



## CITY OF ORMOND BEACH

v3.2013

Planning Department

22 South Beach Street, Ormond Beach, FL 32174

Tel: (386) 676-3238

[www.ormondbeach.org](http://www.ormondbeach.org)

[comdev@ormondbeach.org](mailto:comdev@ormondbeach.org)

### VARIANCE - GUIDANCE NOTES

#### APPLICABILITY

The Board of Adjustment and Appeals of the City of Ormond Beach reviews applications for variance to specific literal enforcement of the following selected regulations in the Land Development Code:

1. The dimension standards established in Chapter 2, Articles II and III, for principal and accessory structures allowed in the respective zoning districts;
2. The flood hazard requirements contained in Chapter 3, Article II;
3. Height and location specified for fences, wall and similar structures as specified in Chapter 3, Article I, Section 3-07; and
4. Nonconformities as specified in Chapter 2, Article V, Section 2-61.

#### PRE-APPLICATION MEETING

Prior to submitting an application for variance, a pre-application meeting is required with representatives of the Planning and/or Building Department. The purpose of the meeting is to discuss the application process, fees, criteria for review of variances and to answer any related questions. The applicant should bring a copy of the site survey (no older than 5 years) and details of the proposal either on the survey or a plot plan. Contact the Planning Department for further information or to schedule.

#### APPLICATION REQUIREMENTS

The following information is required on or before the application deadline:

1. The application fee (payable to the City of Ormond Beach);
2. An original deed or copy certified by the Clerk of the Circuit Court to the subject property;
3. A property survey (not older than five years), signed and sealed by a Florida registered land surveyor;
4. A plot plan or marked up survey indicating the requested variance; and
5. The application form, signed by the applicant.

#### NOTIFICATION REQUIREMENTS

Public notice of the hearing is required 15 days prior to the date set for said hearing, not counting the date of publication and the date of the hearing, as follows:

1. A newspaper advertisement stating the requested variance and the opportunity to be heard;
2. A letter of notification, by certified mail, to all abutting property owners as shown on the latest available tax assessor rolls or condominium association; and
3. The City shall provide a public sign to the applicant, which shall be posted on the property 15 days prior to the hearing date. On property facing two streets, a notice shall be posted facing each street.

#### SITE VISIT

Staff will conduct at least 1 site visit to the property. By submitting an application, permission is given for City Staff to enter the property to conduct a site visit as part of the review. Site visits will be conducted during regular business hours (8:00 am to 5:00 pm, Monday through Friday) between the date of submittal and the date of the hearing. The purpose of the visit is to verify information submitted with the application, and to complete an analysis of the proposal for consistency with the City's Comprehensive Plan and Land Development Code. Denial or refusal to grant property access shall be considered grounds for rejecting the application.

#### STAFF REPORT

A Staff Report shall be prepared by City Staff that provides analysis of the requested variance based on the adopted criteria. Within the report, Staff shall make a recommendation to the Board for consideration. The applicant will receive a copy of the report and agenda prior to the public hearing.

**PUBLIC HEARING**

Applicants must be present or represented at the public hearing. Failure to be present or to be represented will result in the application being tabled until the next regularly scheduled meeting. The applicant shall be billed for any additional advertising costs associated with the failure to be present. In order to allow the meeting to proceed in an orderly fashion, the Board, by motion, may limit the time allowed for remarks concerning a specific agenda item to a maximum of 30 minutes for City staff, the designated representative of the applicant and the designated representative of any organized group, and to five minutes for members of organizations and other individual speakers. Additional time shall be allowed to respond to questions from the Board. The Chairman may also direct speakers to limit their comments to issues which have not been previously stated.

**VARIANCE CRITERIA**

The intended purpose of the variance process is to provide relief from the literal enforcement of the City's Land Development Code. All efforts to redesign and realign structures should be exhausted prior to requesting a variance. Variances are designed to be based on site specific conditions that would impose an unnecessary hardship on the applicant. Each variance application is reviewed according to the criteria adopted in the Land Development Code. Existing non-conformities or variances granted prior to this application do not establish precedence. The Board of Adjustment and Appeals is a quasi-judicial board and must review each application on the merits presented in the application, the staff report and testimony provided at the public hearing.

**BOARD DECISION**

The Board of Adjustment and Appeals is comprised of 5 members and 5 alternates appointed by the City Commission. To receive approval for a variance, a majority vote of 3 members of the Board is required. The Board may impose conditions and restrictions on variance applications as they deem appropriate and reasonable. In the event that there are only 4 members present, the applicant will have the option, prior to the item being heard, to continue the application to the Board's next regularly scheduled meeting. There will be no additional cost to the applicant. Once a variance is heard and a decision rendered, there is a 30 day appeal period in which the applicant or any party may appeal the Board's decision to the Circuit Court. No building permits may be issued in the 30 day appeal period. Building permits for approved variances must be issued and work commenced within 12 months of the approval date or the variance shall expire. Approved variances are recorded by the City within Volusia County public records (included as part of the application fee) and shall run with the subject property, not the applicant.