

Minidoka County Community Development
ZONING APPLICATION PACKET
VARIANCE

715 G. Street, RUPERT, ID 83350

Phone: 208-436-7183 Fax: 208-436-1580

Website: Minidoka.id.us





Minidoka County Zoning Application

Variance Application

715 G Street; PO Box 368, Rupert, Idaho 83350

Ph: (208) 436-7183 Fax: (208) 436-1580

City Area of Impact (if applicable) _____

APPLICANT INFORMATION

Name _____ Phone _____ Email _____

Address _____ City _____ State _____ ZipCode _____

PROPERTY INFORMATION

Owner _____ Phone _____ Email _____

Location/Address _____

Zoning District _____ Comprehensive Land Use _____

Description of Existing Land Use

Description of Proposed Land Use

Legal Description (or Attach copy)

FEE: A non-refundable fee of \$250.00 shall accompany this completed application. Application will be billed for any additional costs above and beyond this initial fee or deposit, accrued by the County involving publication and notification of the public hearing as well any other direct costs involved with the application for the Zoning Permit.

A Variance Application may only be submitted when meeting the following Definition:

VARIANCE: A modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest.

Land Use Detail Submittals

1. Plan, Drawn to scale, showing the actual dimensions and the shape of the lot to be used. The exact size and location of any existing structures on the lot, if any. The location and dimensions of any proposed structures, alterations or additions, parking, traffic access, utilities, signs, yards, etc.
2. Vicinity Map: showing Roads, easements and existing land uses of all adjoining properties.
3. Details of building or structure elevations, including floor plans.
4. Number of off street parking or loading spaces.
5. Written Narrative of the propose land use:
 - Detailed description of the proposed property use
 - The Reason for requesting a Variance
 - Evaluation of the impact of the proposed use on the surrounding properties, the City, the area, and the general population.
 - How does the proposed land use meet and comply with the Minidoka County Comprehensive Plan and Comprehensive Plan Map?
 - How do you plan to comply with the Plan and the current regulations of the Minidoka County Ordinance?
 - Explain how this application meets the following points of evaluation for a Variance:

Variance Points of Evaluation

1. Will the request in fact constitute a legitimate need or hardship and meet the criteria of a legitimate variance as established in the Minidoka County/Cities Zoning Ordinance and the Idaho State Code.
2. Will the proposed variance be harmonious with and in accordance with the general objectives or with any specific objectives of the Comprehensive Plan and the Zoning Ordinance.
3. Will the facilities be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
4. Will the variance be hazardous or create a disturbing situation to existing or possible future neighboring uses.
5. Will the facilities have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
6. Will the proposed variance result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
7. Will the granting of the proposed variance confer on the applicant any special privileges that is denied by this Ordinance to other lands, structures or buildings in the same district.
8. Is the need of a variance the result of special conditions and circumstances that were created by actions of the applicant.
9. If the variance is for a reduction of the required setbacks from any county road, has written approval been previously obtained from the Minidoka County Highway District Board of Commissioners.

NOTICE:

“Idaho law prohibits members of any Planning and Zoning Commission or members of any City Council or Board of County Commissioners from talking to applicants or interested parties about planning and zoning matters outside of public hearings. Those hearings include: requests for change of zoning, zoning ordinance amendment, zoning variance, special use permit, approvals for subdivisions or any other decisions to be made by them concerning Zoning and Subdivision applications of any kind where a public hearing is required pursuant to Idaho Code Section 67-6509. If the applicant or any other interested parties contact any members of these bodies outside the formal hearing process the application may by law be rejected.”

I certify that all the information I have submitted is true and correct. Any false information will result in the invalidation of this application.

Applicant Signature _____ **Date** _____

Owner Signature _____ **Date** _____

Note: If there is more than one owner, include attachment with all the owners' consent and signatures.

The Zoning Administrator reserves the right to not officially accept this application until all the required information is submitted and complete. The date of the public hearing will be set after acceptance of a completed application.

Within twenty eight (28) days after the receipt of an application, the administrator shall either approve or disapprove the application in conformance with the provisions of the County Ordinance.

