CITY OF CLERMONT
VARIANCE
Filing Instructions

Any person requesting a Variance shall file a complete application in the Planning & Zoning Department at least **thirty (30) days** prior to the hearing date of the City Council. All applications must be complete, to include applicable site plans and/or other pertinent descriptive materials in order to be processed.

A Pre-Application meeting with the Planning & Zoning Manager (or designated staff) is required prior to submittal of the application. The Planning & Zoning Manager shall determine if the application is complete and properly filed.

APPLICATION FOR VARIANCE DOES NOT GUARANTEE APPROVAL. THE APPLICANT MUST BE PRESENT AT ANY MEETINGS TO JUSTIFY AND SUPPORT THE REQUEST

Notification of Public Hearing

All variance requests shall be considered at public hearings, which shall be noticed as follows:

(1) The City shall send notice of the proposed variance to the owners of all adjoining properties to the subject property. Such notice shall include the date, time and place of the public hearing before the Board of Zoning Adjustment, along with a clear and concise description of the proposed variance. For the purposes of such notification, adjoining properties shall include those properties within 150 feet of the subject property even when separated from the subject property by a road, canal, easement, right-of-way or similar barrier.

(2) Notice of public hearing shall be published in a newspaper of general circulation within the City no less than five (5) days prior to the date set for hearing the variance request.

Conditions of Approval and Denial

(1) When any variance is granted, construction of the structure or other variance item must be started within one year from the date the variance is granted. It shall be the obligation of the owner to file written notice with the Administrative Official and the Planning & Zoning Director that he has begun the proposed construction. If no such notice is filed, the variance shall automatically lapse.

(2) A variance in the zoning regulations may be transferred along with the transfer of the property ownership, but only for the specific use and approved plan originally granted.

(3) Variance requests which have been denied may not be resubmitted for a period of two (2) years.

Check List

The following information shall be provided:

_____ Proof of ownership, (i.e. Lake County Property record card, tax receipt, or deed.

_____ Legal description of the property – may be on information above.

_____ Plot plan (drawn to scale) of the property involved showing the location of existing buildings or structures and the location of proposed buildings or structures which specifically delineates and illustrates the extent of the variance request. Maximum size for plans is 11" x 17" (two full size copies for detail as needed, depending on the Variance).

_____ A written justification based on Sec. 86-174, which explains the conditions and circumstances of the alleged hardship and the necessity of the action. Staff will review the application based on the review criteria. Therefore, it is in the applicant's best interest to submit the application with those eight (8) items in mind to justify the variance request.

_____ Visual aids that may clarify the variance request such as overhead projections, large scale drawings, etc. A location map must be included that identifies the location of the property. These will be presented by the applicant at the public hearing.

_____ The original application and all supplemental materials.

_____ Fee: $200.^{00}

City of Clermont
Planning & Zoning Department
685 W. Montrose St.
P.O. Box 120219
Clermont, FL. 34712-021 9
(352) 394-4083 Fax: (352) 394-3542

CITY OF CLERMONT
VARIANCE
Application

DATE:_____ FEE: $200.00

PROJECT NAME (if applicable):_____

APPLICANT:_____

CONTACT PERSON:_____

Address:_____

City:_____ State:_____ Zip:_____

Phone:_____ Fax:_____

E-Mail:_____

OWNER:_____

Address:_____

City:_____ State:_____ Zip:_____

Phone:_____ Fax:_____

Address of Subject Property:_____

General Location: _____

_____

_____

Legal Description (include copy of survey):_____

_____

_____

_____

Land Use (City verification required): _____

Zoning (City verification required): _____

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Answers to the following questions are required to complete this application.

City Zoning Ordinance (Land Development Code Section) from which you are requesting relief:
_____
_____

What are you proposing to do that would require a variance and why?

How does the Code create a hardship?

