

SAN PEDRO CREEK ESTATES VARIANCE APPLICATION

PURPOSE

When natural conditions or circumstances beyond the owner's reasonable control prevent moving forward with a regulated project within San Pedro Creek Estates (SPCE), the lot owner may apply to the Architectural Control Committee (ACC) for a variance from any provision of the Design Guidelines subject to the jurisdiction of the ACC.

The ACC strives to be consistent, uniform and non-biased in its decision-making process. Variances are considered to be exceptions and are granted infrequently due to special circumstances. Each owner in the Home Owner's Association (HOA) has agreed to restrict its land use in return for the assurance that the use of all properties in SPCE will be similarly restricted. The rationale is that such mutual restriction will maintain and enhance total community welfare. The HOA endeavors to have clear, written architectural criteria and guidelines. The ACC will state in writing its findings of why the variance is being granted or denied. If the approval is granted with conditions, those conditions are provided in writing. An approved variance will not become a precedent for other lots within SPCE, as it is approved only because of special conditions associated with the lot for which the variance was approved.

A thorough analysis of the variance application may require a site visit to ascertain the nature of the claim, and other information, such as topographical survey information.

VARIANCE STEPS

1. The applicant must answer all questions on the SPCE Variance Application Form and submit the completed form to HOAMCO.
2. The variance application will be discussed at the next scheduled ACC meeting. In urgent situations, contact the ACC or HOAMCO to request special accommodations.
3. The ACC will judge the variance application considering the Evaluation Items listed below. A notification will be sent by HOAMCO to the adjacent property owners, and/or affected property owners determined by the ACC, via email and US mail for comment. The notified property owners are given 2 weeks to respond via email, written communication, or by telephone.
4. After reviewing all comments received from notified property owners, or if notified property owners do not respond, the ACC will vote on the variance application. A majority vote is required. In the case of the tie vote, the application is denied.
5. The applicant and all notified property owners will receive a variance approval or disapproval notice. An approved variance will expire within 1-year from the date of approval if not implemented.
6. When a variance application is denied by the ACC, the applicant has 30-calendar days to request in writing that the variance application be heard by an independent SPCE ad-hoc committee. The ad-hoc committee will be appointed by the SPCE President and approved by SPCE Board of Directors. This committee shall consist of three SPCE homeowners, two of which shall be members of the Board of Directors. An ACC member will brief the ad-hoc

committee on the variance application and answer any questions, but will not participate in discussions or voting to ensure an independent review and decision. The ad-hoc committee shall use the Variance Evaluation Items to review the variance application. The decision by the ad-hoc committee is final.

VARIANCE EVALUATION ITEMS

The variance application will be evaluated based on the items described below:

1. The Design Guidelines would deprive the applicant of rights commonly enjoyed by the other owners in SPCE.
Example: A variance is granted for a gate to be installed within the 100' setback due to a turnaround circle driveway located in front of the residence and on the edge of the setback. Placing the gate outside the 100' setback would require the gate to be located within the circle driveway and prevent the use of the circle driveway.
2. The need for a variance is the result of special conditions and circumstances not caused by the applicant and the hardship is not self-imposed or self-created.
Example: A variance is granted because the only buildable location on the lot encroaches the 100' setback due to extreme terrains such as cliffs, deep arroyos, etc.
3. The variance is the minimum departure from the Design Guidelines necessary to permit reasonable use of the lot or structure.
Example: A variance is granted for a structure to be built within the 100' setback due to a lot constraint. The approved distance from lot line shall be as near to the 100' setback boundary as possible.
4. The variance shall have minimal visual impact for SPCE property owners to include affected neighbors, street views, and panoramic views.
Example: A variance is granted for a piece of colorful art to be placed outside the house, or within a courtyard, that doesn't meet the Design Guidelines and is not visible from the street or neighbors.
5. The variance shall not be a method of avoiding additional project costs.
Example: A new gate is approved. During the gate installation, very large rocks become an obstacle while excavating for the structural posts. A variance is denied to relocate the gate within the 100' setback to avoid the rocks.
6. The applicant would suffer an unnecessary hardship if the variance requested were denied.
Example: A variance is granted for an emergency roof repair to avoid additional damages. An alternative product is approved because the matching material that meets the Design Guidelines is not immediately available.

The Architectural Control Committee will consider the items listed above, along with judgement regarding adverse effects on the community, in order to decide whether or not to grant the variance.

I certify that I am familiar with the procedural requirements for a variance within the Design Guidelines of San Pedro Creek Estates.

Applicant's (Lot Owner's) Signature(s):

Date:

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A. Lot Owner: _____ Phone (home or cell): _____ Email: _____

B. Address (Street, City, State, ZIP): _____

A. Lot Owner (if different): _____ Phone (home or cell): _____ Email: _____

D. Location of Project: Street _____ Phase: _____ Lot: _____

E. Attach a site plan, drawn to scale, to include property lines, 100-foot setbacks, existing improvements and proposed improvements requested in this variance application.

F. Specify the section of the Design Guidelines from which a variance is sought:

G. Description of the proposed project:

H. Describe why you are requesting a variance:

J. Additional notes or comments:

I. Include photos if applicable.