

City of Ontario Planning and Zoning Application Form

444 SW 4th Street, Ontario, OR 97914

Community Development Center: 458 SW 3rd Street

Voice (541) 881-3222 / (541) 881-3224

Fax (541) 881-3251



HEARING BODY VARIANCE

FILE # _____

Date Received _____

Hearing Body: (10B-30)

Fee: \$160.00 + \$120.00 = \$280.00

(Mailing & Advertising \$120.00)

Time Received _____

PDAC Date: _____

Accepted as Complete _____

Scheduled for hearing(s)

Administrative decision _____

Hearings Officer _____

Applicant(s) – attach additional sheets as necessary

Planning Commission _____

City Council _____

Property Owner(s) – attach additional sheets as necessary

Name _____

Address _____

Telephone _____

email _____

signature _____

Description of proposed action: _____

If the application includes any site plans or other drawings, please submit electronic copies in pdf format

Property information:

Address _____

Tax Map # _____

Tax Lot #(s) _____

Lot size _____

Zoning _____

Existing use _____

OFFICE USE ONLY

120 day time limit

Accepted as complete _____

Final decision by _____

DLCD 45-day notice required

Y/N____ Date mailed _____

Date of first hearing _____

Notice of Pending Hearings Officer Decision or Hearing

Date mailed _____

Notice to media

Publication date _____

Emailed _____

Notice of Decision

Date mailed _____

Appeal deadline _____

Associated applications

CHAPTER 10B-30 VARIANCES

10B-30-05 PURPOSE AND AUTHORITY. Unnecessary physical hardships may result from the size, shape, or dimensions of a site or location of existing structures thereon, geographic or topographic or other physical conditions on the site or in the immediate vicinity. Variances may be granted to overcome these unnecessary physical hardships. The authority to grant a variance does not extend to use regulations. The purpose of a variance is not to change the zoning of property or to allow uses that are expressly prohibited.

A variance shall not be granted when special circumstances upon which the applicant relies are a result of the actions of the applicant or owner or previous owner (s), including but not limited to:

- A) Self-created hardships.**
- B) Willful or accidental violations.**
- C) Manufactured hardships.**

10B-30-10 INITIATION OF ACTION. Variance applications shall be filed, the appropriate fees paid, a review date scheduled, and Hearing Officer review conducted according to the provisions of this Title.

10B-30-15 REVIEW DATE, NOTICE. When advised of a request for a variance, the Planning Director shall schedule a review as specified in this Title.

10B-30-20 AGENCY COORDINATION. Any proposed variance shall be submitted to city department heads, Malheur County and state or federal agencies, deemed by the Planning Director to have an interest in the action. Such departments or agencies shall submit comments, if any to the Hearing Officer no later than the scheduled date of the review of the application. If coordination reveals serious problems in need of resolution, the Hearing Officer may postpone the review to another time specified.

Staff will evaluate your proposal based on the criteria below. Please provide a written (Preferably typed) response addressing the criteria below, as they relate to your proposal and the applicable zone.

10B-30-30 CRITERIA FOR APPROVAL OF VARIANCES. No variance may be granted by the Hearing Officer unless, on the basis of the application, investigation, and evidence submitted:

- A. Both findings “1” and “2” below are made:
 - 1. That a strict or literal interpretation and enforcement of the specified requirement
 - (a) would result in unnecessary physical hardship and would be inconsistent with the objectives of this ordinance.
 - (b) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply to other properties in the same zoning district; or
 - (c) That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges legally enjoyed by the owners of other properties classified in the same zoning district;
 - 2. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the near vicinity.

10B-30-40 SIDEWALK VARIANCE. The City recognizes that occasionally there will be those situations and/or circumstances beyond the control of the property owner that will prevent or hinder their ability to construct sidewalks as prescribed in Chapter 10A-60, Section 05 of the City Ordinances. Therefore, in order to allow for this condition, the Hearing Officer is empowered to review the circumstances of each petition and issue a variance in compliance with this Title.

10B-30-41 SIDEWALK CONSTRUCTION TIME EXTENSION. The Hearing Officer shall have the authority to grant an extension of time, in monthly increments, up to but not exceeding six (6) months, upon the written request of a partitioner.

10B-30-45 EXPIRATION OF VARIANCE, EXTENSION. No variance granted by the Hearing Officer shall be valid for a period longer than six (6) months unless the permitted variance is established within such period, or in the event such permitted variance is dependent upon the erection or alteration of a building, unless a building permit for said erection or alteration is obtained within such six month period; provided, however, that the hearing officer, upon a written request of the applicant and without a formal review, may extend the period six months but not in excess of twelve (12) months from the date the first order granting the variance was given.

