

Spanish Fork City Appeal Authority Application

40 South Main Street, Spanish Fork, Utah 84660
 (801) 804-4580 Fax (801) 804-4510
www.spanishfork.org



Variance Information

Application Date:	Zone:	Number (Office Use Only):
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Hearing Date:	Approved:	Denied:
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Variance Location:

Variance Requested (setbacks, height, etc.)

Purpose of Variance

Applicant Information

Property Owner/Contact:	Attn:
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Address:	Telephone:
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City:	State:	Zip:	Alt. Telephone:
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Email Address:	Fax:
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Dated this _____ Day of _____, 2009

 Signature of owners(s) of record

City Review Process and Requirements

- Staff Review Time:** Approximately 3 prior to the Public Hearing date.
- Appeal Authority Meeting Time:** By request

All meetings are held in the Spanish Fork City Council Chambers at 40 South Main Street.

- Pre-application meeting with Planning Department
- Plot plan indicating property lines, existing buildings showing distances form property lines and any proposed buildings including elevations (height)
- Letter detailing variance request
- Fee of \$300.00

Purpose

The Appeal Authority created to hear request for relief from the terms of City's Ordinances and to hear and decide appeals from the decisions of the Planning Department.

LEGAL STANDARDS

Utah Code in Section 10-9-707(2)(a) and Spanish Fork Zoning Ordinance, Section 15.3.08.040 outlines the standards, or conditions, for approving a variance. Under State Statute and Spanish Fork City Ordinance, the Appeal Authority may grant a variance only if all conditions are met. If all five conditions are not met, the Appeal Authority is compelled **BY LAW** to **DENY** the request for a variance.

Utah State Law and Spanish Fork City Ordinance require that the applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

Those conditions for approval of a variance are:

1. **Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.**
2. **There are special circumstances attached to the property that do not generally apply to other properties in the same district.**
3. **Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.**
4. **The variance will not substantially affect the general plan and will not be contrary to the public interest.**
5. **The spirit of the zoning ordinance is observed and substantial justice done.**

The Utah Supreme Court decision of Chamber v. Smithfield City (714 P2d 1133) contains the standards of case law for granting variances, including no self-created hardship, no grant of special privilege, and the limited use of variances. **This means that if the variance request is self-created then the Appeal Authority needs to deny the request. Utah State Law has been amended to reflect those requirements.**

State Law and Spanish Fork City Ordinance require that each of the five criteria be met before a variance can be granted. The law also indicates that economic or self-inflicted hardships cannot be reasons to grant a variance.

Findings of Fact

Complete the following proposed Findings of Fact. If you desire additional help or counsel please contact the Planning Department and/or an attorney of your choice.

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

5. The spirit of the zoning ordinance is observed and substantial justice done.

I here by certify that I have read and understand this application and that all representations made and materials submitted with this application, including the fact of ownership of the subject property, are true and correct to the best of my knowledge, information, and belief.

Subscribed and sworn to before me this _____ Day of _____, 2005

Signature of applicant

Notary Public