CITY OF PRESCOTT

VARIANCE SUBMITTAL CHECKLIST

IN ORDER TO SUBMIT THIS APPLICATION, YOU MUST SCHEDULE A MEETING WITH A CITY PLANNER. TO SCHEDULE A MEETING PLEASE CALL 928-777-1207.

V#: _____

No application will be accepted unless it is complete including, but not limited to, the following:

- ❑ A copy of the Pre-Application Conference Letter. PAC#_____
- ❑ Application stating the request, the Assessor's Parcel number, application signed and dated, indicating whether the applicant is the owner or the agent. If agent, include the name and address of the property owner, phone number, and a letter of authorization. (Refer to page 2).
- ❑ Nine (9) **FOLDED** copies of the Site Plan. (Minimum size 24" X 36") including all information specified in the *Land Development Code*, Article 9.13.1. (Refer to "***Submittal Requirements"*** page 4/5). Building Elevations are encouraged to be submitted with the site plan, if applicable.
  - ❑ One (1) 8 ½" X 11" xerographic reduction or photo reduction of the Site Plan.
  - ❑ **An electronic file of the Site Plan in a .pdf format**.
- ❑ Completed Variance Questionaire. (Refer to Page 3)
- ❑ A filing fee in the amount of: **$862.00**

  Postage Mailing Fee. The Community Development Department will notify adjacent property owners of this application within 300 feet of the subject property (or a greater distance if deemed necessary by the Community Development Director). The applicant will be billed and required to pay the postage-mailing fee prior to the scheduled Public Hearing.

NOTE: A DETERMINATION OF "APPLICATION COMPLETENESS" BY THE STAFF PLANNER AND A RECEIPT FOR THE FILING FEE WILL BE SENT TO THE APPLICANT WITHIN FIFTEEN (15) DAYS OF SUBMITTAL OF THE APPLICATION.

(Office Use Only)

_____ _____

PLANNER TAKING IN APPLICATION **DATE TAKEN IN**

Rev 7/1/09

CITY OF PRESCOTT
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
201 S. Cortez, Prescott, AZ 86301 (928) 777-1207

VARIANCE APPLICATION

V#_____

Property Address: _____

Assessor's Parcel Number (s)(APN):_____

Township_____ Section_____ Range_____ Current Zoning: _____

Subdivision Name:_____

	For Staff Use Only
Owner Name & Address: _____ _____ _____ **Phone:**_____ **Fax:**_____ **Email:**_____	Date Received:_____ Taken In By:_____ Assigned To:_____ Date Application Complete:_____
Applicant/Agent Name & Address (If different than property owner, **Agent letter must accompany submittal):** _____ _____ _____ **Phone:**_____ **Fax:**_____ **Email:**_____	Fees & Charges: _____ Receipt #/Date:_____ PAC Date:_____ BOA Date:_____

Description of Request:_____
_____
_____
_____
_____
_____
_____
_____

_____ _____ _____
Name **Signature** **Date**

VARIANCE QUESTIONAIRE

All questions must be answered prior to acceptance of the application.

1. Describe the special or unique conditions and circumstances which are peculiar to the land (e.g. large trees, rocks, outcrops, washes, steep topography, etc), structure or building, which are not applicable to other lands, structures or buildings in the same zoning district in other locations.

_____

_____

_____

2. Indicate how the literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance. If citing other properties, their addresses must be given.

_____

_____

_____

3. Describe how the alleged hardships caused by the literal interpretation of the provisions of the Zoning Ordinance include more than personal inconvenience and financial hardship, which do not result from the actions of the applicant(s).

_____

_____

_____

4. Indicate why granting the requested variance will not confer upon the applicant any special privilege that is denied by the Land Development Code to other owning lands, structures or buildings in the same district.

_____

_____

_____

5. Indicate why granting the variance will not interfere with or injure the rights of other properties in the same district.

_____

_____

_____

VARIANCE SUBMITTAL REQUIREMENTS
***Land Development Code*, Article 9.13.**

Purpose. The Board of Adjustment shall have jurisdiction to hear requests for a Variance from the terms of the LDC as outlined in Section 8.4, Board of Adjustment, and ARS 9-462.06(G)(2) and (H)(2). The Board of Adjustment shall be authorized to grant a Variance from the terms hereof if the Board finds that the strict enforcement of this code would create a substantial hardship to the applicant by virtue of unique special conditions not generally found within the vicinity, that the granting of the Variance would preserve the spirit and intent of the Ordinance, would serve the general interests of the public and the applicant, would preserve public health, and safety; and welfare may be secured, and substantial justice done.

