



## CITY OF STAYTON

# APPLICATION FOR VARIANCE TO THE LAND USE AND DEVELOPMENT CODE

### APPLICATION AND DECISION MAKING PROCEDURES

Prior to filing a variance application, you may wish to discuss your proposal with the City Planner. Staff will be happy to arrange an appointment when you can discuss your ideas and decide whether or not you wish to file an application. See contact information below.

#### 1. APPLICATION FEE

Submission of an application form, fully completed and with attachments and payment of the application fee is required before the review process begins. The application and deposit must be brought to Stayton City Hall during regular office hours. **The fee for this application is \$1,300.** If the cost to the City does not reach the amount of the fee paid, the excess fee will be refunded to the applicant after the file is closed. If during the processing of the application, the costs to the City exceed 75% of the fee paid, the applicant will be required to pay an additional 50% of the fee amount, to assure that there are adequate funds to continue to process the application.

#### 2. REVIEW FOR COMPLETENESS AND SCHEDULING A HEARING

The City Planner will review the submitted application for completeness and, within 30 days from the date of submittal determine if the applicant has provided all required information. If the application is incomplete, the City Planner will notify the applicant of the items which need to be submitted. Once the application is deemed complete, the Planner will schedule a hearing before the Stayton Planning Commission. Planning Commission meetings are regularly scheduled for the last Monday of the month.

#### 3. STAFF REPORT

Once a hearing date is set, the City Planner will prepare a staff report summarizing the applicant's proposal, the decision criteria, comments from other agencies or the public, and address whether the application complies with code requirements or suggest conditions to meet those requirements. A copy of the staff report will be provided to the applicant 7 days prior to the public hearing.

#### 4. PUBLIC HEARING BEFORE THE STAYTON PLANNING COMMISSION

Prior to the public hearing, notice is required to be sent to all property owners within 300 feet of the property 20 days before the hearing, so the hearing will be scheduled at the first regular meeting following the notice period. The hearing is to give all interested parties an opportunity to comment on the application. The hearing is conducted by the Chairperson in accordance with the Stayton Public Hearing Rules of Procedure. These rules are available at City Hall.

At the conclusion of the hearing and deliberation, the Planning Commission will adopt an order stating the decision criteria, findings of fact, conclusions whether the application meets any applicable standards and the Commission's decision. The Commission may decide to deny, approve, or approve the application with conditions.

#### 5. PUBLIC HEARING BEFORE THE STAYTON CITY COUNCIL

An application may be called up by, or appealed to the City Council. If called up, the Council will also conduct a public hearing. If appealed, the Council will decide whether to hear the appeal and hold a public hearing. A notice is required 10 days prior to the hearing which will be held at the regular Council meeting, which meets the first and third Mondays of every month. Staff reports, Planning Commission findings, and any new information will be presented to Council for consideration. The purpose of the hearing is to receive further public testimony, to review the application and consider the Planning Commission's decision and conditions. Generally, the Council will make a decision at the conclusion of the hearing process, but may delay the decision for further information or action by the applicant. The Council will then adopt an order either approving or denying the application.

**6. APPEALS**

Council actions may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 through 197.855.

**7. FOR MORE INFORMATION**

Call, write or stop in at City of Stayton, Planning Dept., (mailing address) 362 N. Third Avenue, (building address) 311 N. Third Avenue, Stayton, Oregon 97383. (503) 769 2998, email: [dfleishman@ci.stayton.or.us](mailto:dfleischman@ci.stayton.or.us).

## APPLICATION CHECKLIST FOR VARIANCE APPLICATIONS

A variance is an approved modification to, or relief from, a specific zoning or flood hazard regulation identified in the Stayton Municipal Code. An applicant may only seek a variance for the following items:

### 1. Land Use Requirements

- Lot area
- Lot width
- Percentage of lot coverage
- Height of structures
- Location of structures
- Setbacks
- Signs
- Parking and loading space
- Vision clearance
- Accessory uses
- Landscaping
- Expansion of non-conforming uses

### 2. Floodplain Hazard Requirements

This checklist has been prepared to assist applicants in submitting an application that includes all the submission requirements in Sections 17.12.200.4. Please note that this checklist may paraphrase the requirements from the Code. It is the applicant's responsibility to read and understand the requirements of the Code. Review of an application will not begin until a complete application has been submitted. If you have questions, contact the Planning Department.

