

GATEWAY TO ALL SEASON FUN

TOWN OF DEL NORTE

140 SPRUCE STREET  
P.O. BOX 249  
DEL NORTE, CO 81132



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## LAND VARIANCE AND APPEALS APPLICATION FORM

### INCOMPLETE APPLICATION MAY RESULT IN DENIAL OF REQUEST

The Board of Adjustments may only grant a variance if the Board finds that all of the following 7 standards are satisfied. Each standard must have a response in as much detail as it takes to explain how your property condition satisfies the standards. The burden of proof rests within you. Use additional paper if needed. A non-refundable processing fee \$500.00 must be submitted with this application.

**Petitioner:**

**Name:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Fax** \_\_\_\_\_

**Email** \_\_\_\_\_

**Property Information**

**Site Street Address:** \_\_\_\_\_

**Legal Description:** \_\_\_\_\_

**Zoning:** \_\_\_\_\_ **Lot size;** \_\_\_\_\_

I hereby certify that (I am) I have been authorized to act for) the owners of the property described above and that I am petitioning for a variance in conformance with of the Town of Del Norte, Code of Ordinance. I understand that payment of the application fee is non-refundable and is to cover the costs associated with this processing this application, and that it does not assure approval of the variance. I understand that the burden of evidence to show compliance with the administrative variance standards rest with me, the applicant. I also understand that assigned hearing dates are tentative and may have to be postponed by Board of Adjustments for administrative reasons.

**Date:** \_\_\_\_\_ **Signature** \_\_\_\_\_

**Code**

**Citations:** \_\_\_\_\_  
\_\_\_\_\_

**Existing Situations and**

**Conditions:** \_\_\_\_\_  
\_\_\_\_\_

**Effects of Granting the**

**Variance:** \_\_\_\_\_  
\_\_\_\_\_

**VARIANCE STANDARDS**

1. There exists exceptional or extraordinary physical circumstances of the subject property such as, but not limited to, streams, wetlands, or slopes, and such physical circumstances are not applicable to other land in the same area of zone:

**Explain:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Because of these physical circumstances, the strict application of this code would create an exceptional or undue hardship upon the property owner, and would deprive the applicants of rights commonly enjoyed by other properties in the same zone under the terms of the zoning ordinance:

**Explain:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The hardship is not self-imposed, and special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute inconvenience:

**Explain:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The variance, if granted, will not adversely affect the use of the adjacent property as permitted under this code:

**Explain:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. The variance, if granted, is in keeping with the intent of this code, will not change the character of the zoning district in which the property is located, and will not permit a use that is not otherwise permitted in the district in which the property lies:

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. The variance if granted, does not adversely affect the health, safety, and welfare of the people of the municipality of the Town of Del Norte:

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. The variance granted is the minimum variance that will make possible a reasonable use of the land:

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTICE:**

This application will be received during regular business hours at the Del Norte Town Hall, 140 Spruce Street, Mon-Thur, 8:00 AM to 4:30 PM excluding holidays.

**Board of Adjustments**

The Board of Adjustments shall, within forty five days of application, unless a longer time is necessary for consideration of the application for reasons specifically stated by the Board of Adjustments, either: (1) recommended approval the application in whole or in part, with or without modifications and conditions. If a hearing needs to be called the applicant will be notified and they will have to furnish the Town with list of property owners with 300 feet of proposed property.

DATE FILED: \_\_\_\_\_

Clerk/Deputy Clerk: \_\_\_\_\_

FEE PAID: \_\_\_\_\_

Copy to Planning & Zoning Commission, Building Inspector, and property owners if applicable

Town of Del Norte Town Code  
Zoning-Sec.16-3-120 Policy Determinations.

- (a) In granting or denying variances, the Board shall consider the following criteria:
  - (1) Whether there are unique physical circumstances or conditions, such as exceptional irregularity, narrowness or shallowness of a piece of property at the time of the ordinance codified in this Chapter, or whether there are exceptional topographic or other physical conditions or other extraordinary and exceptional situations or conditions peculiar to the affected property.
  - (2) Whether the unusual circumstances or conditions exist throughout the neighborhood or district in which the property is located.
  - (3) Whether the hardship has been created by the applicant.
  - (4) Whether the grant of the requested variance will cause a significant hazard, annoyance or inconvenience to the owners or occupants of nearby property, significantly change the character of the neighborhood or reduce the value of nearby property, impose any significant cost burden upon the Town or create any significant obstacle to implementation of the zoning plan evidenced by this Chapter or by any master plan of the Town.
  - (5) Whether the variance, if granted, will alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property
- (b) The Board of Adjustment shall also have the following duties:
  - (1) To hear and decide such other special questions not inconsistent with the regulations contained in this Chapter, upon which the Board of Adjustment is authorized by resolution of the Town.
  - (2) To hear and decide whether a specific use is expressly permitted in a use group as specified in Article 5 of this Chapter.
  - (3) To decide questions concerning the interpretation of this Chapter where any ambiguity or conflict exists or concerning the application of this Chapter to specific property.
- (a) The Board shall render written decisions accompanied by findings of fact and conclusions based thereon.

**SOME HELP IN RESPONDING TO THE 7 STANDARDS**

We believe the following will help you in responding to the 7 standards the Board of Adjustments must determine are true before it may grant a variance. It is important to present factual information and evidence to support your belief that your property does not have parity with other properties. To gain that parity, your property must have relief from a specific provision of the zoning ordinance. The suggestions below are by no means the only or valid justifications for a variance on your property. These examples are provided to allow you to consider the uniqueness of your property in your response to the 6 standards. The Board of Adjustments considers each variance on its unique merits.

