



DEVELOPMENT  
SERVICES

# INSTRUCTIONS FOR A NON-ADMINISTRATIVE VARIANCE

501 EVERGREEN POINT ROAD MEDINA, WA 98039  
PHONE: 425-233-6414/6400

**This packet may be submitted for the following:**

- To request relief from dimensional zoning standards and
- If the relief is not eligible for an administrative variance or minor deviation

## General Information

- A. A complete application is required at the time of submittal. Please answer all questions on the application clearly and completely.
- B. The City's application form must be used, however, the project narrative and answers to the criteria questions may be submitted on a separate sheet of paper.
- C. On at least one page of the required drawings, please clearly identify or highlight the area that the variance is being requested for. Include what the requested dimensional zoning departure is numerically (e.g. the proposed additional height, square footage, or reduced setback amount).
- D. A Notice of Complete Application or Notice of Incomplete Application will be issued within twenty-eight (28) days of submittal.
- E. A Non-Administrative Variance requires a hearing in front of the Medina Hearing Examiner.

## Requirements

## I. APPLICATION

**NOTE: Deviations from an approved variance at the time of applying for a building permit may result in the request being returned to the Hearing Examiner for further review and cause delay of the project.**

- A. The following documents are required at the time of submittal, unless otherwise indicated. While final construction drawings are not required for a variance application, all submitted plans, elevations, etc. must be of sufficient detail to clearly show the nature and extent of the proposal and its relationship to other site or project features. A complete application will include:
1. Completed Variance Checklist, Variance Application and Declaration of Agency form
  2. Proof of ownership (copy of deed)
  3. Site Plan with the following:
    - a. Scale and north arrow
    - b. Property lines including corner stakes
    - c. Lot dimensions
    - d. Proposed location of new structure(s) or addition(s)
    - e. Dimensions of existing and new structures
    - f. Setback dimensions from property lines
    - g. All public/private roads
    - h. All easements

- i. All other structures on the property
  - j. Significant natural features
  - k. Structural calculations, including maximum structural coverage and impervious surface
  - l. Approximate location of structures on abutting properties with distances delineated
4. A set of drawings that contain the following:
    - a. Schematic building plans and elevations
    - b. Building height with site sections
    - c. Topography at 5' contour intervals
    - d. Proposed landscaping and existing vegetation and trees
    - e. Area of future development (if any)
    - f. Other site or public improvements/information (if any)
  5. When the request is for a height variance, the applicant shall provide documentation that clearly establishes the low point of original grade as outlined in Medina Municipal Code, Chapter 16.23.080.
- B. State Environmental Policy Act (SEPA) checklist for non-residential uses.
- C. A word document formatted to Avery address labels containing the names of property owners and their mailing addresses for all properties within 300 feet **or** three (3) parcels depth, whichever distance is greater but not to exceed 1,000 feet. See attachment in this packet for further information.
1. Vicinity map showing the site with the 300' or three (3) parcels depth minimum buffer of property owners who will be notified of the application.
- D. Any other perspective drawings, renderings, studies, or information the applicant feels is relevant to support the variance request.

## Procedure

### II. VARIANCE PROCESS

- A. Please submit the items listed above and any other information which may be required by the City at the time the application is filed.
- B. For a variance application requesting a reduction in setbacks, corner survey stakes must be in place and clearly visible at the time of application to allow inspection of the site.
- C. **MODIFICATIONS: Changes to an application that has already been submitted and noticed to surrounding property owners may trigger the application to be re-noticed.**
- D. Following receipt of the variance application, the City will review the application for completeness and either issue a Notice of Application which includes a public commenting period outlined in MMC 16.80.110(B)(7) or a Notice of Incomplete Application, listing the additional required documentation. Any comments that are received by the public will be forwarded to the applicant for response. A hearing will be schedule with the Medina Hearing Examiner and a Notice of Hearing will be posted, mailed, and published according to the general notice requirements in MMC 16.80.140 at least fifteen (15) days before the hearing date.

- E. STAFF REPORT AND MEETING AGENDA: A staff report and meeting agenda will be emailed to the applicant for review a week before the scheduled hearing.

### III. PUBLIC HEARING

- A. The Hearing Examiner bases his/her decision on the information provided in the application and testimony given at the public hearing. Information provided to the applicant by City staff or consultants regarding previous actions shall in no way be construed to indicate what the Hearing Examiner's decision will be on a given application.
- B. At the public hearing all evidence for or against the application will be heard in the following order:
1. The Hearing Examiner will introduce the requested application.
  2. Testimony will be heard as follows:
    - a. Staff
    - b. Applicant and/or their representatives.
    - c. Audience in attendance.
  3. Correspondence applicable to the case will be provided to the Hearing Examiner.
- C. Testimony must be related to the case being considered.

