



Planning Division
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PLANNING

Planning is a Division of the Department of Planning & Development Services

VARIANCES

What is a variance?

A variance is defined as a deviation from the applicable standards for the zoning district where the existing or proposed development is located that would not be contrary to the public interest and, due to special conditions of the site or its surroundings, a literal enforcement of the provisions of the Zoning Ordinance would result in unnecessary hardships.

Who can approve a variance?

The Zoning Board of Adjustments (ZBA) is the approving authority.

What criteria are used to determine the ruling on this type of request?

- In order to approve a variance, the ZBA shall state in its minute record that **one of the following** are met:
 - *Special circumstances resulting in unnecessary hardship exist.*
 - *Doing so will further an overriding public interest.*
 - *Literal enforcement will result in extraordinary circumstances & granting the variance will preserve the spirit of the ordinance.*
- In order to approve a variance, the ZBA must also confirm that **each and every one** of the following criteria are met:
 - Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are **not** merely financial.
 - These special circumstances are **not** the result of the actions of the applicant.
 - Literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.
 - Granting the variance is the minimum action that will make possible the use of the land or structure which is **not** contrary to the public interest, and would carry out the spirit of this Zoning Ordinance and substantial justice.
 - Granting the variance will **not** adversely affect adjacent land in a material way.
 - Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.

What variances are not allowed?

The ZBA shall not grant a variance that:

- Has an adverse effect on the land use pattern as outlined by any City land use plan or policy.
- Is a material detriment to the public welfare or create injury to the use, enjoyment or value of property in the vicinity.
- Is not the minimum variance that will relieve the proven hardship.
- Allows a use not allowed in the use table for the district in which the parcel is located.
- Will relieve the applicant of conditions or circumstances that are caused by the illegal subdivision of land, which subdivision of land caused the property to be unusable for any reasonable development under the existing regulations.
- Will relieve the applicant of conditions or circumstances that are self-imposed.
- Is grounded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.
- Will modify any condition imposed by the Planning Commission or City Council as part of a Conditional Use, Special Use, or Planned Development District.
- Would not only affect a specific parcel, but would be of such general nature as to constitute, in effect, a change in zoning or amendment to the Zoning Ordinance.

What is the process for this type of request?

1. Submit a completed application with the required application fee, as outlined on the Planning Fee Schedule, and a fully dimensioned site plan.
2. Once the completed application is received, the Planning Division will review the application for completeness & resolve any questions.
3. The application is scheduled for hearing based on the adopted submittal schedule, and may be found on the Planning Division's website.
4. The ZBA conducts a hearing and approves, approves with conditions necessary to prevent or minimize adverse effects upon the surrounding neighborhood and ensure compatibility with the site surroundings, or denies the request.

Is there a process for appeal of a decision?

Yes, an appeal of the ZBA's decision may be made by way of petition to a court of record within 10 days after the date the decision is filed in the board's office. The court may reverse or affirm, in whole or in part, or modify the decision that is appealed.

Does the decision expire?

All approvals issued are subject to the requirement an application to commence construction of the improvements that were the subject of the variance request must be applied for and approved within 12 months of the date of the approval of the variance. Otherwise, the approval shall become null and void. Permitted time frames do not change with successive owners.