

1117.02 VARIANCES.

- (a) If a proposed use or structure does not conform to all requirements of this Zoning Ordinance, it may apply for a de minimis variance, a variance, or a floodplain variance.
- (b) An application for a variance shall be made available by the City. The application shall include details on application requirements and procedural timelines.
- (c) De Minimis Variances.
 - (1) A de minimis variance is a deviation of ten percent or less of a dimensional or numerical standard. This deviation does not apply to density standards, building and structure height, outdoor lighting in Section 1109.06, electronic signs in Section 1111.05(j), construction standards in Section 1117.10(f), standards in Chapter 1113 Watershed Management, and standards in Chapter 1115 Wireless Service Facilities.
 - (2) The City's Designee shall have the authority to grant de minimis variances. An application for a de minimis variance that does not meet the intent of this Zoning Ordinance may be forwarded to the Planning Commission for action, as determined by the City's Designee.
 - (3) In determining whether a de minimis variance shall be granted, the City's Designee shall find that the strict application of the Zoning Ordinance would create practical difficulties for the property owner.
 - (4) A de minimis variance shall stay with the lot. A de minimis variance shall expire if the variance addresses a dimensional standard for a structure which has been demolished.
- (d) Variances.
 - (1) A non-dimensional variance is any variance that does not seek to alter the dimensional development standards governing buildings or other physical site elements on a lot. A non-dimensional variance shall include changes to permitted uses within a building or lot.
 - (2) A dimensional variance shall include any variance which seeks to alter the dimensional development standards governing size, location, height, and setback of buildings, or any other dimensional requirements of site elements.
 - (3) The Planning Commission shall have jurisdiction to grant variances from the provisions or requirements of this Zoning Ordinance
 - (4) Before granting a variance, the Planning Commission shall find that:
 - A. The variance is not likely to result in substantial change to the essential character of the neighborhood;
 - B. The variance is not likely to result in damage to adjoining properties;
 - C. The variance is not likely to adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
 - D. The variance is not likely to result in environmental impacts greater than what is typical for other lots in the neighborhood.
 - E. The variance is necessary for the economical use of the property, and such economical use of the property is not easily achieved through some method other than a variance; and,
 - F. The variance is not likely to undermine the objectives of the land use plan.
 - G. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of land or structures.

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- H. The practical difficulty could be eliminated by some other method, even if the solution is less convenient or more costly to achieve.

 - (4) The Planning Commission may, during the granting of a variance, impose reasonable conditions as deemed necessary to accomplish the purposes of this Zoning Ordinance.
 - (5) A non-dimensional variance shall stay with a use of a lot. A non-dimensional variance shall expire if the use for which the non-dimensional variance was granted is not conducted on a property for a period of 24 consecutive months.
 - (6) A dimensional variance shall stay with the lot. A dimensional variance shall expire if the dimensional variance addresses a standard for a structure which has been demolished.

(e) Floodplain Variances.

- (1) A floodplain variance is any variance to Chapter 1113.01 Floodplain Regulations.
- (2) The Planning Commission shall have jurisdiction to grant floodplain variances.
- (3) Before granting a floodplain variance, the Planning Commission shall evaluate:
 - A. The danger that materials may be swept onto other lands to the injury of others;
 - B. The danger to life and property due to flooding or erosion damage;
 - C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - D. The importance of the services provided by the proposed facility to the community;
 - E. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - F. The necessity to the facility of a waterfront location, where applicable;
 - G. The compatibility of the proposed use with existing and anticipated development;
 - H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - I. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - J. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - K. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (4) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level.

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- (5) The Planning Commission may, during the granting of a floodplain variance, impose reasonable conditions as deemed necessary to accomplish the purposes of this Zoning Ordinance.
 - (6) The City Designee shall report any variances to the Federal Insurance Administration upon request.
 - (7) Conditions for variance:
 - A. Variances may be issued for the repair, rehabilitation or restoration of historic structures listed on the National Register of Historic Places upon a determination that the proposed repair, rehabilitation or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - C. Variances shall only be issued upon a determination that the variances are the minimum necessary, considering the flood hazard, to afford relief.
 - D. Variances shall only be issued upon:
 - 1. A showing of good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and ordinances.

(Ord. No. 0007-2024, § 2(Exh. A), 4-1-24)