### IV. DISPOSITION OF CASES

- A. The Hearing Examiner may be prepared to make a final determination on the case following the conclusion of the hearing or may continue the matter if sufficient reason for such action is found.
- B. Before any variance may be granted, the Hearing Examiner shall find that all of the following conditions exist in each case of an application for a variance:
1. The variance does not constitute a granting of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the subject property is located; and
  2. The variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and
  3. The variance is necessary to relieve a material hardship that cannot be relieved by any other means such that the material hardship must relate to the land itself and not to problems personal to the applicant; and
  4. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and
  5. The variance is the minimum necessary to provide reasonable relief.
- C. In determining whether to approve an application for a variance, evidence of variances granted under similar circumstances shall not be considered.

- D. The decision of the Hearing Examiner will be issued to City staff ten (10) working days from the public hearing. The decision is effective upon the date of decision. Notices of Decision will be mailed to applicants and other interested parties as soon as possible.
- E. An approved variance is effective for a period of eighteen (18) months from the date of approval. A variance shall become void at the expiration at that time if the applicant has not filed a complete building permit application prior to the expiration date.

**V. APPEALS**

The decision of the Hearing Examiner may be appealed by filing a land use petition to King County Superior Court within twenty-one (21) days from the date of the decision.



DEVELOPMENT SERVICES

# NON-ADMINISTRATIVE VARIANCE CHECKLIST

501 EVERGREEN POINT ROAD MEDINA, WA 98039  
PHONE: 425-233-6414/6400

This checklist contains the minimum submission requirements for a non-administrative variance that are due at the time of submittal. Please note that not all items listed may apply to your submittal.

## COMPLETE APPLICATION

<input type="checkbox"/>	Variance Checklist
	Complete Variance Application: <input type="checkbox"/> Application form <input type="checkbox"/> Signature of applicant/agent <input type="checkbox"/> All questions answered in full
<input type="checkbox"/>	Declaration of Agency form <b>(SEE EXHIBIT A)</b>
<input type="checkbox"/>	Proof of Ownership (copy of deed) <b>(SEE EXHIBIT B)</b>
<input type="checkbox"/>	Site Plan with required information <b>(SEE EXHIBIT C)</b>
<input type="checkbox"/>	Building plans, elevations, and/or sections with area of variance highlighted <b>(SEE EXHIBIT C) (highlighting area of variance)</b>
<input type="checkbox"/>	Documentation of Original Grade (if applicable)
<input type="checkbox"/>	State Environmental Policy Act (SEPA) Checklist for non-residential uses (if applicable)
	Mailing labels – Word doc formatted to Avery address labels <input type="checkbox"/> Mailing labels containing the names of property owners and their mailing addresses for all properties within 300 feet <u>or</u> three (3) parcels depth, whichever distance is greater but not to exceed 1,000 feet. <b>(SEE EXHIBIT D)</b> <input type="checkbox"/> Vicinity map showing the site with the 300’ or three (3) parcels depth minimum buffer of property owners who will be notified of the application. <b>(SEE EXHIBIT E) – Vicinity Map showing 3 parcel and 500’ depth</b>
<input type="checkbox"/>	Perspective drawings, renderings, studies or additional supporting information (if applicable) <b>(SEE EXHIBITS F-L)</b>



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# NON-ADMINISTRATIVE VARIANCE APPLICATION

501 EVERGREEN POINT ROAD MEDINA, WA 98039  
PHONE: 425-233-6414/6400

**Complete this form for the following:**

- Relief from dimensional zoning standards and
- The relief is not eligible for an administrative variance or minor deviation

**General Information**

**Owner Name:** Overlake Golf and Country Club, a Washington Nonprofit Corporation

**Property Address:** 8000 NE 16<sup>th</sup> St., Medina, WA 98039

**Legal Description:** PTN SW ¼ of NE ¼ of Sec. 25 T.25N R.4E W.M. Less Rds & Less POR Platted Fairway View & Less N 30 ft

