

CITY OF EDEN PRAIRIE
VARIANCE APPLICATION
to be reviewed by the Planning Commission

PROJECT NAME AND LOCATION	NAME: _____		
	LOCATION: _____		
APPLICANT/ FEE OWNER INFORMATION	APPLICANT: _____		PHONE: _____
	ADDRESS: _____		CITY: _____
	STATE: _____	ZIP: _____	EMAIL: _____
	FEE OWNER: _____		PHONE: _____
ADDRESS: _____		CITY: _____	
STATE: _____		ZIP: _____	E-MAIL: _____
REQUEST AND FEES	RESIDENTIAL – (Includes building additions, decks, code interpretation, etc.)	\$345.00 Non-Refundable	Request: _____
	OTHER – (Includes office, industrial, commercial and public district requests as well as new construction)	\$565.00 Non-Refundable	Request: _____
SUBMISSION REQUIREMENTS	See following pages for requirements		City Contact: 952-949-8485 Fax: 952-949-8392
REQUIRED SIGNATURES	SIGNED BY _____		DATE: _____
	(Applicant-may be different than land owner)		
SIGNED BY _____		DATE: _____	
(Fee Owner-Land Owner)			

RECEIVED BY	_____
DATE RECEIVED	_____
COMPLETED APPLICATION DATE	_____
RECEIPT NUMBER	_____

When you pay by check, the City of Eden Prairie will present the check for payment to your bank electronically. Your original check will be destroyed once processed and you will not receive your cancelled check back.

REQUIRED INFORMATION – PROVIDE 13 COPIES OF THE FOLLOWING.

1. A narrative listing the variance(s) from the City Code.
2. A survey, drawn to scale, showing lot lines and setbacks of existing and proposed structures and location of buildings on adjoining properties with existing and proposed grades. Show any trees, fences, wetlands, creeks, lakes, steep slopes, ponds, and roads.
3. Floor plans and elevations of existing and proposed structures.
4. For commercial, office, and industrial projects include a site plan grading plan, utility plan, tree inventory, tree replacement plan, landscape and screening plan.
5. Plan(s) and written narrative showing that the property cannot be put to a reasonable use under the requirements of the zoning code.
6. A narrative with responses to the following questions.
 - **Is there an undue hardship?**
Undue hardship is a legal standard established by statute that cities must apply when considering applications for variances. It is a three factor test and applies to all variances. To constitute a hardship all three factors of the test must be satisfied.
 - **Is there a reasonable use of the property?**
The first factor is that the property cannot be put to a reasonable use without the variance. This means that a landowner would like to use the property in a particular way but cannot do so under the rules of the ordinance.
 - **Are there unique circumstances?**
The second factor is a unique circumstance, meaning the problem is due to circumstances unique to the property not caused by the current land owner.
 - **Would the granting of the variance alter the character of the neighborhood?**
The third factor is the granting of the variance should not alter the character of the neighborhood. Under this factor consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.

PRESENTATION – AT THE PLANNING COMMISSION MEETING

At the Planning Commission meeting you will be asked to make a brief presentation. The presentation should include showing the survey, plans, and elevations for any of the existing and proposed structures. Please indicate to the Planning Commission why

your property cannot be put to a reasonable use without the variance. Indicate your answers to the following questions

- Is there an undue hardship?
- Is there a reasonable use of the property?
- Are there unique circumstances?
- Would the granting of the variance alter the character of the neighborhood?

VARIANCES AND THE MINNESOTA SUPREME COURT

In June 2010, the Minnesota Supreme Court issued a ruling that limits the authority of every city in the state of Minnesota City to grant variances.

The “reasonable manner” standards had been used by cities for the last 25 years and represented a longstanding interpretation of the undue hardship standard in Minn. Stat. § 462.357, subd. 6. The court indicated that it cannot ignore the plain language of the statute and was unable to interpret the statutory language to mean anything other than what the text clearly says—that to obtain a municipal variance, an applicant must establish that the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls.

How the City view development requests that don’t meet the City will’s zoning code?

