

Overview

A variance from the standards of the zoning ordinance may be considered when, because of special circumstances, the strict application of the ordinance results in undue hardship not experienced by other properties within the same zoning district. Circumstances considered exceptional include unusual parcel size, shape, topography, vegetation, location, or adjacent uses.

Generally, requests may be submitted for variations to the ordinance for lot area, height, setbacks, fence height, parking, or sign standards. A variance request must not be a grant of special privileges inconsistent with the limitations upon other properties in the zoning district. The following are the required findings that must be made in order to grant any variance request as found in the Brentwood Municipal Code ([BMC Chapter 17.860.005](#)):

- a) That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or alternatively that strict compliance would preclude an effective design solution improving livability, operational efficiency or appearance.
- b) That strict compliance with the regulation would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or alternatively that strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulations.
- c) That if granted, the variance will not adversely affect the character, livability or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.
- d) That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.

Planning Review Process

Within 30 calendar days of an application being “received” (meaning all required materials have been submitted and all fees/deposits have been paid), the City will determine if the application is “complete” or “incomplete” for further processing. The review period shall be extended to the following business day if it ends on a weekend or City holiday. Typically, an “incomplete” application will require revisions and/or additional materials. Staff has 30 calendar days to review each subsequent submittal. Once an application is deemed “complete” it may continue to be processed for consideration by the appropriate decision-making body, including the appropriate level of CEQA review.

Within those 30 days your plans will be routed to departments and divisions within the City and to applicable outside agencies for review and comment. Your assigned staff member will also contact you with a summary of the comments that are received.

Your plans may also be sent to one or more consultants hired by the City for the purpose of conducting peer review. The cost for peer review is paid by the applicant in accordance with the City’s Cost Allocation Plan.

California Environmental Quality Act (CEQA)

CEQA review will commence once the application is deemed complete. State law requires that all applications processed by the City be in compliance with CEQA. Your assigned project planner can give you preliminary information about what type of CEQA document is expected to be required for your project.

Copyrighted Material

The City is committed to ensuring that architectural drawings containing “protected” information, as defined in Senate Bill 1214, are made available to the public in a manner that does not facilitate a copyright infringement. When official copies of architectural drawings containing “protected” information are submitted to the City, the City will not allow a member of the public to copy the drawings and the City will not post the drawings on the internet without permission from the copyright owner. However, the City may display an official copy containing “protected” information on the internet and a physical copy on premise during a public hearing when the project is being considered by the decision-making body.

When submitting an official copy of architectural drawings to the City, it is the responsibility of the applicant/design professional to ensure the drawings are protected by the federal Copyright Act of 1976 (as amended by the federal Architectural Works Copyright Protection Act of 1990) and that the drawings contain a copyright annotation indicating it is protected by the federal Copyright Act of 1976. In addition, upon submission of an official copy of architectural drawings to the City, the applicant/design professional must submit a site plan or massing diagram for the purposes of posting online or for distribution to the public. If a site plan or massing diagram is not submitted upon submission of an official copy of architectural drawings, then permission is deemed granted to post the official drawings online and to distribute the drawings, upon request, to members of the public.

Submittal Requirements

The following submittal requirements, as specified below, are required for a development application to be “accepted”. If the required materials are missing, clearly inadequate, or in an incorrect format, the application will not be accepted. Further, the submission of application materials must be provided in a singular submittal (i.e., items shall not be submitted piecemeal).

Electronic Processing

All materials are required to be submitted electronically by e-mail directly to Planning@brentwoodca.gov (note that there is a 20 MB limit on e-mails) or via e-mail of a shared file link containing the complete submittal package. Physical copies of the submittal requirements will not be accepted.

Data to Accompany a Variance Application

All Variance requests shall be accompanied, when applicable, by the following.

