

TITLE 10
CHAPTER 5

ZONING VARIANCES

SECTION:

- 10-5-1: Purpose
- 10-5-2: Limitations
- 10-5-3: Application
- 10-5-4: Conditions
- 10-5-5: Public Hearing
- 10-5-6: Effective Date
- 10-5-7: Expiration of Variance

10-5-1: PURPOSE: The purpose of a variance shall be to prevent or to lessen such practical difficulties and unnecessary physical hardships which are inconsistent with the objectives of this Title. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical conditions on the site or in the immediate vicinity.

10-5-2: LIMITATIONS: A variance shall not be granted as a substitute for, or in lieu of, a change in zone. A variance does not apply to use regulations. The Planning Commission may grant a variance to a regulation prescribed by this Title with respect to the following:

- A. Fences, hedges, walls or landscaping.
- B. Site area, width, depth, square footage, frontage and building coverage.
- C. Front, side or rear yards.
- D. Height of structures.
- E. Distance between structures.
- F. Accessory buildings.
- G. Parking requirements.
- H. Width of rights of way and roadways.
- I. Grant only the minimum variance necessary to meet the hardship or practical difficulties.
- J. Attach such conditions to the granting of all or a portion of any variance as necessary to achieve the purpose of this chapter.

10-5-3: APPLICATION: The application for variance shall be made in writing to the Planning Commission by the owner(s) of the land in consideration or their agent(s), duly authorized in writing. The applicant shall set forth in detail:

- A. The practical difficulties and physical hardships involved.
- B. Existing conditions on the site.
- C. Reasons for a variance being the most practicable solution to the problem.
- D. Any other pertinent information requested by the Planning Commission.

10-5-4: CONDITIONS: The Planning Commission may grant a variance to a regulation prescribed by this Title if, on the basis of the petition, investigation and evidence submitted, the Planning Commission finds:

- A. Strict or literal interpretation and enforcement of the specified regulations would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Title.
- B. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other properties classified in the same zoning district, or
- C. The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district, and
- D. The granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

10-5-5: PUBLIC HEARING: Upon receipt of a complete application for a variance, a public hearing will be scheduled in accordance with the requirements of Section 10-1-1-6 of this Title. (Ord 26, 2008)

10-5-6: EFFECTIVE DATE: A variance shall become effective at the close of the appeal period.

10-5-7: EXPIRATION OF VARIANCE: Authorization of a variance shall be void one (1) year after the date of approval of a variance application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:

- A. The request for an extension is made in writing prior to expiration of the original approval
- B. There are special or unusual circumstances that exist which warrant an extension
- C. No material changes of surrounding land uses or zoning has occurred.

The Planning Commission may deny the request for an extension of a variance if new land use regulations have been adopted that affect the applicant's proposal. (Ord. 26, 2008)

Amended by Ordinance No. 15, Series 1988

Amended by Ordinance No. 8, Series 1997

Sections 10-5-5; 10-5-6; 10-5-7 Amended by Ordinance No. 26, Series 2008

Sections 10-5-2-1 and 10-5-4-E deleted and subsequent sections renumbered by Ordinance No. 4, Series 2011 (effective 4/22/11)

Sections 10-5-7 amended by Ordinance No. 3, Series 2013, see Exhibit B (effective 7-31-13)

Section 10-5-5 amended by Ordinance No.11, Series 2016 (effective 11-16-16)