VARIANCES TO ACCESS MANAGEMENT:

The criteria for variances to Access Management are included in Chapter 10C of the Ontario Municipal Code. The Criteria for a “standard” variance contained in Chapter 10B-30 are not applicable.

10C-25.03.004(h) ACCESS SPACING STANDARDS The streets within Ontario are classified as arterials, minor arterials, collectors, and local streets. The access spacing standards are shown in Table 10C-25.03.004.h) for both full intersection spacing and driveway spacing.

Table 10C-25.03.004.h). Access Spacing Standard

<i>Functional Roadway Classification</i>	<i>Minimum Public Intersection Spacing Standard</i>	<i>Minimum Spacing between Driveways and/or Streets</i>
<i>Arterial</i>	<i>1/4 mile</i>	<i>600 feet</i>
<i>Minor Arterial</i>	<i>1/4 mile</i>	<i>300 feet</i>
<i>Collector</i>	<i>300 feet</i>	<i>50 feet</i>
<i>Neighborhood Collector</i>	<i>300 feet</i>	<i>50 feet</i>
<i>Local Residential Street</i>	<i>300 feet</i>	<i>access to each lot</i>
<i>Local Commercial/Industrial Street</i>	<i>300 feet</i>	<i>access to each lot</i>

10C-25.03.004(k) The City of Ontario may reduce required separation distance of access points defined in Table 10C-25.03.004.h) where they prove impractical as defined by the Public Works Director or his/her designee, provided all of the following requirements are met:

- (1) Joint access driveways and cross access easements are provided in accordance with this section.
- (2) The site plan incorporates a unified access and circulation system in accordance with this section.
- (3) The property owner enters into a written agreement with the City of Ontario, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.

10C-25.03.004(i) LOCATION OF ACCESSES FOR NON-RESIDENTIAL USES. Vehicle access locations shall be provided based on the following criteria:

The City of Ontario may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical based on physical site characteristics that make meeting the access standards infeasible. The modification or waiver shall be through a variance application wherein the following findings must be made:

- (1) The application of the location of access standards will result in the degradation of operational and safety integrity of the transportation system.
- (2) The granting of the variance shall meet the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.
- (3) Applicants for variance from these standards must provide proof of unique or special conditions that make strict application of the provisions impractical. Applicants shall include proof that:
 - a) Indirect or restricted access cannot be obtained;
 - b) No engineering or construction solutions can be applied to mitigate the condition; and
 - c) No alternative access is available from a road with a lower functional classification than the primary roadway.
- (4) No variance shall be granted where such hardship is self-created.

PROCEDURE – HEARINGS OFFICER DECISIONS

10B-04-10 DEFERRAL TO HEARINGS OFFICER OR PLANNING COMMISSION. The Planning Official or Hearings Officer may defer any matter to the Planning Commission. Such deferral shall be based upon a determination that one or more of the following situations exist:

1. The Official or Hearings Officer has an indirect or direct conflict of interest; or
2. The Official or Hearings Officer determines that he has prejudged the matter under consideration; or
3. The Official or Hearings Officer determines that the matter is, in his opinion, deserving of a public hearing; or
4. The workload of the Planning Department is such that it is more efficient for the applicant to be deferred to the Planning Commission.

The reason(s) for the deferral shall be part of the written record of the matter deferred.

10B-04-15 APPLICATION.

1. Prior to submitting any application for any building permit or land use action, the applicant shall complete at least one Preliminary Design Advisory Committee meeting with the City's Technical Review Committee; otherwise, no application shall be accepted by the City Public Works, Planning, or Building Officials unless this requirement is specifically waived in writing by the applicable named official.
2. An application for a Land Use Decision shall be on forms provided by the City and shall include all information specified by the Planning Official. If, upon receipt of application material the Official determines that the application is incomplete, the Official shall, within 10 days of receipt of the application, transmit to the applicant a written request for the needed information to the applicant. The written request shall include the Statement: "The specified information must be submitted to the Planning Official within 30 days from the date of this letter; if the information is not received within the 30-day period, the matter may be processed "as is". Consistent with State Law and the Ontario Municipal Code, the burden of proof is on the applicant; the applicant bears the sole responsibility to provide the needed information. Failure to provide the specified information will most likely result in denial of the request."

10B-04-20 REVIEW BY HEARINGS OFFICER. A complete application for a Land Use Decision under the Hearings Officer's jurisdiction shall be reviewed and all appeals at the local level be complete within 120 days of the date the application is determined to be complete. Such determination of completeness shall be the date a receipt is issued by the City for the application fee. The Hearings Officer shall make every effort to issue a decision on the application within 30 days of receiving a complete application.

10B-04-25 DECISION. The Hearings Officer Decision shall be a written decision which includes a statement of applicable decision criteria and/or standards relevant to the decision, and the findings of fact and conclusions relied upon as the justification for the decision.