Accepted By: _____ Date _____

Zoning Process and Procedures

A. Hearing Notices:

1. **Notice Required:** In order that the owners of property involved and other legitimately interested parties may have fair opportunity to be heard, notice shall be given of any public hearing required by the provisions of this title.
2. **Filing of Application For Zoning Application:** Applications for zoning actions that require a public hearing shall be filed with the Planning and Zoning secretary no less than thirty (30) days before the next regularly scheduled meeting.
3. **Contents of Notice:** Notice of any public hearing which the board of county commissioners or planning and zoning commission is required to hold under the terms of this title shall specify the date, time, and place of hearing, and the matter to be presented at the hearing.
4. **Publication of Notice:** Notice of any public hearing shall be published in the official newspaper of general circulation in Minidoka County not less than fifteen (15) days before the date of the hearing.
5. **Manner Of Serving Notice; Conditions:** Notice of the public hearing shall be mailed not less than ten (10) days before the date of hearing by U.S. mail, first class postage prepaid, to all interested parties and every person listed by the county tax assessor as owning real property located within one-half ($\frac{1}{2}$) mile of any external boundary of the subject property as is described in the application. All CAFO notice requirements shall be one mile from external boundaries. Any subject property bordering a city's corporate boundary shall require notice to all interested parties and every person listed by the county tax assessor as owning real property within three hundred feet (300') inside the city's corporate boundary and any additional area that in the determination of the zoning administrator may be substantially impacted. The applicant shall prepare and file, with the planning and zoning secretary, at least five (5) days prior to the hearing, an affidavit of publication, posting and mailing indicating that the notice given is in compliance with this section.
6. **Notice To Multiple Property Owners; Publication:** When notice is required to two hundred (200) or more property owners or purchasers of record, in lieu of mailing notification, two (2) notices in the newspaper or paper of general circulation is sufficient; provided, that the second notice appears ten (10) days prior to the public hearing. If notice is given to fewer than two hundred (200) property owners or purchasers of record, notice shall be by regular first class mail with postage prepaid to the address shown on the rolls of the county tax collector at the time of mailing. An agent from the respective jurisdiction who mails the notices shall file a certificate with the commission secretary showing the date of mailing and listing the names and addresses to which the notice was sent.
7. **Posting Notice On Premises:** Notice shall be posted on the premises by the applicant not less than ten (10) days prior to hearing. Notice may also be made available by the county to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement.

B. Testimony At Hearing:

1. **Support Or Objection:** All persons to whom notice is mailed shall be advised that they may file written objections or supporting statements with the planning and zoning secretary no later than five (5) days prior to the date of hearing in order to establish that their substantial rights would be affected by the approval or denial of the application.
2. **Statement Filed:** Any person who files a statement in support or objection shall indicate in such statement whether or not such person desires to testify at the hearing.
3. **Right To Participate:** Any property owner entitled to specific notice pursuant to the provisions of this section shall have a right to participate in public hearings before a planning and zoning commission or governing board.

APPEALS

A. **Right To Appeal:** The applicant or any affected aggrieved persons with lawful standing and who also appeared in person or in writing before the commission may appeal the decision of the commission to the commission or board as provided in this chapter.

B. **Zoning Administrator Decisions:** Appeals of decisions of the zoning administrator shall be determined by the planning and zoning commission. An appeal shall be in writing and shall include the specific legal basis for appeal and the results sought. The commission will render a written decision that will be communicated to the appellant and applicant.

C. **Commission Decisions:** Appeals of decisions made by the commission shall be determined by the board of county commissioners. The procedure for an appeal shall be as follows:

1. Fees governing appeals must be paid at the time of the filing of the appeal. The legal basis for the appeal must be stated in writing before an appeal will be deemed accepted for consideration. The written notice of appeal shall contain the name, address and phone number of the appellant and, if different, the name, address and phone number of the property owner; and it shall include the street address and legal description of the property which is the subject of the appeal. The record of the proceedings before the commission shall be transmitted to the board before consideration of the appeal by the board.

2. Appeals of final decisions made by the commission may only be appealed to the board if a written request for reconsideration has been previously submitted to the commission within fourteen (14) days of the final decision of the commission. The request for reconsideration shall state the issues to be considered on reconsideration and the legal basis for the relief sought. The commission shall respond in writing to any request for reconsideration at its next scheduled meeting, either modifying its original decision or affirming its prior action. Only following issuance of the commission's written decision regarding reconsideration, may the appeal process proceed before the board. The appeal to the board must also include a copy of the request for reconsideration of the appeal before the commission and the commission's decision on reconsideration. Any appeal to the board for which there is no request for reconsideration before the commission shall be dismissed by the county clerk.

3. A request for appeal to the board shall include the explanation of the basis for appeal and the result sought and must be filed no more than fourteen (14) days after the reconsideration decision of the commission is entered. The issues on appeal shall be limited to those raised in the request for reconsideration submitted to the commission.

4. After considering the written decision of the commission, the decision on reconsideration, the record on appeal and the written appeal submitted by the applicant, the board may determine that the appeal has no legal basis and dismiss it, may rule upon the appeal based upon the written record placed before it or schedule an appeal hearing to allow oral presentation of the issues associated with the appeal. Following conclusion of the procedures it chooses to invoke, the board will render a written decision that will be communicated to the appellant and applicant.

D. **Grievance:** An aggrieved party may seek judicial review of a decision of the board of any final decision of the board.

E. **Final Decision; Reconsideration:** A decision of the board is not final until it has been rendered in writing and delivered to the applicant. Also, it is not a final decision, subject to review, until a written request for reconsideration has been submitted to the county clerk within fourteen (14) days of the final decision of the board, stating the issues to be reconsidered and specific legal basis for the relief sought.

1. The board shall respond in writing to any request for reconsideration within fourteen (14) days of its filing, either modifying its original decision or affirming its prior action. The board may determine that the request for reconsideration has no legal basis and dismiss it, may rule upon the request based upon the written record placed before it, or schedule a hearing to allow oral presentation of the issues associated with the request. The board will render a written decision that will be communicated to the appellant and applicant.

2. Failure to request reconsideration is a failure of the appellant to exhaust administrative remedies.

F. **Fees:** During the process of appeal or of reconsideration, should either the commission or the board determine that new or additional public hearings must be held, requiring new notice of hearing to be sent or published, the cost of such shall be borne by the applicant. The cost of such shall be paid in advance of giving any such notice. Any other fee for filing any request for reconsideration shall be paid in advance in the amount set by board resolution.