



# VARIANCE FROM THE PLANNING CODE

## INFORMATIONAL AND SUPPLEMENTAL APPLICATION PACKET

**ATTENTION: A Project Application must be completed and/or attached prior to submitting this Supplemental Application. See the [Project Application](#) for instructions.**

Pursuant to Planning Code Section 305, the Zoning Administrator shall hear and make determinations regarding applications for variances from the strict application of quantitative standards in the Planning Code. The first pages consist of instructions which should be read carefully before the application form is completed.

For more information email the Planning counter at the Permit Center at [pic@sfgov.org](mailto:pic@sfgov.org).

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 628.652.7550. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder.

中文: 如果您希望獲得使用中文填寫這份申請表的幫助, 請致電628.652.7550。請注意, 規劃部門需要至少一個工作日來回應。

Filipino: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 628.652.7550. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.

### WHAT IS A VARIANCE?

The Planning Code regulates the use of property, including the size, design, and siting of buildings that may be constructed on a piece of property. The Planning Code has standards for buildings that govern such features as rear yards, front setbacks, usable open space, height, and parking. A variance is a request for an exception to a Planning Code standard. The Zoning Administrator is the City official that interprets and maintains the Planning Code.

### WHEN IS A VARIANCE NECESSARY?

There may be special circumstances that make it difficult for a project to meet all of the Planning Code requirements. In those instances, a project sponsor may request that the Zoning Administrator grant a Variance from the Code provisions. Under the City Charter (Section 4.105), the Zoning Administrator has the power to grant only those variances that are consistent with the general purpose and the intent of the Planning Code. The power to grant a variance shall be applied only when the plain and literal interpretation and enforcement of the Code would “result in practical difficulties, unnecessary hardships, or where the results would be inconsistent with the general purpose of the [Code].”

Planning Code Section 101.1(b) establishes the Priority Policies and requires review of applications for consistency with said policies. The Zoning Administrator needs to determine that the project, on balance, complies with said policies.

Planning Code Section 305(c) outlines the five criteria that must be met in order for the Zoning Administrator to grant a variance. The Section 305(c) criteria are as follows:

1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;
2. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;
3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;

4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity; and
5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

## **OTHER EXEMPTIONS**

The Zoning Administrator also hears and makes determination on certain other exceptions including rear yard reductions or modifications in certain districts and elevator height exemptions. These follow the variance process outlined in this document but require different criteria as outlined below.

### **Reduction of Rear Yard Requirements in the North of Market Residential Special Use District (SUD)**

Planning Code Section 134(j) allows for the rear yard requirement within the North of Market Residential SUD to be substituted with an equivalent amount of open space situated anywhere on the site, provided that the Zoning Administrator determined that all of the following criteria are met:

1. The substituted open space in the proposed new or expanding structure will improve the access of light and air to and views from existing abutting properties; and
2. The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of existing abutting properties.

### **Modification of Rear Yard Requirements in Neighborhood Commercial (NC) Districts.**

Planning Code Section 134(k) allows for the rear yard requirement in NC Districts to be modified or waived by the Zoning Administrator if all of the following criteria are met:

1. Residential Uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development; and
2. The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of adjacent properties.

### **Elevator Penthouse Height Exemption**

Planning Code Section 260(b)(1)(B) allows for a further height exemption for an elevator penthouse provided that the Zoning Administrator determines the following:

1. The building has a height limit of more than 65 feet; and
2. The exemption is required to meet state or federal laws or regulations.

## **HOW DOES THE PROCESS WORK?**

Upon submittal of a complete application to the Planning Department, the Zoning Administrator will schedule a public hearing to consider whether to grant the Variance. Variance hearings typically occur on the 4th Wednesday of each month. Upon issuing the formal written decision either granting or denying the Variance in whole or in part, the Zoning Administrator shall forthwith transmit a copy the Variance decision letter to the applicant. The action of the Zoning Administrator shall be final and shall become effective 10 days after the date of his written decision except upon the filing of a valid appeal to the Board of Permit Appeals as provided in Section 308.2 of the Planning Code.

## **WHAT HAPPEN ONCE A VARIANCE IS APPROVED? HOW LONG IS A VARIANCE APPROVAL GOOD FOR?**

Within approximately 30 to 60 days, the Zoning Administrator will issue a Variance Decision Letter. The authorization and rights vested by virtue of the decision letter shall be deemed void and cancelled if

1. a Building Permit has not been issued within three (3) years from the effective date of the decision; or
2. a Tentative Map has not been approved within three (3) years from the effective date of the decision for Subdivision cases; or
3. neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three (3) years from the effective date of the decision.

## FEES

Please refer to the [Planning Department Fee Schedule](http://www.sfplanning.org) available at [www.sfplanning.org](http://www.sfplanning.org). For questions related to the Fee Schedule, please email the Planning counter at the Permit Center at [pic@sfgov.org](mailto:pic@sfgov.org).

