

Mayor
Victor C. Snover

Mayor Pro-Tem
Rosalyn A. Fry



Commissioners
Austin R. Randall
Sherri A. Sipe
Mark E. Lewis

A desirable place to live, work and play; rich in history and small town values!

Dear Applicant,

Thank you for taking the time to consult the Community Development Department in regards to an application for a Variance.

If you decide to proceed with the application, we encourage you to schedule a meeting with the Community Development Director prior to submitting your application. We have prepared an overview of the application process to assist you.

City Commission meetings are held on the second and fourth Tuesday of each month in the City Commission Room at 6:00 pm.

By City Code we are required to issue notifications:

- A minimum of (15) days prior to each meeting; and
- To all landowners within 100 feet of your property boundary.

In order to process your application, we need your application signed and returned with the application fee by Thursday, _____. To make the agenda for the Commission meeting held Tuesday, _____.

If you have any questions, please do not hesitate to call. We look forward to hearing from you.

Sincerely,
Community Development Office
(505) 334-7604



CITY OF AZTEC VARIANCE PROCESS

- Step 1** Schedule a meeting with the Community Development Director to review your variance request (505) 334-7604.
- Step 2** Turn in completed application and items on the attached *Variance Application Checklist* to the Community Development Department at least 21 days prior to the regularly scheduled City Commission meeting.
- Step 3** The Community Development Department will send out land notifications to property owners within 100 feet of your property boundary.
- Step 4** Once all fees and documentation has been received, the Variance Application will be placed on the next City Commission agenda as a Land Use Hearing item.
- Step 5** On Tuesday, _____, the City Commission will meet at City Hall Commission Room at 6:00 p.m.
- Attendance is required by the applicant or by an authorized representative; applicants wishing to be represented by another party must submit this authorization to the Community Development Department in writing.
 - Failure to appear at the meeting may cause the Variance Application to be postponed until the next regularly scheduled Commission meeting.
 - City Commission will make a ruling upon the Findings of Fact and Conclusions of Law and will issue a Land Use Hearing Order approving or denying the Variance request.
- Step 6** Duration of Permit. Every variance authorized shall not belong to the applicant or owners but shall run with the land and be transferable from owner to owner.



CITY OF AZTEC VARIANCE REQUIREMENTS

The requirements of a Variance are defined in Chapter 26 Land Use Regulations, Article IV., Division 5. An excerpt from Aztec Municipal Code which identifies the requirements of a Variance is included below for your reference. If you need assistance with this process please call (505) 334-7604.

Sec. 26-4-551. Purpose and Hardship.

The property owner seeking a variance on the grounds of "unnecessary hardship" must show:

1. Credible proof that the property will not yield a reasonable return if used in accordance with the ordinance; or
2. Must establish that the Land Development Ordinance gives rise to the hardship amounting to virtual confiscation; or
3. Disadvantage must be so great as to deprive the owner of all reasonable use of the property.
(Code 2007, 26-551)

Sec. 26-4-552 . Process.

1. Application. Where owing to special conditions a literal enforcement of the provisions of this ordinance would involve practical difficulties or cause unnecessary hardships within the meaning of this ordinance, the City Commission shall have the power upon appeal in specific cases to authorize such variation or modifications of the provisions of this ordinance with such conditions and safeguards as it may determine, so that public safety and welfare is secured and substantial justice done. The application must consist of the following:
 - (1) A completed " Application For Variance" form;
 - (2) A detailed site plan including the following:
 - (a) An outline, with boundary dimensions and total acreage, of the area proposed for the variance;
 - (b) Existing streets, roads, drainage courses and utility features expected to service the area;
 - (c) Proposed streets, private drives, parking area, and utility feature;
 - (d) Proposed locations of structures;
 - (e) North arrow, scale, and other geographic data. The site plan should be drawn on 8-1/2 by 11-inch paper for reproduction purposes.
 - (3) A legal description or proper street address of the subject property;
 - (4) A reason for the request of the variance and statement of hardship delineating how the variance relates to the specific parcel of land is not a substantial detriment to the public good, and how any deviation would substantially outweigh any detriment caused by the variance.

