Variance

Introduction
A Variance is a request to deviate from adopted development standards. They are intended to resolve unnecessary physical hardships that may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other physical conditions on the site or in the immediate vicinity; or from street locations or traffic conditions in the immediate vicinity of the site. Sec. 38-156

When can I apply for a Variance?
Variances may be granted for fences, walls, landscaping, screening, minimum site area, minimum site dimensions, minimum yards, setbacks, height of structures, distances between structures, open space requirements, signs, or performance standards. A Variance cannot be issued for an increase in allowed density or for a land use that is otherwise not permitted in a Zoning District. Sec. 38-156

Zoning Administrator vs. Planning Commission Review
Certain applications may be reviewed at a public hearing before the Zoning Administrator (ZA) while others require the full consideration of the seven-member Planning Commission (PC). In general, the ZA considers Variance applications for single-family residential setbacks; fence heights; accessory building setbacks, lot coverage, height limits for certain towers, building separation, front yard paving and parking, and building projections Sec. 38-153.C. All other Variance applications require full PC review Sec.38-157. Please contact the City at (831) 646-3885 to see which level of review is required for your project.

Environmental Review
The California Environmental Quality Act (CEQA) requires that the City review all projects for their potential impact on the environment. The required level of review and accompanying reports vary greatly by the type of project, its location, and other criteria. While some projects may be exempt from formal environmental review, others may require extensive study and the production of an Environmental Impact Report (EIR). Following a cursory review of an application, City staff will notify the applicant of the level of environmental review that will be required. Depending on the level of review required, an applicant may be asked for various technical studies such as traffic reports, archaeology reports, arborist reports, storm water plans, etc. Or, you may be asked for more specific information on the plans to clarify, reveal, or eliminate a potential environmental impact. The conclusions of this environmental review will be forwarded to the decision making body for final action along with the project.

Process
An application must be determined to be complete by City staff prior to consideration by the ZA or PC - Incomplete applications will not be scheduled for a hearing. Once complete, the application is generally scheduled for hearing within 30 days on a first-come, first-served basis. At the hearing, the ZA or PC may choose to approve the application, approve it with conditions, deny the application, or continue it for redesign Sec. 38-160.B. If the application is denied by the ZA, it may be appealed to the PC. If denied by the PC, it may be appealed to the City Council Article 27. There is a fee to appeal an application. If it is continued, the resubmittal will be reviewed by staff for completeness prior to being rescheduled for a future hearing. If not appealed, all decisions are final 10 days after the hearing Sec. 38-207.

Other Requirements
Approval of a Variance allows deviation from the Zoning Ordinance only and does not exempt a project from other codes or requirements, such as the Building Code. Please consult with a design professional or the Building Department at (831) 646-3891 for more specific requirements or implications of the project.
**Findings**

*For: walls, landscaping, screening, site area, site dimensions, yards, height of structures, distances between structures, open space, signs, special setbacks, and performance standards Sec. 38-161.B*

The ZA or the PC must make clear and substantive findings when approving a Variance. These findings are as follows:

1) That, because of special circumstances or conditions applicable to the subject property (including size, shape, topography, location, or surroundings), strict application of the requirements of this ordinance deprive such property of privileges enjoyed by other property in the vicinity and under an identical zoning classification;

2) That granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare; and

3) That granting the application is consistent with the purposes of this ordinance and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district.

*For: fences Sec. 38-161.B & Sec. 38-156.C.8*

4) In addition to 1-3 above, findings for a fence Variance must also include (a) and (b) below:
   a) There is physical hardship with one of the following:
      i) The topography of the site; or
      ii) Trees or rocky outcroppings on the site or in the immediate vicinity; or
      iii) The irregular, non-rectangular shape of the site; or
      iv) The non-conforming lot width/lot depth dimensions of the site; or
      v) The location of existing structures on site.
   b) One or more of the following determinations can be made:
      i) There is significant grade difference where the house is lower than the street; or
      ii) The property adjoins or is across from a commercially zoned property; or
      iii) The fence does not appear as a visual barrier and does not impede the sight line for vehicles.

**Fees (see current fee schedule)**

- ✔ Variances/Parking Adjustment – Major
- ✔ Variances/Parking Adjustment – Minor

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**TYPICAL VARIANCE REVIEW PROCESS**

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- Continued for Redesign, etc.
SUBMITTAL CHECKLIST

Every application must include both Application Forms and Plans. The specific requirements are described below.

APPLICATION FORMS

1. Project Application Form
   - Wet or digital signatures are required. Digital signatures must comply with Govt. Code section 16.5 requirements.
   - This form has three pages. Complete all three pages with necessary signatures.
   - Available online at:

2. Variance Explanation Letter
   - Provide a written letter that addresses all of the three required Findings and explains how the requested Variance is consistent with each Finding.
   - For fence Variance only:
     - The letter must also include explanation for how the requested Variance is consistent with the additional two findings (see discussion in this handout)

PLANS

3. General Requirements
   - Electronic copy of plans in PDF form
     - Use a minimum 1/8"=1’ scale for Site Plans and 1/4" = 1’ scale for all others.

