

What is a variance in real estate?

A **variance** is a request to deviate from current **zoning** requirements. If granted, it permits the owner to use his land in a way that is ordinarily not permitted by the **zoning** ordinance. It is not a change in the **zoning** law, but a waiver from the requirements of the **zoning** ordinance.

An **area variance** is the most common type. It can be requested by a builder or landowner when an odd configuration of the land, or sometimes the physical improvements (structures) on the land, requires a relaxation of the applicable regulations to avoid denying the landowner the same rights and use of the property enjoyed by owners of neighboring properties. A textbook example would be a house built on an oddly-shaped lot. If the odd shape of the lot makes it onerous for the landowner or builder to comply with the standard building [setbacks](#) specified in the code, a variance could be requested to allow a reduced setback. Another would be a house built on a sloping lot. If the [slope](#) of the lot makes it onerous to comply with the height limit—typically due to the way the municipality’s code requires height to be measured—then a variance could be requested for a structure of increased height because of the special conditions on the lot.

A **use variance** is a variance that authorizes a land use not normally permitted by the zoning ordinance. Such a variance has much in common with a [special-use permit](#) (sometimes known as a conditional use permit). Some municipalities do not offer this process, opting to handle such situations under special use permits instead. Grant of a use variance also can be similar, in effect, to a zone change. This may, in certain cases, be considered [spot zoning](#), which is prohibited in many jurisdictions.

In either case, the variance request is justified only if special conditions exist on the lot that create a hardship making it too difficult to comply with the code’s normal requirements. Likewise, a request for a variance on a normal lot with no special conditions could judiciously be denied. The special conditions or hardship typically must arise from some physical configuration of the lot or its structures. The financial or personal situation of the applicant normally cannot be taken into consideration. Under most codes governing variances, approval of the variance must not result in a public health or safety hazard and must not grant special privilege to the property owner. In other words, when a variance is granted, any other property owner with similar site conditions should be able to obtain a similar variance; this criterion is often addressed by citing [precedent](#).