

20.127. Variations.

A. Authority. In specific cases where practical difficulties or a particular hardship would be incurred by the strict applications of the provisions of this chapter the Planning and Zoning Commission after conducting a public hearing, may grant a variance of the regulations of this chapter, but only in accordance with the requirements hereinafter set forth.

B. Processing. The process for obtaining a variation from the requirements of this chapter shall be as follows:

1. An application for a variation shall be filed with the Zoning Administrator who will forward such application to the Planning and Zoning Commission prior to the next scheduled meeting of the Commission. The application shall contain such information that the Commission may by rule require.
2. The Planning and Zoning Commission shall conduct a public hearing within 60 days of receiving the application from the Zoning Administrator. Notice of time and place of such hearing shall be posted at least 15 days prior to the hearing.
3. Within 30 days of the hearing the Planning and Zoning Commission shall make a determination. The Commission may approve or deny any variation authorized in Subsection 20.127.D. in accordance with the provisions of Subsection 20.127.C.

C. Standards for Variations. The Planning and Zoning Commission shall not grant a variation of the standards of this chapter as authorized in Subsection 20.127.A. above, unless the following criteria are met:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a practical difficulty or particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;
2. The conditions upon which an application for a variation are based are unique to the property for which the variation is sought, and are not applicable, generally, to other property within the same zoning classification;
3. The purpose of the variation is not based exclusively upon a desire to increase financial gain;
4. The alleged difficulty or hardship is caused by this chapter and has not been created by any persons presently having an interest in the property;
5. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
6. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

The Planning and Zoning Commission may impose such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards established in this section and the objectives of this chapter.

D. Authorized Variations. Variations from the regulations of this chapter shall adhere to the standards of Subsection 20.127.C. above and may be granted only in the following instance and no others:

1. To permit any yard or setback less than a yard or a setback required by the applicable regulations;
2. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than 75 percent of the required area and width;
3. To permit the same off-street parking facility to qualify as required facilities for two or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;
4. To reduce the applicable off-street parking or loading facilities required by not more than one parking space or loading space, or 25 percent of the required facilities, whichever number is greater;
5. To increase by not more than 25 percent the maximum distance that required parking spaces are permitted to be located from the use served;
6. To permit a variation relative to the maximum height above-grade, or the minimum elevation (head clearance) above-grade of signs; to permit a variation relative to minimum setback requirements for signs; and to permit a variation relative to maximum projection of signs in all districts;
7. To permit a variation of the conditions of use or special requirements of any district;
8. To permit the reconstruction of a nonconforming building or structure which has been damaged or destroyed by fire, explosions, acts of God or acts of a public enemy;
9. To permit the variation of the maximum height of a building;
10. Any requirement of Sections 20.137, 20.140, 20.141, and 20.142 of Article X.

E. Effective Period. No variation from the requirements of this chapter shall be valid for a period longer than one year from the date of such variation unless the permitted variation has been substantially implemented.

F. Effect of Denial of Variation. No application for a variation which has been denied by the Planning and Zoning Commission shall be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Planning and Zoning Commission.