

ARTICLE 7 VARIANCES

Section 7.010 PURPOSE

In certain instances, the ordinary application of the Ordinance will produce hardship cases. Typical examples are where topography or lot shape make it impossible to comply with normal front, side, or back yard setback requirements. In such cases, where the property owner can demonstrate the situation to be unique and that by complying with the Ordinances the owner cannot make reasonable use of the property, a variance can be granted to help alleviate the hardship. The granting of a variance however, cannot alter the use of the property as specified in the Ordinance, nor can the property owner be granted any special privileges which give added advantage over neighbors.

Section 7.020 AUTHORIZATION TO GRANT OR DENY VARIANCES

The Planning Director may authorize variances from the requirements of this Ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of the Ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Director may attach conditions and safeguards which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this Ordinance and the Comprehensive Plan. The Planning Director may also choose to refer any request for a variance to the Planning Commission for hearing. In all cases referred to the Planning Commission, the Commission shall be subject to the provisions of this Ordinance which apply to the Planning Director, unless specified otherwise.

Section 7.030 CIRCUMSTANCES FOR GRANTING VARIANCE

A variance from the terms of this Ordinance shall not be granted by the Planning Director unless and until all of the standards in Section 7.031 and Section 7.032 are met.

Section 7.031 Written Application. The property owner must demonstrate by written application that all of the following circumstances exist:

1. The manner in which exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of this Ordinance, topography, or other circumstances over which the applicant has no control.
2. How literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
3. That the special conditions and circumstances do not result from the actions of the applicant, and
4. Evidence that granting the variance will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted use of land, structures or buildings in other districts shall be considered grounds for issuance of a variance.

Section 7.032 The Planning Director shall make all the following findings:

1. That the requirements of Section 7.031 have been met by the applicant for a variance.
2. That the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance which will make possible the reasonable use of the land, building or structure, and

3. That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and of the Comprehensive Plan and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Section 7.040 VARIANCE PROCEDURE

The following procedures shall be followed in applying for and acting on a variance:

Section 7.041 Request for Variance. A property owner may initiate a request for variance by filing an application with the City Planner, using form prescribed pursuant to Section 10.040. The application shall be accompanied by a site plan drawn to scale showing the condition to be varied and the dimensions and arrangement of the proposed development. The Planning Director may request other drawings or materials

essential to an understanding of the variance request.

Section 7.042 Notice of Variance Request. Notice of the variance request, and subsequent decision, shall comply with the applicable requirements of Article 10. Before the Planning Director may decide on a request for a variance, comments from the Director of Building and Code Enforcement, Fire Chief, and other affected City Departments shall be solicited and considered.

Section 7.050 THE LIMIT ON A PERMIT FOR A VARIANCE

Authorization of a variance shall be void after one year unless substantial construction pursuant thereto has taken place. However, the Planning Director may, in its discretion, extend authorization for an additional six months upon request.