**Use your own words and remember it is up to you to make your case. There are no assurances that your variance will be granted.**

**1. There exist exceptional or extraordinary physical circumstances of the subject property such as, but not limited to, streams, wetlands, or slope, and such physical circumstances are not applicable to other land in the same district.**

The special physical conditions of the land must directly affect, create or contribute to the need for the zoning variance. You must explain to the Board what those special conditions are. Examples are listed below and one or more or something similar may apply to your property:

- A. Physical features peculiar to this lot or tract not applicable to the adjacent lots:
    - 1. Steep slopes impact \_\_\_ % of lot
    - 2. Water bodies, water courses, wetlands, floodplain impact \_\_\_ % of lot
    - 3. Avalanche hazard zones, unstable soil conditions impact \_\_\_ % of lot
    - 4. Other physical defects:
  - B. Platting features peculiar to this lot or tract not applicable to the adjacent lots:
    - 1. the lot is not platted
    - 2. the lot is oddly shaped
    - 3. the lot has more than two street frontages or no street frontage
    - 4. the lot is impacted by many or wide easements for utilities, driveways, drainage
  - C. Zoning features peculiar to this lot or tract not applicable to the adjacent lots:
    - 1. the lot is impacted by extraordinary zoning setbacks
    - 2. the lot is non-conforming in area, width or depth
    - 3. the structure/building was constructed under different zoning rules
- 2. Because of these physical circumstances, the strict application of this code would create an exceptional or undue hardship upon the property owner, and would deprive the applicant of rights commonly enjoyed by**

**other properties in the same district under the terms of the zoning ordinance.**

You need to explain what is precluding you from complying with the zoning law. There must be a connection between what you allege is the physical defect explained in standard 1 above and why your neighbors or others in the same zoning district can do what you cannot do without the need for the variance. Three examples are below.

- A. This property is unusual and unique because
  - B. The property owner cannot use the property in manner to gain a reasonable use in comparison with the adjacent properties because \_\_\_\_\_
  - C. The hardship in developing this property is to the extent that no reasonable use of the property is possible or at least that adverse economic impact is substantial
- 3. The hardship is not self-imposed, and special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute inconvenience.**

You must explain why the need for the variance is due to circumstances that are beyond your control; and that your request for a variance is not solely to make it more convenient for you to use the property.

Examples are listed below and one or more or something similar may apply to your property:

- A. The special conditions and circumstances are:
  - 1. the structure was built under different zoning rules
  - 2. the structure has non-conforming rights
  - 3. the lot is non-conforming in area, width or depth
  - 4. the design of the structure in relationship to the land limits the options
- B. The special conditions and circumstances are more than an inconvenience or financial burden because:
  - 1. removing the encroachment would severely damage the structure
  - 2. removing the encroachment would render the structure unusable
  - 3. the sewer and or water tap cannot be moved
  - 4. the physical features of the lot limit construction locations and options
  - 5. the access to the lot cannot be physically relocated

C. I (we) considered all the possible conforming alternatives and I (we) are not able to:

- 1. redesign the structure because \_\_\_
- 2. move the structure because
- 3. move lot lines or replat the property because \_

- 4. rezone the property because \_\_\_
- 5. acquire abutting the property because \_\_\_

**4. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this code**

Your use of the property and the variance, if granted, will not make your property, or your neighbors, incompatible with what the a Town of Del Norte zoning describes as appropriate for the area; and does not devalue or prevent full use of your neighbors property. Examples are listed below and one or more or something similar may apply to your property:

- A. The variance will not give
  - 1 this property special privileges to me above my neighbor.
  - 2.. increase traffic in the neighborhood
  - 3. change the character of the neighborhood
  - 4. negatively impact the abutting property owners
  - 5. violate the spirit of the zoning regulations
  - 6. place the public health, safety or welfare at risk

- B. The encroachment is not visually evident
- C. There have been no registered complaints
- D. No code enforcement actions have occurred
- E. The nonconforming use or structure can be made more conforming, if variance is granted.

**5. The variance, if granted, is in keeping with the intent of this code, will not change the character of the zoning district in which the property is located.**

You may not be using the variance to request a use on your property that is not allowed in the underlying zoning district. Even though granting the variance allows you to deviate from the Code, the variance must not change the intent of the Code or change the character of neighbors who are in the same zoning district. Two examples are listed below and one or more or something similar may apply to your property:

- A. The variance will not allow a land use that is not permitted in the zoning district.
- B. The land use will not change as a result of this variance,

**6. The variance, if granted, does not adversely affect the health, safety, and welfare of the people of the Municipality of Town of Del Norte, Colorado**

The variance does not alter Fire Department safety standards, traffic clear vision areas, Department of Health and Human Services standards for air or water quality, or noise levels; etc.

**7. The variance granted is the minimum variance that will make possible a reasonable use of the land.**

You must explain why this variance will give this property parity with its neighbors and nothing more. That you are asking for the least relief from the zoning law that is possible to allow a reasonable use of the property. That you are not advocating for rights superior to your neighbors or others in the same zoning district. That you have no other conforming alternatives, such as re platting, rezoning, vacate easements or rights-of-way, moving the structure, or remodeling the structure, In other words, a variance is the last resort to allow a reasonable use of the property,