Fees will be determined based on the estimated construction costs. Should the cost of staff time exceed the initial fee paid, an additional fee for time and materials may be billed upon completion of the hearing process or permit approval. Additional fees may also be collected for preparation and recordation of any documents with the San Francisco Assessor-Recorder's office and for monitoring compliance with any conditions of approval.

## WHAT APPLICANTS SHOULD KNOW ABOUT THE PUBLIC HEARING PROCESS

A. The Zoning Administrator encourages applicants to meet with all community groups and parties interested in their application early in the entitlement process. In many cases, this is required as part of the Pre-application process. Department staff is available to assist in determining how to contact interested groups. Neighborhood organization lists are available on the Department's website. Notice of the hearing will be sent to groups in or near the neighborhood of the project. The applicant may be contacted by the Planning Department staff with requests for additional information or clarification. An applicant's cooperation will facilitate the timely review of the application.

B. The Zoning Administrator requests that applicants familiarize themselves with the procedure for public hearings, which are excerpted from the Planning Commission's Rules and Regulations below.

**Hearings.** A public hearing may be held on any matter before the Zoning Administrator at either a Regular (every 4th Wednesday of the month) or a Special Meeting. The procedure for such public hearings shall be as follows:

1. A description of the issue by Zoning Administrator along with the Planning Department's recommendation.
  2. A presentation of the proposal by the project sponsor for a period not to exceed 5 minutes.
  3. A presentation of opposition to the proposal, by organized opposition, for a period not to exceed 3 minutes.
  4. Public testimony from proponents of the proposal. An individual may speak for a period not to exceed 3 minutes.
  5. Public testimony from opponents of the proposal would be taken under conditions parallel to those imposed on proposal proponents, not to exceed 3 minutes.
  6. The project sponsor or applicant will be given a period, not to exceed 3 minutes, within which to clarify any questions raised in previous testimony.
  7. Discussion by the Zoning Administrator on the matter.
  8. The Zoning Administrator may impose time limits on appearances by members of the public and may otherwise exercise his or her discretion on procedures for the conduct of public hearings.
- C. **Opportunities for Appeals by Other Bodies:** Zoning Administrator actions on Variances are final unless appealed to the Board of Appeals within 10 days of the Zoning Administrator's written decision.



# VARIANCE FROM THE PLANNING CODE

## SUPPLEMENTAL APPLICATION

### Property Information

Project Address:

Block/Lot(s):

The Project is seeking a variance from Planning Code Section(s):

### Variance Findings

Pursuant to Planning Code Section 305(c), before approving a variance application, the Zoning Administrator needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding.

1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;
2. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;
3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;

4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity;
5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.



## REDUCTION FROM THE PLANNING CODE

### SUPPLEMENTAL APPLICATION

#### Property Information

Project Address:

Block/Lot(s):

The Project is seeking a variance from Planning Code Section 134

#### Reduction of Rear Yard Requirements in the North of Market Residential SUD Findings

Pursuant to Planning Code Section 134(j), before approving a reduction from the Planning Code, the Zoning Administrator needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding.

1. The substituted open space in the proposed new or expanding structure will improve the access of light and air to and views from existing abutting properties; and
2. The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of existing abutting properties.



## MODIFICATION FROM THE PLANNING CODE

### SUPPLEMENTAL APPLICATION

#### Property Information

Project Address:

Block/Lot(s):

The Project is seeking a variance from Planning Code Section 134

#### Modification of Rear Yard Requirements in NC Districts Findings

Pursuant to Planning Code Section 134(k), before approving a modification from the Planning Code, the Zoning Administrator needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding.

1. Residential Uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development; and
2. The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of adjacent properties.



# EXEMPTION FROM THE PLANNING CODE

## SUPPLEMENTAL APPLICATION

### Property Information

Project Address:

Block/Lot(s):

The Project is seeking a variance from Planning Code Section 260

### Elevator Penthouse Height Exemption Findings

Pursuant to Planning Code Section 260(b)(1)(B), before approving an exemption from the Planning Code, the Zoning Administrator needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding.

1. The building has a height limit of more than 65 feet, and
2. The exemption is required to meet state and federal laws or regulations.



# APPLICANT'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

- a) The undersigned is the owner or authorized agent of the owner of this property.
- b) The information presented is true and correct to the best of my knowledge.
- c) Other information or applications may be required.
- d) I hereby authorize City and County of San Francisco Planning staff to conduct a site visit of this property as part of the City's review of this application, making all portions of the interior and exterior accessible through completion of construction and in response to the monitoring of any condition of approval.
- e) I attest that personally identifiable information (PII) - i.e. social security numbers, driver's license numbers, bank accounts - have not been provided as part of this application. Furthermore, where supplemental information is required by this application, PII has been redacted prior to submittal to the Planning Department. I understand that any information provided to the Planning Department becomes part of the public record and can be made available to the public for review and/or posted to Department websites.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Relationship to Project  
(i.e. Owner, Architect, etc.)

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

For Department Use Only

Application received by Planning Department:

By: \_\_\_\_\_

Date: \_\_\_\_\_