

STANDARDS WORKSHEET - VARIANCE

For all petitions involving a request for a Variance, the petitioner must provide detailed written responses to each of standards posed as a question below.

This form can be requested as a Word document from Development Services.

Code Section: 6-409.E.18.d

Requirement: Maintenance access path with 2% cross slope, planted with low-growing native plants around the entire basin.

Requested Variance/ Modification: Elimination of the required access path with 2% cross slope with low growing native plants on north side of property, south side of detention basin.

Incremental
Improvements:

1. Can the property in question yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located?

Petitioner Response: No. While the property can be developed, the strict application of this specific stormwater regulation to an existing facility would require the construction of a significant and costly retaining wall. This, combined with other village-required site development costs, renders the project economically prohibitive. The variance from this single standard is necessary to achieve a reasonable return on the land.

2. Is the plight of the owner due to unique circumstances?

Petitioner Response: Yes. The circumstance is unique because the applicant is utilizing an existing detention basin that serves the adjacent Aldi development. The basin was constructed under previous standards and does not currently have the 2% cross slope. The hardship arises from applying a new-construction standard to a pre-existing, shared facility.

3. Will the variation, if granted, alter the essential character of the locality?

Petitioner Response: No. The variation will not alter the essential character of the locality. The detention basin is an existing, established feature. Furthermore, the intent of the maintenance requirement is met, as staging access to the basin can be provided from the Valvoline site and from the adjacent Aldi lot.

4. Due to the particular physical surroundings, shape or topographical conditions of the specific property involved, is there a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out?

Petitioner Response: Yes. The hardship is directly tied to the property's topography and its relationship to the existing basin. As documented in the engineer's (WMA) response, forcing compliance with the 2% slope would require a retaining wall. Critically, this retaining wall "affects the plantings in the north and west buffers". This creates a direct conflict between the stormwater code (Section 6-409) and the Village's bufferyard/landscaping requirements. This is a significant physical hardship, not a mere inconvenience.

5. How are the conditions upon which the petition for a variation is based unique to the property for which the variance is sought and are not applicable, generally, to other property?

Petitioner Response: The condition is unique to this property. This is not a new development designing a basin from scratch. The site is an outlot functionally tied to a pre-existing, shared detention facility. This specific situation, retrofitting an existing, non-conforming, shared basin, is not generally applicable to other

properties.

- 6. Has the alleged difficulty or hardship caused by these regulations and not resulted from any act of the applicant or any other person presently having an interest in the property subsequent to the effective date hereof, whether or not in violation of any portion thereof?**

Petitioner Response: Yes. The hardship is not self-created. The applicant did not construct the existing basin or establish its current grades. The hardship is caused by the strict application of the current code to this pre-existing condition.

- 7. Will the granting of the variation be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located or otherwise be inconsistent with the Comprehensive Plan, any adopted overlay plan or these regulations?**

Petitioner Response: No. Granting the variation will not be detrimental. The basin will continue to function for stormwater detention as it currently does. Public welfare is protected, as maintenance access is still provided. Staging access to the basin can be provided from the Valvoline site, ensuring the facility can be maintained.

- 8. Will the proposed variation impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood?**

Petitioner Response: No. The requested variance is related to the internal grading of a stormwater basin. It has absolutely no impact on light, air, street congestion, fire safety, or property values.

- 9. Is the variance granted the minimum adjustment necessary for the reasonable use of the land?**

Petitioner Response: Yes. This is the minimum adjustment necessary. The applicant is not seeking relief from *providing* stormwater detention. The request is narrowly focused on waiving the 2% slope requirement for a pre-existing facility to avoid the significant hardship and code conflict (stormwater vs. landscaping) that compliance would create.

- 10. Are aforesaid circumstances or conditions such that the strict application of the provisions of this Section would deprive the applicant of any reasonable use of his or her land? Mere loss in value shall not justify a variance; there must be deprivation of all beneficial use of land.**

Petitioner Response: Yes. As stated in the petitioner's original response, the strict application of this provision would prevent the project from proceeding. The cost and physical impossibility of installing a retaining wall *without* violating other landscape buffer requirements create a prohibitive hardship. This effectively deprives the applicant of the reasonable use of the land.