

## Variance vs Exception

In land use law, a “**variance**” is a form of relief that allows a property owner to deviate from the strict application of the zoning ordinance. Typically, variances are granted only in unique or unusual circumstances, such as physical limitations of the property, demonstrable hardships that make it difficult or impossible to use the land in compliance with the zoning regulations, and a determination that the variance is the minimum necessary to alleviate the hardship.

To obtain a variance, the property owner must demonstrate to the relevant authority that strict enforcement of the ordinance is generally unfeasible and that granting relief through a variance request would not be contrary to the public interest. (see 18.5.5)

On the other hand, an “**exception**” is a specific use that is permitted within a zoning district, even though it is not explicitly promoted by the zoning regulations. Exceptions are granted when the proposed use aligns with the overall goals and objectives of the zoning plan and when it will not be detrimental to public health, safety, or welfare. Additionally, the exception must lead to an outcome that is equal to or better than the prescriptive path in the code. This means that the proposed use must provide a benefit to the community that outweighs any potential negative impacts.

In general , a Variance is applied when a specific requirement of the zoning ordinance is impossible to meet due to a unique circumstance, while an Exception is applied when a proposed use aligns with the overall goals and objectives of the zoning ordinance, but is not specifically permitted under the zoning regulations.

### **House move onto a vacant property example – Laurel Street.**

Existing parrish house being relocated onto an existing narrow vacant lot lot. Lot 40 feet wide, existing house 30’ wide – minimum side yard setbacks were 6’. Variance requested and granted for 2’ side yard “Variance”.

18.2.5060: Side and Rear Yard **Exceptions** for Accessory Buildings, Accessory Residential Units, and Duplexes. The side and rear yards for accessory buildings, accessory residential units, and duplexes may be reduced as described below provided the structure meets all of the following requirements:

“d. The reduced side or rear yard provision does not apply to the primary structure.”