



VARIANCE PROCESS

Variance means a grant of relief from the requirements of this ordinance that permits usage in a manner that would otherwise be prohibited.

17.72.010 - Purpose

It is the purpose of this chapter to authorize, upon appeal, in specific cases such variances from the provisions of the zoning ordinance or other land use regulatory ordinances as the Town may adopt which will not be contrary to the public interest and only where, owing to special conditions, a literal enforcement of the provisions of such ordinance(s) would result in unnecessary hardship.

Procedure

A permit application is complete for purposes of this section when it meets the procedural submission requirements of the department and is sufficient for continued processing even though additional information may be required or project modifications may be subsequently undertaken. The determination of completeness shall not preclude the department from requesting additional information or studies either at the time of notice of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the department.

Within twenty-eight (28) days of receiving your application, Town staff shall determine if it is complete. If additional information and/or materials is needed to meet the approval criteria for a particular application, the Town will contact you and outline what is needed to complete the application. If the application is incomplete and the applicant submits the additional information requested by the department, the department shall mail or provide in person written notice to the applicant, within fourteen (14) days following the receipt of the additional information.

The department shall cancel an incomplete application if the applicant fails to submit the additional information required by DMC Sections 17.104.070(A) or (C) within ninety (90) days following notification from the department that the application is incomplete. The department may extend this cancellation date up to one hundred twenty (120) additional days if the applicant submits a written request for an extension prior to cancellation. The request must clearly demonstrate that the delay is due to circumstances beyond the applicant's control (such as the need for seasonal wetland data) or unusual circumstances not typically faced by other applicants, and that a good faith effort has been made to provide the requested materials.

After the determination of a completed application, a decision from Town staff on a permit application is required within one hundred and twenty days (120).

The fact that an application is deemed complete pursuant to this section shall not, under any circumstances, prevent the town from subsequently requesting additional information or studies regarding any aspect of a proposed project, which is deemed necessary to a complete review of the proposed project.

17.108 – Decision Processes

Variance review shall be a Planning Commission decision or Town Council decision pursuant to the Town zoning code. The Planning Commission or Town Council may grant a variance to the requirements of this code only if the applicant demonstrates compliance.

An application to the Planning Commission or Town Council for the issuance of a variance shall be made on forms prescribed. A filing fee as required in the application fees chapter of this title should accompany all applications.

15.32.150

A. The Town Council as established by the Town shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The Town Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Town Clerk in the enforcement or administration of this chapter.

C. Those aggrieved by an administrative decision of the Town Council, or any taxpayer, may appeal such decision to the Snohomish County Superior Court, as provided in RCW Chapter 7.16 and any other applicable state law.

D. In passing upon such applications, the Planning Commission or Town Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including the maintenance and repair of public utilities, facilities, and systems such as sewer, gas, electrical, water, streets, and bridges.

E. Upon consideration of the factors of subsection D. of this section and the purposes of this chapter, the Town council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

All variances shall be processed as Type 3 decisions pursuant to DMC Section 17.108.030, except applications for shared, covenant or complementary parking shall be processed as Type 2 decisions, pursuant to DMC Section 17.108.020. Applications for administrative variances for reductions below minimum parking requirements between one and ten percent shall be processed as Type 2 decisions, pursuant to DMC Section 17.108.020. Applications for reductions from minimum parking requirements in excess of ten percent shall be processed as Type 4 decisions, pursuant to DMC Section 17.108.040, including a hearing before the Planning Commission.

17.108.020 - Type 2 Decision Process

A. All Type 2 decisions shall be made by the Town Planner, or in appropriate cases, the short plat committee, pursuant to the procedures set forth in DMC Chapter 17.104.B.

B. Type 2 decisions shall be final unless appealed to the board of adjustment, the Planning Commission, or Town Council as specified in DMC Section 17.104.010.

C. All appeals of Type 2 decisions other than appeals of Shoreline Substantial Development permits shall be filed with the department, which shall coordinate scheduling of the appeal hearing with the appropriate appeal hearing body.

D. Appeal of a shoreline substantial development permit shall be to the State Shoreline Hearings Board pursuant to RCW 90.58.

E. In the event that a project involves more than one Type 2 decision appealable to different bodies and no Type 3, 4 or 5 decision, all appeals shall be consolidated in the following sequence:

1. If an appeal to the Town Council is involved, all appeals of Type 2 decisions shall be consolidated before the Town Council.
2. If no appeal to the Town Council is involved, all appeals of Type 2 decision shall be consolidated before the Planning Commission.

F. All appeals of Type 2 decisions shall be open record appeals, processed pursuant to the time limits and other procedures for such appeals specified in DMC Chapter 17.116.

G. Following an open record appeal hearing on a Type 2 decision, the hearing body shall render a written decision, including findings of fact and conclusions, and the department shall promptly issue a notice of decision pursuant to DMC Section 17.104.170.

H. The decisions of the board of adjustment, the Planning Commission and the Town Council regarding Type 2 decisions shall be final and shall be appealable only to Superior Court pursuant to RCW 36.70C.

(Ord. 541 § 1 (part), 1999)

17.108.030 - Type 3 Decision Process

A. Type 3 decisions shall be made by the board of adjustment following an open record public hearing. Such public hearing shall be conducted in accordance with the procedures for open record public hearings specified in DMC Chapter 17.112.

B. Following a public hearing on a Type 3 decision, the hearing body shall render a written decision, including findings of fact and conclusions, and the department shall promptly issue a notice of decision pursuant to DMC Section 17.104.170.

