



## WHAT IS A VARIANCE?

The Zoning Bylaw is Edmonton’s rulebook for development. It determines what can be built where, impacting almost every aspect of the way Edmonton’s land, buildings and neighbourhoods are planned and developed. Each zone in the Zoning Bylaw contains a list of allowable uses and development regulations which establish the standard set of rules to guide appropriate development outcomes based on the zone’s purpose.

While zoning rules are written to account for many different developments, neighbourhood contexts and site configurations, cities are complex and a Zoning Bylaw cannot reasonably address all potential scenarios. This is where variances come in.

Variances can be used to address unique challenges and to support better development outcomes as Edmonton changes and grows, even if those proposed development outcomes may not always fully comply with the regulations of the Zoning Bylaw. The Provincial *Municipal Government Act* allows City Development Planners to use variances as a way of providing a degree of flexibility and discretion to modify or relax a zoning regulation or regulations, to accommodate exceptional situations.

### Requesting a Variance

Applicants may seek a variance by submitting a formal request, generally in the form of a letter addressed to the Development Planner attached to the development permit application. In the letter they must provide a justification for the variance and the reason why they cannot meet the regulations of the Zoning Bylaw. A variance [fee](#) is also required.

A variance is meant to accommodate a specific challenge but isn’t intended to bypass the overall intent of a zone. When reviewing a [development application](#) with a variance request, the Development Planner applies their professional judgement, may consult other City staff, and weighs the request against criteria outlined in the Zoning Bylaw to determine whether they could support it.

### Variance Criteria

Section 7.100 in the Zoning Bylaw contains enhanced criteria for considering a variance. Variances must be reviewed based on whether the proposed development:

- Will not unduly interfere with the amenities of the neighbourhood nor affect the use, enjoyment or value of neighbouring properties.
- Aligns with The City Plan, or other statutory plans;
- Meets the general intent of the zone; and
- Is consistent with sound land use planning principles.

In addition, the Development Planner may consider a variance in response to a physical constraint such as the shape of the lot or a topographic feature.

The Development Planner has the responsibility to evaluate these requests and determine whether the proposed development is consistent with these variance criteria. If it is not, the application may be refused.

## Variance Limitations

Section 7.100 also specifies the Development Planner's limitations in approving variances - for instance, the purpose of a zone or overlay cannot be varied. In addition, the following regulations will not be varied unless otherwise specified in the Zoning Bylaw:

- Maximum Height
- Floor Area Ratio
- Maximum Density
- Administrative Regulations
- Definitions

## Neighbour Notification and Appeal Process

The *Municipal Government Act* requires the Zoning Bylaw to outline a process for notifying affected neighbours of the variance and the process to appeal. A Development Permit issued with one or more variances is known as a Discretionary Development and the Development Planner must send notice of the decision in the mail to:

- Residents and property owners who live within 60 metres of the development site, and residents and property owners beyond 60 metres of the development site if the Development Planner determines that they are likely to experience any impact attributable to the proposed development
- The President of any applicable community leagues
- The Executive Director of any applicable Business Improvement Areas

A 21-day notification period then follows. During this time, affected parties may appeal the decision to the [Subdivision and Development Appeal Board](#) (SDAB).

If no one appeals the decision within the 21-day notification period, the Development Permit becomes valid. If the decision is appealed, the SDAB holds a hearing within 30 days of an appeal being filed and a written decision is made within 15 days of the appeal hearing.

## Variances in Action

The below scenarios provide examples of how certain variances may be considered in the new Zoning Bylaw. These are for illustrative purposes and are not representative of actual applications.

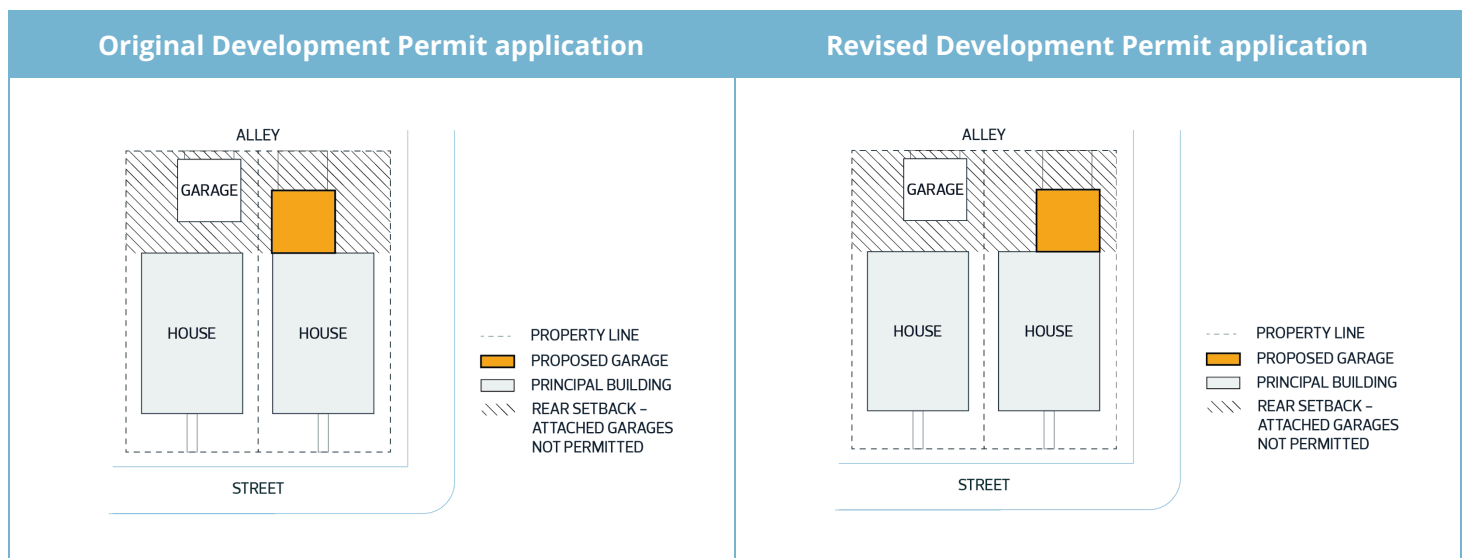
Each variance request is reviewed on its own merit and unique circumstances.