*** * * * The following justifications must be completed * * * * ***
for any variance requested:

Variance requested – subject and code section:_____
_____

Sec. 86-174. Review criteria and findings.
When reviewing an application for a variance, the board of zoning adjustment shall not vary the requirements of any provision of this land development code unless it makes a positive finding, based on substantial competent evidence, on each of the following:

(1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same zoning district;

_____
_____
_____

(2) The condition giving rise to the requested variance has not been created by any person presently having an interest in the property;

_____
_____
_____

3) Literal interpretation and enforcement of the land development code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the land development code, and would work unnecessary and undue hardship on the applicant;

(4) The variance request is not based exclusively upon a desire to reduce the cost of developing the site or otherwise economically founded;

(5) The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building or structure;

(6) Granting of the variance request will not confer on the applicant any special privilege that is denied by the land development code to other lands, buildings or structures in the same zoning district;

(7) The proposed variance will not substantially diminish property value in, or alter the essential character of, the area surrounding the site; and

(8) The granting of the variance will be in harmony with the general intent and purpose of this land development code, and will not be injurious to the surrounding properties or detrimental to the public welfare.

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_____ X_____

Applicant Name (print) Applicant Name (*signature*)

_____ X_____

Owner Name (print) Owner Name (*signature*)

*** * * * * * NOTICE * * * * * ***

IF THIS APPLICATION IS SUBMITTED INCOMPLETE OR INACCURATE, IT WlLL BE SUBJECT TO A DELAY IN PROCESSING AND WlLL NOT BE SCHEDULED UNTIL SUCH CORRECTIONS ARE MADE. APPLICATION FOR VARIANCE DOES NOT GUARANTEE APPROVAL. THE APPLICANT MUST BE PRESENT AT ANY MEETINGS TO JUSTIFY AND SUPPORT THE REQUEST.

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ARTICLE IV. VARIANCES

Sec. 86-171. Permitted variances; exclusions.

(a) *Hardship relief.* A hardship may exist in which the strict application of one or several requirements of this land development code would render a parcel incapable of reasonable use. Specified provisions set forth in this land development code or in the development standards may be waived when, because of the particular physical shape, surroundings or topographical condition of the property, compliance would result in a particular hardship upon the owner. A hardship is distinguished from a mere inconvenience or a desire to increase monetary gain.

(b) *Exclusions.* Requests for variances from requirements of the land development code shall generally be considered for those provisions which regulate proposed site development and the requirements applicable to existing development. The following request for variances shall not be considered:

(1) Requests for variances to the adopted comprehensive plan.

(2) Requests for variances to permit a use which is not allowed as a permitted use or as a conditional use within the specific zoning district.

(3) Requests for variances to permit the expansion of a nonconforming use of any land or structure, or the continuance of any nonconforming use which has ceased by discontinuance or abandonment for a period of one year, or the reestablishment of a nonconforming building or structure which has been destroyed or damaged by fire, explosion or act of God or in another manner to the extent of 50 percent or more of its assessed valuation.

(c) *Final decision.* Final determination of a hardship relief decision is vested in the city council sitting as the board of adjustment as provided for in this article.

(Ord. No. 281-C, § 1(ch. 8, § 1), 11-8-94)

Sec. 86-172. Application.

Sec. 86-173. Notice of public hearing.

Sec. 86-174. Review criteria and findings.

When reviewing an application for a variance, the board of zoning adjustment shall not vary the requirements of any provision of this land development code unless it makes a positive finding, based on substantial competent evidence, on each of the following:

(1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same zoning district;

(2) The condition giving rise to the requested variance has not been created by any person presently having an interest in the property;

(3) Literal interpretation and enforcement of the land development code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the land development code, and would work unnecessary and undue hardship on the applicant;

(4) The variance request is not based exclusively upon a desire to reduce the cost of developing the site or otherwise economically founded;

(5) The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building or structure;

(6) Granting of the variance request will not confer on the applicant any special privilege that is denied by the land development code to other lands, buildings or structures in the same zoning district;

(7) The proposed variance will not substantially diminish property value in, or alter the essential character of, the area surrounding the site; and

(9) The granting of the variance will be in harmony with the general intent and purpose of this land development code, and will not be injurious to the surrounding properties or detrimental to the public welfare.

(Ord. No. 281-C, § 1(ch. 8, § 2(C)), 11-8-94)

Sec. 86-175. Time limit for commencing construction.

When any variance is granted, construction of the structure or other variance item must begin within one year from the date of grant. It shall be the obligation of the owner to file written notice with the administrative official and director of planning that he has begun the proposed construction. If no such notice is filed, the variance shall automatically lapse.

(Ord. No. 281-C, § 1(ch. 8, § 2(D)), 11-8-94; Ord. No. 294-C, § 2, 9-28-99)