



Ferry County Planning Department
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FERRY COUNTY VARIANCE CHECKLIST 202307

“The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners.” This comes from the Flood Damage Prevention Ordinance but describes the fundamental purpose of a Variance.

You can apply to the Planning Commission for a Variance from requirements found in the following ordinances; Long Subdivision, Short Subdivision, Development Regulations, Critical Areas or Flood Damage Prevention.

Each ordinance has their own criteria and procedures. Please review the variance information that can be found on the following page.

The following are the steps and procedures that must be completed.

- This requires Planning Commission (PC) Approval. The application will need to be delivered by the Friday prior to the PC meeting on the 3rd Wednesday of each month.
- When filling out the application keep all writing within the border.
- Submit the following (as required)
 - Application and fee.
 - *Certificate of Consent* for each person that has an interest in the land.
 - Completed CCT Land Use Application (If your property is on the Reservation)
 - Site Map showing property lines & proposed changes
 - Provide legal descriptions
 - Existing legal description
 - New legal descriptions for all proposed changes - may require a Survey
- A Land Use Review is required.
- If your application is approved, the Planner will complete the required paperwork that will be used for the subsequent application. This document will be part of that recorded package.

Note: Each situation is different and there may be additional requirements

FERRY COUNTY VARIANCE CATEGORIES

The following are the different variances that you could apply for:

Long Subdivision Ordinance

Section 14.00 HEARING - VARIANCE. The Board shall consider any request for variances for the proposed subdivision. If, in the opinion of the Board, requested variances are justified, they may grant such variances as requested, modified or revised by the Board.

Short Subdivision Ordinance

Section 04.39 VARIANCE. Is any change, modification or variation in the requirements, rules or regulations as set forth within this ordinance.

Section 25 - A variance from any of the requirements set forth in this ordinance may be granted by the Administrator after review by the Planning Commission. The short plat may be approved with such variance where it appears that public use and interest will be served. A variance application and filing fee will be required. A variance approval shall be filed and recorded and shall be good for one year from the date of filing. The Planning Commission, when reviewing the variance request, shall determine on a case by case basis, if the variance:

25.01 Would not grant a special privilege to the property owner inconsistent with the uses or requirements of other property in the vicinity.

25.02 Is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property.

25.03 Would not be detrimental to the public health, safety and general welfare, or injurious to property or improvements in the vicinity.

If all three of these can be shown to be true and would not conflict with the Ferry County Comprehensive Plan, the Planning Commission may grant a variance.

Development Regulations Ordinance

SECTION 12.03 VARIANCES. A permit for a variance provides the opportunity for a landowner to make reasonable use of his property when adherence to the requirements of these regulations discriminates against the individual. A variance may be granted an individual property owner when the Planning Commission finds that all of the following are met:

- 1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same designated area;
- 2) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same designated area under the terms of this ordinance, and prevent an otherwise reasonable use of the property;
- 3) That special conditions and circumstances do not result from actions of the applicant;

- 4) That granting the variances requested would not confer on the applicant any privilege that is denied by this ordinance to other lands, structures, or buildings in the same designated area;
- 5) The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
- 6) The variance granted is the minimum necessary to accommodate the use;
- 7) The use will not conflict with local or state health regulations;
- 8) The granting of the variance is consistent with the general purpose and intent of this ordinance and of the Ferry County Comprehensive Plan; and
- 9) In granting of the variance, the county may prescribe necessary conditions, safeguards or mitigation measures necessary.

A variance approval shall be good for five years from the date of approval.

Critical Area Ordinance

Section 10.01 VARIANCES. A permit for a variance provides the opportunity for a landowner to make reasonable use of his property when adherence to the requirements of these regulations discriminates against the individual. A variance may be granted an individual property owner when the Planning Commission finds that all of the following are met:

- 1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same designated area;
- 2) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same designated area under the terms of this ordinance, and prevent an otherwise reasonable use of the property;
- 3) That special conditions and circumstances do not result from actions of the applicant;
- 4) That granting the variances requested would not confer on the applicant any privilege that is denied by this ordinance to other lands, structures, or buildings in the same designated area;
- 5) The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
- 6) The variance granted is the minimum necessary to accommodate the use;
- 7) The use will not conflict with local or state health regulations;
- 8) The granting of the variance is consistent with the general purpose and intent of this ordinance, of the Ferry County Comprehensive Plan and adopted development regulations; and
- 9) In granting. of the variance, the county may prescribe such conditions, safeguards or mitigation measures necessary to secure protection of critical areas from adverse impacts.
- 10) The decision to grant the variance includes consideration of Best Available Science.

A variance approval shall be good for five years from the date of approval.

Flood Damage Prevention Ordinance

Section 6.0 Variances

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the BOCC, Administrator and Commission to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the Base Flood Elevation are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

6.1 Requirements for Variances

1) Variances shall only be issued:

- a) Upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
- b) For the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
- c) Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
- d) Upon a showing of good and sufficient cause;
- e) Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
- f) Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in Section 2.0 of this ordinance in the definition of "Functionally Dependent Use."

2) Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.

3) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided the procedures of Sections 4.0 and 5.0 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

6.2 Variance Criteria

In considering variance applications, the Floodplain Administrator shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- 1) The danger that materials may be swept onto other lands to the injury of others;
- 2) The danger to life and property due to flooding or erosion damage;
- 3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 4) The importance of the services provided by the proposed facility to the community;
- 5) The necessity to the facility of a waterfront location, where applicable;
- 6) The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
- 7) The compatibility of the proposed use with existing and anticipated development;
- 8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 9) The safety of access to the property in time of flood for ordinary and emergency vehicles;
- 10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
- 11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, water system, and streets and bridges.

6.3 Additional Requirements for the Issuance of a Variance

- 1) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
 - a) The issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
 - b) Such construction below the BFE increases risks to life and property.
- 2) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.
- 3) The Floodplain Administrator shall condition the variance as needed to ensure that the requirements and criteria of this chapter are met.
- 4) Variances as interpreted in the NFIP are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.



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**Ferry County
 Variance Application**

dated 202307

This is an application for an Variance from various Ferry County Ordinances.

Date: _____

Applicant Name: _____

Applicant Signature: _____

Mailing Address: _____

E-Mail: _____ Phone # _____

Relation of applicant to property: Owner Purchaser

Other: _____

Parcel Number(s): _____

Purpose of Project: _____

Variance requested form which ordinance (see Variance Categories):

- Long Subdivision Short Subdivision Development Regulations
 Critical Area Flood Damage

Describe why the Variance is necessary:

CERTIFICATION OF CONSENT TO VARIANCE

This is to certify that the undersigned hereby consents to the action to be taken, as described in the attached variance application, the legal description of the parcel(s) which is as follows (attach additional sheet if needed):

_____ located in

Section _____ Township _____ Range _____

Signature of person with interest

STATE OF WASHINGTON
COUNTY OF _____

On this day personally appeared before me, _____
to me known to be the individual described in and who executed the within and foregoing Certificate of Consent, and acknowledged that they signed the same as their free and voluntary act and deed, for the purposes herein mentioned.

Given under my hand and official seal this _____ day of _____,
_____.

Notary Public

Residing at _____

My Commission Expires _____