1. Completed [Universal Application](#)
2. Environmental Questionnaire
3. Statement of Understanding signed by the property owner. Alternatively, a letter of authorization from the property owner will suffice. Include contact information for the legal property owner, applicant or authorized agent, Civil Engineer, Architect, and Landscape Architect on the Universal Application form.
4. Applicable filing deposit(s). **Note:** that charges for materials and staff time spent processing this application will be billed against this deposit. Application processing includes but is not limited to plan checking and processing, meetings, phone calls, research, email, and staff report preparation. Additional funds may be required if the cost of processing the application exceeds the initial deposit amount. All costs incurred in processing the application are required to be paid in full.

5. A detailed project description (on a separate sheet and attached to the application). This information is critical for staff to fully understand your project and how you wish to operate. Much of this information will be used to explain the project to the approving body and the general public. In a narrative form, provide the following information (if applicable) in as much detail as possible.
 - a) **Project Title:** *Name of the proposed project/business.*
 - b) **Project Site Context:** *Address and APN. General Plan Land Use designation. Zoning district. Acreage of property. Major roads. Current condition of the site (i.e. vacant, developed).*
 - c) **Variance:** Provide a detailed narrative of the following items:
 - I. State the code requirement(s) as found in [BMC Chapter 17.860.005](#) that cannot be met and explain the proposed variance request. Identify how the strict or literal interpretation and enforcement of the zoning ordinance would result in practical difficulty or unnecessary physical hardship which is inconsistent with the objectives of the General Plan and intent of the Zoning Ordinance.
 - II. Describe the special circumstances of this property (such as size, shape, topography or location) which deprive it of privileges enjoyed by other properties in the vicinity and under the identical zoning classification.
 - III. Give reason why the variance for this property would not constitute a grant of special privileges of the owner, not enjoyed by neighbors.
 - IV. Explain how approving this variance would not be materially harmful to the public health, safety, welfare, properties or improvements in the vicinity.
6. Site Plan, drawn to scale, and indicating (if applicable):
 - a. Lot dimensions;
 - b. Existing structures on the site and adjacent site;
 - c. Driveways to the site, adjoining streets, and roads;
 - d. Off-street parking area;
 - e. Existing use and square footage;
 - f. Proposed fences or building additions to be constructed;
 - g. Required setbacks and proposed encroachments into setbacks;
 - h. Floor plan indicating existing uses, square footage and required parking (for parking variances only);
 - i. Fence grade, location, and height (variances for fences only);
 - j. Building elevation and materials (variances for signs only);
 - k. Cross section of pole sign and street grade (variances for signs only); and
 - l. North arrow and scale.

Minor Variance

If the request requires a variation of ten percent (10%) or less from the standard requirement for setbacks or building height, the Community Development Director has the discretion to act on the request through a minor variance. A Minor Variance application would require submittal of all of the above required information and documents.

Public Hearings Required

Variance applications require one public hearing before the Planning Commission.

- The City is responsible for providing applicable notices to all property owners within 300 feet of the project site, as well as publication in the local newspaper, no less than 10 days from the date of the hearing. Minor variances do not require a public hearing.
- The applicant is required to install an on-site notification sign for the public hearing. A template for the site notification sign can be found [here](#). The project description for the site notification sign will be provided to the property owner/developer by City staff, after the application has been deemed complete.
- Minor Variances do not require a public hearing.

Appeal Process

Decisions made by either the Zoning Administrator or Planning Commission are subject to appeal, in accordance with Chapter 17.880 of the Brentwood Municipal Code. In general, decisions of the Zoning Administrator become effective 10 days after they are made. Any affected party may appeal a decision of the Zoning Administrator to the Planning Commission by submitting an application and the required appeal fee to the City Clerk during the 10-day appeal period. Decisions of the Planning Commission also become effective 10 days after they are made. Any affected party may appeal a decision of the Planning Commission to the City Council by submitting an application and the required appeal fee to the City Clerk during the 10-day appeal period. Decisions of the City Council are final.