C. The decision of the board of adjustment shall be final and shall be appealable only to Superior Court pursuant to RCW 36.70C.

(Ord. 541 § 1 (part), 1999)

17.108.040 - Type 4 Decision Process

A. Type 4 decisions shall be made by the Board of Architectural Review or Planning Commission, as appropriate, following an open record public hearing.

B. Type 4 decisions by the board of architectural review or Planning Commission, except shoreline conditional use permits, shall be final unless an appeal is filed to the Town Council pursuant to DMC Ch. 17.116.

C. Following a public hearing on a Type 4 decisions, the Board of Architectural Review or Planning Commission shall render a written decision, including findings of fact and conclusions, and the department shall promptly issue a notice of decision pursuant to DMC Section 17.104.170.

D. All appeals of Type 4 decisions shall be filed with the department within the time limits specified in DMC Section 17.116.010, except Shoreline Conditional Use Permits, which shall be appealable only to the state shoreline hearings board pursuant to RCW 90.58. The department shall coordinate scheduling of any town appeal hearing with the Town Council.

E. All appeals of Type 4 decisions except shoreline conditional use permits, shall be closed record appeals, processed pursuant to the time limits for such appeals specified in DMC Section 17.104.130.

F. Following a closed record appeal hearing on a Type 4 decision, the city council shall render a written decision, including findings of fact and conclusions, and the department shall promptly issue a revised notice of decision pursuant to DMC Section 17.104.170.

G. The decision of the city council regarding a Type 4 decision shall be final and shall be appealable only to Superior Court pursuant to RCW 36.70C.

(Ord. 541 § 1 (part), 1999)

17.104.010 Classification of Project Permit Applications

A public "Notice of Application" must be posted on-site, within 14 days of completed application having been received. If the Short Plat contains wetlands, streams, or their buffers, then a SEPA Environmental review may apply. These additional approvals may increase review time. The Department of Ecology website contains SEPA information, forms and checklists needed. www.ecy.wa.gov/programs/sea/sepa/forms.htm

A. A single notice board shall be posted for a project. This notice board shall also be used for the posting of the notice of decision and any notice of hearing, and shall be placed by the applicant as follows:

1. The notice board shall be located at the midpoint of the site street frontage or as otherwise directed by the department for maximum visibility.
2. The notice board shall be five feet inside the property line except when the board is structurally attached to an existing building, provided that no notice board shall be placed more than five feet from the street property without approval of the department.
3. Notice boards shall be at least four feet by four feet in size and shall be designed, constructed and installed in accordance with specifications promulgated by the department.
4. The top of the notice board shall be between seven to nine feet above grade.

5. The notice board shall be placed so that it is completely visible to pedestrians.

B. A mailed notice shall be issued to all owners/residents within five hundred (500) feet of any portion of the project boundary by first class mail by the department within fourteen (14) days following the department's determination of completeness and at least ten (10) days prior to the public hearing. Applicant will provide to the Town of Darrington staff, a complete mailing list and envelopes that must be size #10 (regular business size) **with** first class postage and with a Town of Darrington return address.

16.08.030 - Preliminary Approval.

In order to receive preliminary approval, the applicant must submit to the Darrington Planning Department a complete application, in quantities specified by the Department, and meet the criteria for approval.

A. Application. A complete application consists of the following:

1. A completed application on a form provided by the Planning Department and fee as identified in Chapter 17.88 DMC;

FEE: \$ 600.00 Non-Refundable

17.88.10 - Application fees.

Any applicant shall pay the following fees for a land use permit at the same time that said application is filed with the town

Applicant shall be required to bear any engineering and legal fees incurred by the Town in connection with the application, which are not covered by other fees. All fees must be paid prior to final approval.

2. A neat and readable plan drawn to a standard decimal (engineer) scale, (if required). A survey may be required if it is determined that level of information is needed to ensure the Variance meets the approval criteria.

17.72.20 and 19.12.050- Criteria for Granting Variance Permit.

The Planning Commission or Town Council shall consider all requests for variance from the zoning code; the commission shall not grant variance from the provisions of such ordinances unless it finds that all of the following facts and conditions exist:

A. A showing of good and sufficient cause;

B. A determination that failure to grant the variance would result in exceptional hardship to the

C. The Variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and in the zone in which the property in behalf of which the application was filed is located;

D. The Variance is necessary because of special circumstances relating to the size, shape, topography, location or surrounding of the subject property in order to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located;

E. The granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and in the zone in which the subject property is situated;

F. The authorization of such variance will not adversely affect the implementation of the comprehensive plan;

G. The granting of such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same zone or vicinity.

H. That the variance as granted represents the least amount of deviation from prescribed regulations necessary to accomplish the purpose for which the variance is sought and which is consistent with the stated intent of this code.

I. That the granting of the variance will not constitute a public nuisance or adversely affect the public safety.

In authorizing the variance, the Planning Commission or Town Council may attach thereto-such conditions that it deems to be necessary or desirable in order to carry out the intent and purposes of this chapter and in the public interest. A variance so authorized shall become void after the expiration of one year or a longer period as specified at the time of the commission action, if no building permit has been issued in accordance with the plans for which such variance was authorized, except that the board of adjustment may extend the period of variance authorization without a public hearing for a period not to exceed twelve months upon a finding that there has been no basic change in pertinent conditions surrounding the property since the time of the original approval.