10B-04-30 NOTICE OF DECISION. Notice of the Hearing Officer's decision shall be in writing and communicated via first class mail by the Planning Official to those specified in Section 10B-03-10 of this Code.

10B-04-40 FINAL DECISION. In the absence of an appeal the Hearing Officer's decision shall become the final decision of the City. No argument or further testimony will be taken by the City, and no appeal to any City decision making body shall be approved.

10B-04-45 APPEAL OF A HEARING OFFICER'S DECISION. A person may appeal a Hearings Officer decision provided that such appeal is filed within the guidelines of the appeal procedures as set forth in Section 10B-10-20 through 10B-10-45 of this Title.

10B-10-10 FINAL ACTION, HEARINGS OFFICER, PLANNING COMMISSION, COUNCIL, APPEALABLE. Unless otherwise provided for in this Chapter, where final decision authority is granted by this Title to the Hearings Officer, Planning Commission or City Council, that decision shall be the final action of the City unless an appeal is received pursuant to this Chapter.

VARIANCE

FILE # _____

Applicant is:

- _____ The owner of the property
- _____ The purchaser of the property under a duly executed written consent of the owner to make such application
- _____ A lessee in possession of the property who has the written consent of the owner to make such authorization
- _____ The agent of any of the above, who is duly authorized in writing by the principal

AUTHORIZATION:

I hereby consent that I am authorized to make the application for a variance and the statements within this application are true and correct to the best of my knowledge and belief. I verify that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by the City of Ontario may be revoked if it is determined that the authorization was issued on account of false statements or misrepresentation.

Signature of applicant

Date

Signature of applicant

Date

Signature of property owner

Date

Signature of property owner

Date

Signature of property owner

Date

10B-05-15 BURDEN, CRITERIA OF PROOF.

1. The proponent of proposals shall have the burden of proving the justification of the request. The greater the impact of the request on an area, the greater is the burden upon the proponent.
2. The requested proposal must be supported by proof that it conforms to all applicable standards and criteria of the OMC. The Planning Official may require that proponents submit written evidence, facts and/or written findings substantiating such conformance, as part of the application.

Incomplete applications, or insufficient information, may result in delay or denial of the application.

SUPPLEMENTAL INFORMATION TO SUBMIT WITH APPLICATIONS:

The following information may be required by the Planning or Public works Official:

1. Any data required by OMC land development regulations.
2. Finished floor elevation related to curb, street, or other established grade or benchmark.
3. Drainage patterns. All lots shall show grading and drainage and finished grades or contours (clearly indicated).
4. The size and location of all existing and proposed public and private utilities, easements, or right of way.
5. The size, setback dimensions, and height of all proposed structures, and all existing structures to be retained on-site, and, the use of each structure. The locations may be indicated by construction site envelopes showing possible legal locations near the spot, building dimensions including height, and building separation.
6. Location, dimensions and names of adjacent streets and proposed internal streets, showing centerline radii and curb return radii.
7. The location and dimensions of existing and future sidewalks shall be shown.
8. The proposed layout of parking lots including the location and dimensions of parking spaces, curbed islands, internal planter strips, maneuvering aisles, and access driveways with indication of direction of travel.
9. The location of all signs, exterior lighting and fencing to be used to divide properties and to screen mechanical equipment and trash containers.
10. Existing physical features including drainage ways and structures with indication as to which are to be retained. Adjacent properties and their physical features within 50 feet of the property line shall be identified, including setback dimensions of adjacent structures.
11. The location of existing trees and scrubs and notation of which are to be retained on the property; location and dimensions of proposed landscaped areas; location and types of all proposed plant material and ground cover; location and type of irrigation systems; and, all other pertinent landscape features.
12. Location of all recreational amenities such as open play areas, swimming pools, tennis courts and recreational equipment.
13. Statement of maintenance responsibility for all improvements shown on the site plan.
14. Site data in tabular form including:
 - a. Total area of the property in square feet.
 - b. Building coverage in square feet and percent total.
 - c. Parking lot in square feet and percent total.
 - d. Landscaped area in parking lot in square feet.
 - e. All other landscaped areas in square feet.
 - f. Number of parking spaces provided.
 - g. Number of residential units if appropriate.
 - h. Existing and proposed gross floor area in square feet.

If the applicant is not the property owner, the Planning Official may require documentation of consent to represent the owner including:

- A. A description of the property and the specific action for which approval is sought
- B. Signature of owner
- C. Date of consent
- D. Party to whom consent is given
- E. Notarization of consent

If you are providing large or detailed plans, please provide electronic copies with your application, or make arrangements to email them to staff.

Electronic copies of all written materials are appreciated if available.