Applicability. All sections of the LDC are considered binding unless relief is granted through one of the following processes:

> **Administrative Adjustments.** A Variance request up to 10 percent of height, bulk, setback and other site-related standards may be treated as an administrative adjustment subject to the requirements of the LDC Section 9.16, Administrative Adjustments.
>
> **Variances.** All other requests for Variance are subject to review and approval by the Board of adjustment. All Variance applications are subject to the standards of this section.
>
> **Council Approvals.** Modifications to the otherwise required development standards through City Council actions on a Planned Area Development, a subdivision waiver, or a Special Use Permit.

Pre-Application Process. Prior to the submission of an application for a Variance, all potential applicants are required to attend a Pre-Application Conference (PAC). The purpose of the conference is to respond to any questions that the applicant or the City may have regarding the application.

Application Submittal. A complete application for a Variance shall be submitted to the Community Development Director as set forth in *LDC* Sec. 9.1.3, Application Forms and Fees and Sec 9.1.5 Application Completeness.

Public Notification. Upon receipt of a complete application, public notices shall be issued in accordance with *LDC* Sec. 9.1.7, Public Notice. Additional notice may also be provided to parties having specific interest in the application, in accordance with the provisions of *LDC* Sec. 9.1.10, Additional Notice.

Review by Community Development Director. Upon receipt of a complete application, the Community Development Director shall review the proposed Variance for compliance with criteria enumerated in Sec 9.13.4. The Director shall then prepare a report for presentation to the Board of Adjustment and schedule a public meeting.

Board of Adjustment Action. The Board of Adjustment shall review the application in a public hearing and vote to approve, approve with conditions, or deny the Variance.

Written Decision. The decision to approve or approve with conditions, or deny shall be communicated in writing to the applicant within 15 days from the decision.

Variance Criteria. The Board of Adjustment shall take into account the proposed use of the land involved, the surrounding land uses, and the possibility that a nuisance will be created. In addition, any probable effect of such Variance upon traffic conditions and upon public health, convenience, and welfare of the vicinity shall be considered. The following criteria shall be considered:

Extraordinary Conditions. There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of the reasonable use of his land. For example, a Variance may be justified because of topography, or size, shape, intrusive off-site impacts, or other special conditions unique to the property and development involved.

Substantial Detriment. Granting of the Variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the city in administering this Code.

Special Privileges. Granting of a Variance shall be subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

Self-Induced hardship. The hardship is not the result of the applicant's own actions.

General Plan. Granting of the Variance would be in substantial compliance with the General Plan or other relevant area plans or neighborhood plans.

Utilization. Because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.

Profitability or Financial Harship Not to Be Considered. Financial hardship, personal preference of the owner, or the fact that property may be utilized more profitably if the requested Variance is granted shall not be considered grounds for a Variance.

Conditions. The Board of Adjustment may prescribe conditions to mitigate impacts to the public or neighborhood.

Approval Limitations. The Board of Adjustment may not:

1. Make any changes in the uses or densities permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning ordinance provided the restriction in this paragraph shall not affect the authority to Grant Variances pursuant to the LDC.
2. Grant a Variance if the special circumstances applicable to the property are self-imposed by the property owner.

Expiration/Revocation of Approval.

1. Variances are approved from the date of Board of Adjustment action or as may be otherwise specified. If construction of the project has not been completed within the first 12 months thereafter, the Board of adjustment may grant an extension for its next review for completeness of the Variance. Notice that the Variance may expire within 12 months shall be conveyed to the applicant in writing as part of notification of approval of the Permit.
2. The Board of Adjustment may extend the Variance for a specified period upon written request from the applicant, which such request must be received before the date of expiration.
3. The Board of Adjustment may revoke a Variance in the event of a subsequent failure by the property owner or person in possession to comply with an on-going condition of approval. Such revocation shall not occur without written notice to the property owner, at least 20 calendar days prior, advising of the revocation consideration and an opportunity to appear before the Board Revocation procedures shall be subject to the Public Notice requirements set forth in Sec. 9.1.8A.

Appeal. An appeal from any final decision regarding a Variance shall be filed with a court of competent jurisdiction within 30 days of the decision per Sec. 9.18, Appeals of Council or Board of Adjustment Decisions. If no appeal is filed within 30 days, the decision shall be considered final.