENVIRONMENTAL SERVICES  
 Sample Site Plan for Permit Submission

## Chapter 18.128 - VARIANCES

### Sections:

#### 18.128.010 - Granting.

A variance from the terms of the zoning district regulations may be granted by the zoning administrator or by the commission, subject to the provisions of this chapter. The zoning administrator may hear variances from the terms of this title, excepting therefrom variances from the terms of the Conservation Regulations as set forth in Chapter 18.108 and variances associated with use permits, parcel maps and other approvals requiring action by the commission. Subject to the provisions of this chapter and to the limitations of state law, the commission may hear any variance from the terms of this title.

(Ord. 511 § 1 (part), 1976: prior code § 12820)

(Ord. No. 1370, § 52, 3-20-2012)

#### 18.128.020 - Application.

Application for a variance shall be made in writing on a form prescribed by the director, and shall be accompanied by plans, elevations and other appropriate information, including graphic depictions necessary to show the grounds for the granting of a variance.

(Ord. 511 § 1 (part), 1976: prior code § 12821)

(Ord. No. 1370, § 53, 3-20-2012)

#### 18.128.030 - Application—Fee.

An application for a variance shall be accompanied by that fee established by resolution of the board of supervisors.

(Ord. 906 § 44, 1989: Ord. 837 § 50, 1987: Ord. 511 § 1 (part), 1976: prior code § 12822)

#### 18.128.040 - Application—Public hearing.

The zoning administrator or the commission shall hold a public hearing on each application for a variance. Notice of the hearing shall be given in accordance with Section 18.136.040. The public hearing shall be conducted in conformity with procedures established by the designated decision maker. The applicant shall bear the burden of proof in establishing facts supporting the applicant's eligibility for grant of variance. Any party may appear in person or be represented by an attorney or agent.

(Ord. 511 § 1 (part), 1976: prior code § 12823)

(Ord. No. 1370, § 54, 3-20-2012)

#### 18.128.050 - Conditions.

A. Any variance granted shall be subject to such conditions as shall assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which such property is situated.

- B. Any variance granted may be subject to conditions specifically set forth in the variance including, without limitations, conditions governing all the matters set forth in Section 18.124.060 with respect to use permits.

(Ord. 511 § 1 (part), 1976: prior code § 12824)

18.128.060 - Findings prior to issuance.

- A. Before issuing a variance, the zoning administrator or the commission shall make the following written findings:
1. That the procedural requirements set forth in this chapter have been met;
  2. Special circumstances exist applicable to the property, including size, shape, topography, location or surroundings, because of which strict application of the zoning district regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification;
  3. Grant of the variance is necessary for the preservation and enjoyment of substantial property rights;
  4. Grant of the variance will not adversely affect the public health, safety or welfare of the County of Napa;
  5. That, in the case of groundwater basins identified as "groundwater deficient areas" under Section 13.15.010, grant of the variance would not require a new water system or improvement, or utilize an existing water system or improvement causing significant adverse effects, either individually or cumulatively, on said groundwater basins in Napa County, unless that variance would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Section 13.15.070 or 13.15.080 of this code;
  6. That, in the case of other groundwater basins, or areas which do not overlay an identified groundwater basin, where grant of the variance cannot satisfy the criteria specified for approval or waiver of a groundwater permit under Section 13.15.070 or 13.15.080, substantial evidence has not been presented demonstrating that grant of the variance might cause a significant adverse effect on any underlying groundwater basin or area which does not overlay an identified groundwater basin;
  7. In the case of a development or improvement with a reasonably foreseeable connection to a public water supply as defined in 13.15.010, regardless of the number of parcels served, grant of the variance would not require a new water system or utilize an existing water system necessitating a groundwater permit pursuant to Chapter 13.15. This finding shall not be required if the applicant presents substantial evidence demonstrating that grant of the variance for such development or improvement would not have a significant adverse effect on the underlying groundwater basin; or if that variance would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Section 13.15.070 or 13.15.080 of this code.
- B. If the proposed variance is for the purpose of permitting the creation of one or more parcels that will be less than the minimum parcel size established by subsection (A) of Section 18.104.010, the commission shall approve the requested variance only if it makes the following additional written findings:
1. The parcel(s) proposed to be created will be less than the minimum size established by the underlying zoning district regulations;
  2. The parcels proposed to be created result from a parcel being bisected by a county road as a result of a county-initiated realignment of an existing public road; and

3. The primary purpose of that realignment is to correct or eliminate a documented hazardous condition.

C. Except as provided in subsection (B), variances of the minimum parcel size are not permitted.

(Ord. 1230 § 7, 2003: Ord. 1162 § 7(d), 1999: Ord. 901 § 1, 1988: Ord. 511 § 1 (part), 1976: prior code § 12825)

(Ord. No. 1370, § 55, 3-20-2012)

18.128.070 - Approval—Notification of county assessor.

If a variance is granted, the director shall within thirty calendar days of such approval notify the Napa County assessor of the approval.

(Ord. 867 § 22 (part), 1976: prior code § 12825.5)

18.128.080 - Unauthorized use or activity.

A variance shall not be granted for a parcel of property which authorizes a use or activity which is not authorized by zoning district regulations governing the parcel of property.

(Ord. 511 § 1 (part), 1976: prior code § 12826)

18.128.090 - Revocation.

The commission may revoke any variance upon a finding by the commission that the conditions set forth in the variance have been violated. The commission may make such a finding only after a public hearing, upon notice given in accordance with Section 18.136.040.

(Ord. 511 § 1 (part), 1976: prior code § 12827)