4. Cover Sheet
   - Project address and Assessor’s Parcel Number.
   - Applicant’s name, address, and daytime telephone number.
   - Owner’s name, address, and daytime telephone number.
   - Architect/Designer/Engineer’s name, address, telephone number, and stamp (if necessary).
   - Project description - Provide a brief narrative of the proposed scope-of-work and describe the type of development proposed (commercial addition, remodel, core and shell, condominium, mixed-use, etc.).
   - Project location/vicinity map with North arrow.
   - Sheet index with sheet number and sheet titles.
   - Employee and/or Resident Parking Plan – If full parking is not provided on site, please describe any provisions for off-site parking of employees or residents.

5. Project Data Sheet – Calculate project data and place data on the plans.
   - Complete Project Data Sheet for existing and proposed site development and conditions as applicable to the project and place data table on the cover sheet, or near the front, of the plans.
     - Link to Project Data Sheet document:
     - Calculate all applicable project data relative the project being considered
     - Include a summary of all proposed demolition, if applicable, including the exterior linear feet and the percentage of area involved in the demolition.
     - Demonstrate conformance, or lack thereof, with the applicable land use regulations and development standards as noted in the Zoning Code, such as but not limited to minimum yards, gross floor area, height of structure(s), lot coverage, minimum site landscaping, and size, type, and number of off-street parking stalls.
     - Demonstrate conformance with Post-Construction Storm Water Design Regulations (PCRs) for new and redevelopment projects adding and/or replacing impervious surface(s) on the site. This includes providing a calculation of total impervious surface area across the project site.

At the discretion of the Community Development Director or designee, submittal of any checklist items may be waived if the project can be sufficiently described and considered without such information. Please inquire prior to submittal of an application.
6. Site plans – *Provide existing and proposed site plans.*
   - Show and dimension all property lines and required yard setbacks. Show adjacent properties on all sides and across the street.
   - Show the following site features and indicate their status (to be added, removed, relocated, or unchanged).
     - All existing structures (house, garage, shed, gazebo, hot tub, patio cover, trellis, etc.),
     - Impervious surfaces (driveways, parking areas, walkways, or patios),
     - Adjacent off-site improvements (sidewalk, curb, gutter, or street trees),
     - All landscape areas, fences, retaining walls, and manufactured slopes,
     - On-site trees and large shrubs (over 6” in diameter as measured 4.5’ above the ground) and indicate their status (to be preserved, removed, or relocated). If property is vacant, show all trees over 2” in diameter as measured 4.5’ above the ground,
   - A Topographic Survey prepared by a licensed surveyor is required for all projects that involve new work within 3 feet of a required front, rear, or side yard setback, or within 3’ of the maximum height. Include spot elevations at property corners, at building corners, and at driveway corners, and include slope contours, as appropriate.
   - Shade all areas of slope on the property greater than 25%.
   - Illustrate all drainage across, into, and leaving the site. Include all applicable easements.
   - Illustrate all proposed grading, including cut/fill, etc.
   - Identify all proposed on-site and immediate off-site stormwater drainage facilities.
   - As applicable, submit Landscape Documentation Package to comply with Water Efficient Landscape Ordinance

7. Floor plans – *Provide existing and proposed floor plans.*
   - Label and identify the use of each room.
   - Doors and windows – show operation and size.
   - Fixtures – all plumbing fixtures, appliances, ranges, water heaters, etc.
   - Show second-story outline on first story.
   - Show finish floor elevations at each floor level change.

8. Roof plan
   - Show roof slope and overhangs.
   - Show all rooftop equipment and note type – mechanical, HVAC, solar, etc.
   - Identify roof material.

9. Elevations – *Provide existing and proposed elevations.*
   - Show all exterior finish materials
   - Identify roof slopes
   - Doors and windows – show operation and size
   - Show the following spot elevations:
     - Base of foundation at each corner
     - Finish floor of first and second floor
     - Plate height of first and second floor
     - Fascia
     - Ridge of roof
     - Rooftop equipment height
     - Maximum height and elevation of structure

10. Stormwater Facilities – As applicable, new and redevelopment projects are required to comply with the Post-Construction Storm Water Design Requirements (PCRs), and may include a requirement that property owners enter into a legal agreement or covenant with the City to provide verification of maintenance of any necessary stormwater facilities. The applicant may be required to submit a Storm Water Control Plan (SWCP) in support of the proposed project. Technical guidance, templates, and calculation information for design may be found online at [https://montereysea.org/construction/](https://montereysea.org/construction/).
    For additional information and/or clarification, please contact the Engineering Office at (831) 646-3921.

11. Recycling and Waste Enclosure Requirements
   - Show on plans the trash enclosure and provide enough space for the required recycling and waste containers.
12. Environmental documentation – Environmental documentation may be necessary to examine potential environmental impacts of a proposed project, and may include, but not be limited to, the following typical reports and analyses:
- Air quality report,
- Arborist report,
- Archaeology report,
- Biological report,
- Noise and Vibration study,
- Storm Water Management Plan,
- Traffic study, and,
- Other reports/analyses, as necessary.

13. Other information – The following information may be required:
- Building Sections – a minimum of two are required for two-story additions.
- Engineer Verification Letter: If the project includes a new second-story over an existing one-story building and the plan does not include demolition of the existing building, a signed letter from a licensed Civil or Structural Engineer must be submitted that clearly states that the existing building is structurally able to support the second story without demolition.
- Title Report may be required.

If you have any questions regarding the above submittal requirements, please contact the Planning Office at (831) 646-3885.