**Tax Parcel Number:** 252504-9003

**Agent / Primary contact**

**Name:** Terrence I Danysh, Esq.; Charlie Beckett, Esq.

**Email:** [tdanysh@prklaw.com](mailto:tdanysh@prklaw.com); [cbeckett@prklaw.com](mailto:cbeckett@prklaw.com)

**Contact Phone:** (425)990-4700

**Alternative Phone:**

**Mailing Address:** 10900 NE 4<sup>th</sup> St., Ste. 1850

**City:** Bellevue

**State:** WA

**Zip:** 98004

**Property Information**

**Lot Size:** 22.14 acres

**Critical area(s) located on the property (Ch. 16.50 MMC)?**

YES     NO

**Zoning District:**

R-16

R-20

R-30

SR-30

Public

NA (Neighborhood Auto)

**Check all boxes for which relief is requested:**

Maximum height

Maximum structural coverage

Maximum impervious surface coverage

Minimum setback

Other \_\_\_\_\_

**Please clearly state what your variance request is (i.e. *This is a request to reduce the rear yard setback from 30 ft. to 15 ft.*)**

**This is a request to increase the maximum height from 25 ft. to 50 ft. for the purposes of erecting a taller net for the driving range**

**List known variances or special/conditional use permits previously approved for this property:** None/none known, although a Golf Course is a Permitted Special Use for R-20 zoning under the Medina Municipal Code.

**Please describe any known nonconforming conditions:** None/none known

**Please provide a complete description of the proposed project (attach additional pages if necessary):**

The Applicant's proposed project is to construct a 50 foot high net around the west, north, and east sides of the Overlake Golf & Country Club driving range, as a safety precaution for the purpose of preventing errant balls from potentially hitting users and guests of the golf course. Site and Building Plans (highlighting area of variance) for the proposed netting are attached hereto as Exhibit C.

**Approval Criteria**

**The following is the approval criteria for a non-administrative variance. Please respond to each item by providing as much detailed information as possible to support your request. Attach additional pages if necessary.**

**1. The variance does not constitute a granting of special privilege inconsistent with the limitations upon uses of other properties in the zone in which the subject property is located**

The applicant's requested variance is an exception to the 25 foot structural height limit for property zoned R-20. This variance is for the purpose of erecting a 50 foot high net around the Overlake Golf & Country Club driving range. Under the Medina Municipal Code, a driving range is a special use permitted in R20 zoning as a use within the definition of a "golf course". See MMC 16.12.080 ("golf course") and MMC Table 16.21.030.

In the City of Medina, there are no other analogous properties to the Overlake Golf & Country Club. With that said, a variance to permit the erection of a driving range net is not a special privilege inconsistent with the limitations upon uses of other properties which are similarly zoned in adjacent municipalities. Per a survey conducted by OGCC of other regional golf courses (See Exhibit J), the vast majority of such courses either have significantly larger spaces devoted to their driving range or else have nets of 50'-85' in height. Where 50' nets exist, these golf courses have each indicated that they would either prefer to have taller nets, or are actively planning to acquire taller nets. In short, while less than optimal for its purposes, the 50' net the Applicant seeks is a privilege that is both ordinary and routine to such golf course uses.

**2. The variance is necessary to make reasonable use of the property and such necessity is because of special circumstances relating to the size, shape, topography or other factors on the lot such as the presence of critical areas or buffers that substantially constrain development of the subject property such that the property owner cannot develop the property consistent with allowed uses in the zone in which the subject property is located**

The Applicant's sought after variance is necessary to relieve a hardship experienced by the Applicant due to the size, shape, and orientation of the Applicant's driving range, which is no longer sufficient to be used safely due to evolving golf club and golf ball technology. As compared to other driving ranges in the region, Applicant's driving range is unusual for being of relatively small length and width compared to driving ranges at other regional courses, particularly given that it is internal to its associated golf course. These quirks of the land mean that the Applicant can no longer make safe, reasonable use of the driving range as presently developed, as errant golf balls now routinely escape the driving range and penetrate the golf course itself. In the absence of this safety measure being implemented, the only other means of making the golf course in conjunction with the driving range would be to completely re-design the golf course layout, which is not economically feasible for the Applicant.



## Approval Criteria (continued)

**3. The variance is necessary to relieve a material hardship that cannot be relieved by any other means such that the material hardship must relate to the land itself and not to problems personal to the applicant**

The Applicant's sought after variance is necessary to relieve a hardship experienced by the Applicant due to the size, shape, and orientation of the Applicant's driving range, which is no longer sufficient to be used safely due to evolving golf club and golf ball technology. As compared to other driving ranges in the region, Applicant's driving range is unusual for being of relatively small length and width compared to driving ranges at other regional courses, particularly given that it is internal to its associated golf course. These quirks of the land mean that the Applicant can no longer make safe, reasonable use of the driving range as presently developed, as errant golf balls now routinely escape the driving range and penetrate the golf course itself. In the absence of this safety measure being implemented, the only other means of making the golf course in conjunction with the driving range would be to completely re-design the golf course layout, which is not economically feasible for the Applicant.