Until there is a possible change to the state statute, the City is required to abide by the Minnesota Supreme Court’s decision.

The City staff will work with property owners to accomplish their goals while still staying within the constraints of the law.

However, if the only way to accomplish your goal is through a variance, it’s important to be aware of the real possibility that the variance cannot be granted by the City due to the constraints imposed by the Minnesota Supreme Court ruling.

The property owner must establish that the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls. For example, if an existing single family lot has a home, a two car garage, and a deck; the lot may already have a reasonable use under the zoning code. Approval of a setback variance for a building, garage, or deck addition, may not be possible.

CITY CODE

SECTION 11.76. VARIANCES.

Subd. 1. Purposes and Authorization. Variance from the literal provisions of this Chapter may be granted in instances where the strict enforcement of those provisions would cause undue hardship because of circumstances unique to the individual property under consideration, and such variances may be granted only when it is determined that such actions will be in keeping with the spirit and intent of this Chapter. "Undue hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this Chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined by statute when in harmony with this Chapter. The Council may not permit as a variance any use that is not permitted under this Chapter for property in the zone where the affected person's land is located. The Council may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The Council may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties.

Source: Ordinance No. 72-84
Effective Date: 4-5-84

Subd. 2. Application and Fee. Application fees, forms and procedure shall be adopted by resolution of the Council.

Source: City Code
Effective Date: 9-17-82

Subd. 3. Time Limitation. Variances granted from the provisions of this Chapter shall be used within one year and if not, the variance will be of no further force and effect.

Source: Ordinance No. 72-84
Effective Date: 4-5-84

2010 MEETING CALENDAR AND APPLICATION DEADLINES

The publication date of this calendar is January 1, 2010. Commission and Council meetings can change during the year. Please call the Planning Division at 952-949-8485 to make sure you have the most current calendar.

Planning Commission (**PC**) meetings are held on the 2nd and 4th Monday of each month at 7:00 P.M.
City Council (**CC**) meetings are held on the 1st and 3rd Tuesday of each month at 7:00 P.M.

ALL MEETINGS ARE HELD IN THE COUNCIL CHAMBERS AT THE EDEN PRAIRIE CITY CENTER

PC Application Deadline	PC Meeting Date	CC Public Hearing Date (Unless Continued)	CC Consent Agenda Date (Unless Continued)
12/04/09	01/11/10	02/16/10	03/16/10
12/18/09	01/25/10	02/16/10	03/16/10
*12/31/09	02/08/10	03/02/10	04/06/10
01/15/10	02/22/10	03/16/10	04/20/10
01/29/10	03/08/10	04/20/10	05/18/10
02/12/10	03/22/10	04/20/10	05/18/10
03/05/10	04/12/10	05/04/10	06/15/10
03/19/10	04/26/10	05/18/10	06/15/10
04/02/10	05/10/10	06/15/10	07/20/10
04/16/10	05/24/10	06/15/10	07/20/10
05/07/10	06/14/10	07/20/10	08/17/10
05/21/10	06/28/10	07/20/10	08/17/10
06/04/10	07/12/10	08/17/10	09/21/10
06/18/10	07/26/10	08/17/10	09/21/10
07/02/10	08/09/10	09/07/10	10/05/10
07/16/10	08/23/10	09/21/10	10/19/10
08/06/10	09/13/10	10/05/10	11/16/10
08/20/10	09/27/10	10/19/10	11/16/10
09/03/10	10/11/10	11/16/10	12/21/10
09/17/10	10/25/10	11/16/10	12/21/10
10/01/10	11/08/10	12/07/10	01/04/11
10/15/10	11/22/10	12/21/10	01/18/11
11/05/10	12/13/10	01/04/11	02/01/11
11/19/10	**12/27/10	01/18/11	02/15/11
12/03/10	01/10/11	02/01/11	03/01/11
12/17/10	01/24/11	02/15/11	03/15/11
01/07/11	02/14/11	03/01/11	04/05/11
01/21/11	02/28/11	03/15/11	04/19/11

*Early deadline

**No public hearings due to holiday recognition