

ARTICLE 7. VARIANCES

SECTION 7.010. AUTHORIZATION TO GRANT OR DENY VARIANCES. The Planning Commission 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 lot, 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 Commission may attach conditions which it finds necessary to protect the best interest of the surrounding property or vicinity and otherwise achieve the purpose of this ordinance.

SECTION 7.020. CIRCUMSTANCES FOR GRANTING A VARIANCE. A variance may be granted unqualifiedly or may be granted subject to prescribed conditions, provided that the Planning Commission shall make all of the following findings:

A. Area Variance

1. That the literal application of the ordinance would create practical difficulties resulting in greater private expense than public benefit.
2. That the condition creating the difficulty is not general throughout the surrounding area but is unique to the applicant's site.
3. That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased.
4. That the variance conforms to the Comprehensive Plan and the intent of the ordinance being varied.

B. Use Variance.

1. That the literal application of the ordinance would result in unnecessary hardship to the applicant. An unnecessary hardship will be found when the site cannot be put to any beneficial use under the terms of the applicable ordinance.

2. Each of the findings listed in subsection A 2, 3 and 4 of this section.

3. No use variance shall be granted for a use not allowed in the zone or allowed in another zone.

SECTION 7.025 MINOR VARIANCE. For the purposes of this Ordinance, a "Minor Variance" is an "Area or Dimensional" Variance that meets one of the following conditions.

A. A request involving a deviation from a minimum lot size requirement of not more than 10%; or

B. A request involving a deviation from a yard or setback requirement of not more than 25%; or

C. A request for the expansion of a nonconforming use by not more than 10%.

D. Circumstances for Granting a Minor Variance. A minor variance may be granted when the Planning Commission determines the following:

1. Granting the minor variance will equally or better meet the purpose of the regulation to be modified, and

2. If in a rural zone, that farm and forest uses or practices will not be significantly affect; if in a residential zone, that the proposal will not significantly detract from the liveability or appearance of the residential area; or if in a commercial or industrial zone, that the proposal will be consistent with the desired character of the area, and

3. Any identified impacts resulting from the minor variance are mitigated to the extent practical, and

4. Granting the minor variance is the minimum necessary deviation from the requirement to satisfy the identified problem.

SECTION 7.030. PROCEDURE FOR TAKING ACTION ON A VARIANCE APPLICATION. The procedure for taking action on an application for a variance shall be as follows:

A. A property owner may initiate a request for a variance by filing an application with the Planning Department, using forms and procedures prescribed pursuant to Article 9.

B. Before the Planning Commission may act on a variance application, it shall hold a public hearing thereon, following procedure as established in Article 9.

C. Within five (5) days after a decision has been rendered with reference to a variance application, the Planning Director shall provide the applicant with written notice of the decision of the Commission.

SECTION 7.040. TIME LIMIT ON A PERMIT FOR A VARIANCE.

Authorization of a variance shall be void after one year unless substantial construction has taken place or the proposed use has occurred. However, the Planning Commission may extend authorization for an additional period not to exceed one year, on request.