**4. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated**

The granting of the applicant's variance will not be materially detrimental to public welfare or injurious to the property or improvements in the vicinity and zone of the driving range where the erection of the netting is for the very purpose of preventing injuries to properties and persons in the vicinity of the driving range. At present, approximately 34% of all range balls (or as many as 3700-7000 balls per day), are calculated to be capable of escaping the driving range, presenting a significant risk of injury to property and persons nearby. See Exhibit H. If the Applicant's variance is granted, this netting, in conjunction with other preventative measures, will reduce the risk of balls escaping the driving range to less than 0.45% of all balls. See Exhibit I.

**5. Alternative development concepts in compliance with the existing code have been evaluated and undue hardship would result if such adherence to code provision is required**

In consultation with its experts, the Applicant has considered and evaluated alternative development concepts that would be in compliance with the existing code, including a lower net height and an alternative range layout.

The Applicant cannot make safe use of the property for its allowed purpose with a height-compliant net of 25 feet. Per the report of the Applicant's driving range safety expert, Probable Golf Instruction Ltd. ("PGIL"), a 25 feet net risks roughly 10.0% of all balls hit (or as many as 1100-2200 balls per day) escaping the range, even with limited-flight range balls, which the Applicant's expert has described as an unacceptable level of safety risk. See Exhibits H & I.

The applicant has also considered an alternative range layout, but is confined by its geography. Any alternative layout that would be sufficient to satisfy the safety concerns that presently exist would require a "radical redesign" of the entirety of the course, and is not economically feasible for the Applicant at this time.

**6. The variance is consistent with the purpose and intent of the relevant city ordinances and the comprehensive plan.**

The variance is consistent with the portions of the City of Medina's Comprehensive Plan which pertain to the Applicant's use. Under goal LU-P5 of the Comprehensive Plan, the Applicant is called-out by name as a non-residential uses sought to be preserved by the City of Medina. If the Applicant's sought after variance is not granted, its ability to continue this use in the future without an unacceptable risk of liability will be hampered. This variance is also consistent with CD-G3, as the proposed Dyneema netting system is designed to have a negligible effect on view corridors of the golf course, and this variance will not have an effect on the landscaping on the perimeter of the golf course. See Exhibit L.

The variance sought is also consistent with the purposes and intent of the relevant city ordinances and the Comprehensive Plan in that it seeks to promote the public health, safety, and welfare of golf course patrons and guests. Under both city ordinance and the Comprehensive Plan, the Applicant is recognized as a major draw to the City of Medina, and one which the City desires to preserve. Approval of the variance will contribute to maintaining the attractiveness of the Applicant as a carefully maintained and sought-after place to golf. This in turn will have positive effects to the public welfare in the form of heightened property values in the Applicant's vicinity.

**7. The basis for the variance request is not the result of deliberate actions of the applicant or property owner**

The Applicant's variance request is not the result of the Applicant or property owner's actions, but is instead based upon technological improvements that have been made in the development of golf clubs and golf balls. The improvements have resulted in a substantial increase in the distance travelled by golf balls, even when hit by amateur golfers using limited-flight range balls, and a corresponding increased risk of errant balls hitting golfers and country club guests in the vicinity of the driving range.

**8. The variance granted is the minimum necessary to provide reasonable use of the property**

The variance sought by the Applicant is the minimum necessary to fulfil the Applicant's legal obligations for safety and thereby make reasonable use of the property. As a commercial business, the Applicant is obligated to make its premises safe for use by its customers.

Based upon the analysis prepared by PGIL, a 50 foot high net is the "bare minimum" necessary to reasonably use of the driving range in a safe matter. In PGIL's opinion, a 65 foot high net would be the "gold standard" for a range of this size, but a 50 foot net would be the absolute minimum that PGIL would recommend, in conjunction with limited flight range balls to provide a safe golfing environment.

I certify under the penalty of perjury that I am the owner of the above property or the duly authorized agent of the owner(s) acting on behalf of the owner(s) and that all information furnished in support of this application is true and correct.

Signature \_\_\_\_\_ Owner  Agent  Date \_\_\_\_\_

Signature \_\_\_\_\_ Owner  Agent  Date \_\_\_\_\_