2. Publication and Notification. All variance requests shall be published as provided for in Section 26-4-504-2(3) of this code and also the following:
 - (1) A signed petition of approval by a majority of surrounding neighbors within 100 feet is required.
3. Fees. A non-refundable fee of fifty dollars (\$250.⁰⁰) is required.
4. Approval or Denial. Approval of a variance shall be granted by the City Commission if the following conditions are met:
 - (1) That the variance will not allow a use other than a use permitted for the district;
 - (2) That under exceptional and extraordinary circumstances having to abide by literal enforcement of the provisions of this ordinance will result in unnecessary hardship;
 - (3) That the circumstances presented were not created by the owner of the property and are not due to or the result of general conditions in the district in which the property is located;
 - (4) That the development or use of the property for which the variance is sought, if limited by literal enforcement of the provisions of this ordinance, cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same district;
 - (5) That the variance will not substantially or permanently injure the appropriate use of adjacent property in the same district and conforming to the designated Land Development district;
 - (6) That the variance will not alter the essential character of the Land Development district in which the property is located within and for which the variance is sought;
 - (7) That the variance will not weaken the general purposes of this ordinance or the regulations established for the specific district;
 - (8) That the variance will not adversely affect the public health, safety or welfare;
 - (9) Administration and Fees
5. Duration. Every variance authorized shall not belong to the applicant or owners but shall run with the land and be transferable from owner to owner.
(Code 2007, 26-552)



CITY OF AZTEC VARIANCE CHECKLIST

Applicable Fees

Administrative Fee	\$10
Variance Fee	\$250

Detailed site map which includes the following:

- _____ Address of property and adjacent properties
- _____ Property boundary (all sides)
- _____ Existing or proposed street(s) adjoining property (labeled)
- _____ North arrow and scale
- _____ All utility easements
- _____ All utility lines
- _____ All utility meters
- _____ Existing and/or proposed structures
- _____ Location of improvement(s)
- _____ Setbacks for front, side and rear yards
- _____ Driveway location (required for new addresses)
- _____ Proposed parking area (if different than driveway)
- _____ Location of all drainages

Ownership

_____ A document that verifies ownership or legal interest in the property (copy of abstract, title certificate, insurance, or contract).

Legal Description

_____ Includes the legal description or physical address of the property.

Proposed Use

_____ Statement describing the proposed use of the buildings, structures, premises, etc.



CITY OF AZTEC VARIANCE EVALUATION

Permit #: _____

1. Does the Variance allow for a use not permitted within the district? No Yes
2. Without the Variance is there undue hardship imposed? No Yes
3. Without the Variance are there practical difficulties imposed? No Yes
4. Are the circumstances created by the owner of the property? No Yes
5. Is the Variance detrimental to the property? No Yes
6. Is the Variance detrimental to surrounding property? No Yes
7. Does the Variance alter the character of the surrounding neighborhood? No Yes
8. Does the Variance set a precedent which may alter the intent of the regulations? No Yes
9. Does the Variance impose a health issue on the public? No Yes
10. Does the Variance impose a safety issue on the public? No Yes
11. Does the Variance have the approval of surrounding neighbors? No Yes



CITY OF AZTEC VARIANCE APPLICATION

Permit #: _____ Date Started: _____ Date Approved: _____ Fees Paid: _____

PROPERTY OWNER CONTACT INFORMATION

Name: _____
Mailing Address: _____
Phone: _____
Email: _____

PROPERTY INFORMATION / DEVELOPMENT SITE

Address: _____
Tax ID: _____ Parcel Size (ac): _____
Zone District: _____
Current Use: _____
Proposed Use: _____
Flood Zone Designation: _____

REASON FOR REQUESTING A VARIANCE

APPLICANT SIGNATURE

I, _____ representing _____ hereby certify that I have read this application and hereby dispose and state under penalty of perjury that all statements, proposals, and documents submitted with this application are true and correct and that I shall adhere to the Municipal Regulations of the City of Aztec.

Signature: _____ Date: _____

CITY of AZTEC USE ONLY

City Commission Meeting Date: _____

City Commission Action: _____ APPROVED _____ DENIED

FEES ARE DUE PRIOR TO COMMISSION MEETING
Fees are: \$10 Administration Fee + \$250 Variance Fee = **Total \$260**

October
2018