

TITLE 10
CHAPTER 5

ZONING ADJUSTMENTS AND VARIANCES

SECTION:

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10-5-1: PURPOSE: The purpose of an adjustment or 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: An adjustment or variance shall not be granted as a substitute for, or in lieu of, a change in zone. An adjustment or variance does not apply to use regulations

A. Adjustments: An adjustment may be granted through the Type II Review process in Section 10-1-1-6-2 as prescribed by this Title to numerical standards by up to 10% including:

1. Minimum Lot Dimensions.
2. Minimum Lot Area.
3. Yard Regulations and Setbacks.
4. Distance between structures.
5. Exceptions: The following standards are not eligible for adjustments:
 - a. Building Height
 - b. Lot Coverage

B. Variances: Requests to vary standards beyond the adjustments allowed in Section 10-5-2-A shall be subject to the review process and approval criteria for variances. The Planning Commission may grant a variance to a regulation through the Type III Review process in Section 10-1-1-6-3 as prescribed by this Title with respect to the following:

1. Fences, hedges, walls or landscaping.
2. Site area, width, depth, square footage, frontage and building coverage.
3. Front, side or rear yards.
4. Height of structures.
5. Distance between structures.
6. Accessory buildings.

7. Parking requirements.
8. Width of rights of way and roadways.
9. Any request to vary numerical standards beyond 10%

10-5-3: APPLICATION:

- A. The application for an adjustment shall be made in writing to the Planning Director by the owner(s) of the land in consideration or their agent(s), duly authorized in writing.
- B. 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.

10-5-4: APPROVAL CRITERIA:

- A. General: An application for an adjustment or variance must describe in detail:
 1. The practical difficulties and physical hardships involved.
 2. Existing conditions on the site.
 3. Reasons for the proposed adjustment or variance being the most practicable solution to the problem.
 4. A sight plan, drawn to scale, showing the dimensions and arrangement of the proposed development in comparison to the existing standard(s).
 5. Any other pertinent information requested by the Planning Director or Planning Commission.
- B. Adjustments: The Planning Director may grant an adjustment to a regulation prescribed by this Title if, on the basis of the petition, investigation and evidence submitted, the Planning Director finds:
 1. There are topographic or built conditions, such as steep slopes, wetlands, water areas, structures, streets, utilities, lot patterns, street patterns or similar conditions which justify departure from strict adherence to the standard to be modified.
 2. No significant adverse impacts to neighboring properties or to the environment will result from the modification; the cumulative effects of more than one adjustment shall be considered in this regard.
 3. The adjustment is consistent with sound engineering principles, and will be safe, practical and efficient.
 4. The modification is not contrary to the purpose section of this chapter, or to any applicable policy or provision of the Florence City Code or Comprehensive Plan.
 5. There are no other remedies prescribed in this title or the city engineering standards to alleviate the practical problem identified in subsection (1) of this section.
 6. The proposed adjustment is the minimum necessary to resolve the identified problem, and
 7. The proposed adjustment is no greater than ten percent (10%) of the relevant numeric standard.

- C. Variances: The Planning Commission may grant a variance to a regulation prescribed by this Title and may attach such conditions to the granting of all or a portion of any variance as necessary to achieve the purpose of this chapter if, on the basis of the petition, investigation and evidence submitted, the Planning Commission finds:
1. 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.
 2. One of the following:
 - a. 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
 - b. 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.
 3. 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.
 4. The Variance is the minimum necessary to address the special or unique physical circumstances related to the subject site.

10-5-5: REVIEW REQUIRED:

- A. Adjustments shall be reviewed through a Type II process in accordance with requirements of Section 10-1-1-6-2 of this Title.
- B. Variances shall be reviewed through a Type III process in accordance with requirements of Section 10-1-1-6-3 of this Title.

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

10-5-7: EXPIRATION OF ADJUSTMENT OR VARIANCE:

- A. Authorization of an adjustment or variance shall expire concurrently with its associated land use approval or one (1) year after the date of approval of an application, whichever is greater, 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:
 1. The request for an extension is made in writing prior to expiration of the original approval
 2. There are special or unusual circumstances that exist which warrant an extension
 3. No material changes of surrounding land uses or zoning has occurred.
- B. 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-I 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)
Title and all sections amended by Ordinance No. 7, Series 2019 (effective 12-18-19)