- Property Owner Authorization: If the applicant is not the owner of the property, the application must include written indication of the applicant's right to file the application. This may be a purchase and sale agreement, an option or other document that gives the applicant some legal interest in the property. If the applicant is to be represented by another individual (planning consultant, engineer, attorney) the application must be accompanied by a notarized statement certifying that the applicant's representative has the authorization of the applicant(s) to file the application.
- Three copies of a site plan at a scale of 1 inch equals not more than 50 feet and 6 reduced copies of the plan sized 11 inches by 17 inches with the following information included or accompanying the plan.
  - The property for which the variance is requested and the surrounding properties.
  - Streets and roads around the property.
  - The existing use of the property and as appropriate, the condition to be varied.
  - North point, graphic scale, and date of preparation of the plan.
- Narrative Statement: A narrative statement which fully explains the request and addresses the criteria for approval of the variance.

Submission of all materials in an electronic version is encouraged.

#### BURDEN OF PROOF

This is a quasi-judicial application in which the applicant has the burden of proof. According to law, the applicant must present to the decision maker facts, evidence, analysis, and justification for each and every decisional criteria in order to carry out that burden of proof. It is important to remember that there is no assumption that the applicant is entitled to this approval. The burden of proof lies with the applicant to prove how the proposal complies with the land use ordinances, not with the City of Stayton.

Stayton Municipal Code Title 17, Land Use and Development, is available online at: [www.staytonoregon.gov](http://www.staytonoregon.gov).  
Click on the Document Center tab and select Municipal Code.



**CITY OF STAYTON  
APPLICATION FOR VARIANCE TO THE LAND USE AND DEVELOPMENT  
CODE**

PROPERTY OWNER: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Email: \_\_\_\_\_

APPLICANT: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Email: \_\_\_\_\_

APPLICANT'S REPRESENTATIVE: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Email: \_\_\_\_\_

CONSULTANTS: Please list below planning and engineering consultants, if any.

PLANNING

ENGINEERING

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

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

Address: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Phone:(\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

Select one of the above as the principal contact to whom correspondence from the Planning Department should be addressed:

- owner    applicant    applicant's representative    planning consultant    engineer

LOCATION:

Street Address: \_\_\_\_\_

Assessor's Tax Lot Number and Tax Map Number: \_\_\_\_\_

Closest Intersecting Streets: \_\_\_\_\_

ZONE MAP AND COMPREHENSIVE PLAN DESIGNATION: \_\_\_\_\_

LAND USE AND DEVELOPMENT CODE SECTION FROM WHICH A VARIANCE IS SOUGHT: \_\_\_\_\_

DESCRIBE THE PROPOSED VARIANCE REQUEST: \_\_\_\_\_

SIGNATURE OF APPLICANT: \_\_\_\_\_

DO NOT WRITE BELOW THIS LINE

Application received by: \_\_\_\_\_ Date: \_\_\_\_\_ Fee Paid: \$ \_\_\_\_\_ Receipt No. \_\_\_\_\_

Land Use File# \_\_\_\_\_

### QUESTIONS TO BE ADDRESSED IN NARRATIVE STATEMENT

The Stayton Planning Commission, with assistance from the Planning Department will use the information provided by the applicant to analyze the merits of this application. A decision to approve or deny the application is made based on how well the applicant presents information to show the application meets the standards and criteria set forth in the Stayton Land Use and Development Code 17.12.200.6. Please provide the following information in full and to this application.

1. How is the property for which the variance is requested subject to extraordinary or exceptional circumstances such as size, shape, topography or similar circumstances that do not generally apply to other properties in the same zoning district or in the vicinity?
2. How is the variance necessary for the reasonable preservation of a property right of the applicant which is the same as that enjoyed by other landowners in the zoning district?
3. How does the variance conform to the purposes of the zoning regulations and not create a significant adverse impact on other properties in the same zoning district or in the vicinity?
4. Does the requested variance create an identifiable conflict with the provisions of the Comprehensive Plan?
5. Why would granting the variance not have the same effect as a zone change on this property?
6. How is this variance the minimum relief available to alleviate the problem?
7. Why would granting this variance not have the effect of granting a special privilege not shared by other property in the same zoning district?
8. How is this request not a self-imposed condition as a result of an action taken by the applicant or a prior owner?