### Scenario 1 - Rear Attached Garage

A property owner in the (RS) [Small Scale Residential Zone](#) wanted to redevelop their site to construct a single detached home. In this instance, the applicant was looking to construct a rear attached garage to address accessibility needs within their family.

Because the RS Zone does not allow for rear attached garages (subsection 2.10.6.2), applications like these may not be approved. However, in this case the applicant was able to demonstrate to the Development Planner how the rear attached garage and other barrier free design features of the home would address their accessibility needs. In addition the Development Planner noted that a revision to the plans could potentially reduce the impact on the neighbouring property. As a result, the Development Planner suggested the applicant revise the initial design of the proposed rear attached garage and re-submit with a variance request.

The suggested revisions included shifting the proposed garage closer to the flanking roadway, away from the interior side yard, to increase the space between the new building and the neighbouring property.



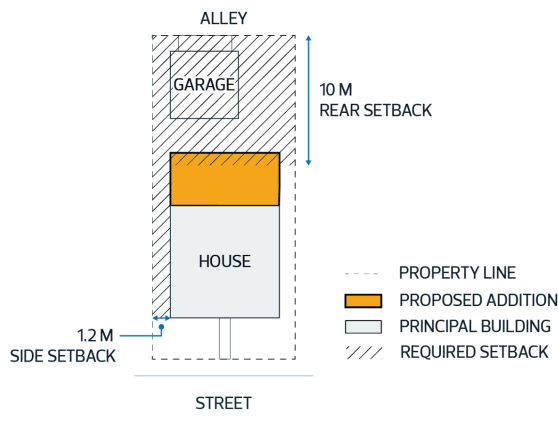
The property owner made the changes and submitted a justification letter for their requested variance as a part of the revised development permit application. With these proposed changes to the configuration of the development, the Development Planner was comfortable granting the variance and approving the application as a Discretionary Development Permit.

Prior to granting the variance, the Development Planner ensured the revised rear attached garage design had minimal impact to the nearby neighbours, verified that opportunities for greater accessibility met the intent of The City Plan, determined that specifics of the proposal were consistent with sound land use planning principles and confirmed the application adhered to the intent and purpose of the zone and all other regulations.

## Scenario 2 - Addition to a House on the Inventory of Historic Resources

A homeowner wanted to construct an addition to a heritage home in order to expand the living space to accommodate their growing family. The home was built in the 1940s and is on the [Inventory of Historical Resources](#)<sup>1</sup>. Constructed under now-outdated development regulations, complying with the current Zoning Bylaw was a challenge.

According to the Site and Building Regulations of the (RS) [Small Scale Residential Zone](#), the minimum [Rear Setback](#) is 10 m from the building to the rear lot line. The existing building was 15 m from the rear lot line. The proposed rear addition would measure 6 m deep, extending 1 m into the required rear setback. Thus a variance to the rear setback was required in order to proceed with the proposed development. No other regulations required a variance.



To consider this variance, the Development Planner looked to whether this development would impact surrounding neighbours, consulted with the City's heritage planners, weighed direction from The City Plan and considered if the proposal was consistent with sound land use planning principles.

In situations like these, without the opportunity to consider variances to regulations, it is possible that historically significant resources like this could be lost if the homeowner were not able to build an addition that met their needs.

With all these elements taken into consideration, the Development Planner was able to grant the variance. The application became a Discretionary Development Permit.

### Disclaimer

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<sup>1</sup> The Inventory of Historical Resources is a list of heritage resources that merit conservation, but are not legally protected. Once they are designated as a Municipal Historic Resource they are put on the Register and protected.