

Process Guide:

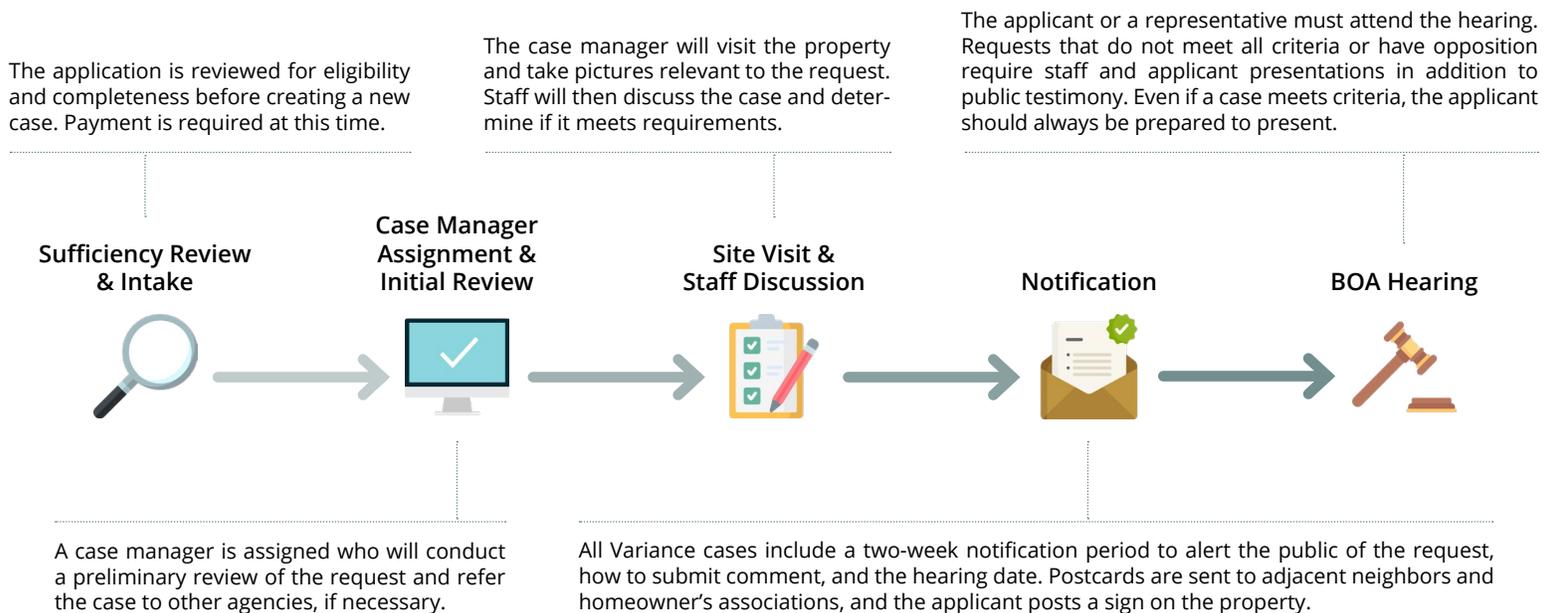
Board of Adjustment Variance Process

Variance Overview

Property owners may pursue a Variance through the Board of Adjustment (BOA) to request relief from certain standards of the **Jefferson County Zoning Resolution (JCZR)**. A Variance application is not guaranteed approval, and the request must meet both Colorado State Statute and JCZR requirements to be granted. Variances should be a last resort and reserved for circumstances where it is impossible or exceptionally difficult to meet standards. A Variance application should only request the minimum amount of relief from standards necessary to accomplish a project.

Variance Process

Once a Variance application is submitted to planning staff, the process takes approximately two months to complete. The Variance process includes the following steps:



Variance Approval Criteria - Hardship or Practical Difficulty

In order to grant approval of a Variance, the BOA must determine that an applicant has established an undue hardship or an exceptional practical difficulty for their request in addition to meeting other requirements of the JCZR. An undue hardship is a condition of the property **related to the land** that makes it exceptionally challenging or impossible to meet requirements. A practical difficulty is a circumstance **related to the property** outside of the applicant's control that prevents compliance with zoning standards. Circumstances related to a property owner's desires do not qualify as undue hardships or exceptional practical difficulties.

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Variance Approval Criteria – Hardship or Practical Difficulty *(continued from previous page)*

As dictated by Colorado State Statute and the JCZR, the following criteria must be met to obtain Variance approval:

1. The following property conditions exist to prove a hardship or practical difficulty:
 - Exceptional narrowness, shallowness or shape of a specific piece of property; or
 - Exceptional topographic condition; or
 - Other extraordinary and exceptional situation or condition of such piece of property; AND
2. The relief shall not have a substantial detriment to the public good, AND
3. The relief shall not substantially impair the intent and purpose of the Zoning Resolution; AND
4. The relief shall not effectively change a land use on a permanent basis, AND
5. The relief shall not be granted in circumstances which are self-imposed, AND
6. No Variance shall be granted based solely on economic hardship.

Important Considerations

- Although Planning staff processes and evaluates applications, only the BOA is vested with the authority to grant or deny a Variance. An affirmative vote by four out of five BOA members is necessary for approval.
- Variance applications for setback relief require an Improvement Survey Plat. The survey must show all property lines and all existing improvements. A supplemental site plan is also required and must include the exact footprint of the proposed structure(s) with requested setbacks labeled.
- If granted BOA approval, modifications to the footprint may require a new application. Please note that the BOA approves specific structures at a specific point in time for a specific use. This approval does not permanently change the setback requirements of a property.
- Throughout the Variance process, the property must be accessible to the case manager and BOA members for site inspection. If applicable, be sure to include special instructions for access with the application such as gate codes.
- Prior to the BOA hearing date, it is the applicant's responsibility to ensure the notification sign is posted consecutively for 14 days in the location provided by the case manager. Failure to comply with this requirement necessitates rescheduling the BOA hearing.
- If a Variance for setback relief is granted, the subsequent Building Permit will require a Setback Verification Form to verify compliance with the approved setback(s) prior to scheduling certain permit inspections.

Examples of Hardships & Practical Difficulties

Hardships:

- Large rock outcroppings and steep slopes on my property limit feasible building sites.
- My lot is only 100 feet wide, but the zone district requires 50-foot side setbacks.

Practical Difficulties:

- My home was built in a location on the property that met setback requirements at that time. However, setback requirements have since changed, and I am unable to add onto my house without relief from current setbacks.
- The deck on my house was built by a previous owner without a permit and does not meet setback requirements. Now the deck is dangerous and in need of repair, but I am unable to obtain a Building Permit without Variance approval.

Examples that Do Not Meet Hardship or Practical Difficulty Criteria:

- I need a new structure on my property to accommodate my hobbies, and the structure cannot meet standards.
- My property offers great mountain views, but I need a larger deck to fully appreciate them.
- My property does not currently have a garage. My neighbor has a very large detached garage, so I would like to build a similar structure.
- Hail is a likely event in Colorado, so I would like to store all my vehicles inside.
- The only place on my property where the structure will meet requirements has trees, and I want to save the trees.

Please refer to the BOA Application form for a full list of submittal requirements. More information can be found in the *Board of Adjustment Section of the Jefferson County Zoning Resolution* and the Colorado Revised Statutes Title 30. Government County § 30-28-118.