Article 18

VARIANCES

Variance Procedure

When an applicant feels that the strict application of the requirements of the zoning regulations would create an undue hardship, he or she may request a variance from the Board of Zoning Appeals. The Board of Zoning Appeals must base its decision, to as great a degree as possible, on factual evidence, and not the personal opinion of the applicant, neighbors, or others. The request for a variance should be based on a conflict between the restrictions on the development of the property due to the Zoning Ordinance and the restrictions on the development of the property due to its physical characteristics. A variance should be issued only to the specific, not to the list of permissible land uses within a given zone.

The applicant shall first meet with the Zoning Administrator and receive a complete explanation of the zoning requirement in question, the variance procedure, and an application form. Within twelve (12) days of the receipt, of the application, the Zoning Administrator shall submit its report to the board of Zoning Appeals.

The applicant shall submit a completed application form and pay the appropriate fee (see page 14 for fee schedule). As a part of the application, a sketch map drawn to a scale of not less than twenty (20) feet to an inch shall be submitted. The map shall show utilities, sidewalks, driveways, and other items of importance. An application shall not be processed unless it has been fully completed, the fee paid, and all required information submitted. (See Article 14.5.c)

The Zoning Administrator shall schedule a regular meeting of the Board of Zoning Appeals and send copies of the application to Board of Zoning Appeals members, upon receipt of a fully completed application. Twenty (20) days prior to the Board of Zoning Appeals’ meeting, an official notice to the public shall be published in a newspaper of general circulation in the City explaining the variance request and the time and place of the scheduled hearing. A copy of the notice shall be mailed to each party of interest and to the Planning Commission.

At the scheduled meeting, the Board of Zoning Appeals shall hear all facts and testimony from all parties wishing to be heard concerning the requested variance. In each case, the Board of Zoning Appeals shall not grant a variance unless it finds, based on the evidence presented, facts which conclusively support all of the following findings:

GENERAL PROVISIONS:

Any property owner who can show that his property was ac­quired in good faith prior to the effective date of these Zoning Regulations, unusual plot dimensions, or where by reason of exceptional topographical conditions, or other unusual situation (none of which may be the result

of his own doing), that the strict application of these regulations prohibit development in a manner similar to other property in the district, may apply for a variance.

ADMINISTRATIVE PROCEDURES:

1. Application: An application for a variance shall include a map of

the plot and abutting plots showing all existing and proposed

structures drawn to a scale of not less than twenty (20) feet to an

inch. The map shall show utilities, sidewalks, driveways, and other

items of importance. The applicant shall provide any information

required by the Zoning Administrator.

2. Processing of Applications: Upon receipt, the Zoning Ad­ministrator

shall forward copies of the application and accompanying maps,

information and reports to the Board of Zoning Appeals in the following

manner:

a. The Zoning Administrator within twelve (12) days of the

receipt of the application, accompanying maps, and information,

shall submit its report to the Board of Zoning Appeals.

b. The Board of Zoning Appeals shall give notice of and hold a

public hearing and shall take into consideration the Zoning

Administrator’s report and make its determination within sixty

(60) days of the original application date in accordance with the

provisions set forth in these Zoning Regulations. With written

approval from the applicant, the Board of Appeals may table said

application for further study.

c. When a determination has been reached, the Board of Zoning

Appeals shall forward its direction in writing to the Zoning

Administrator for action.

1. UNIQUENESS: The variance requested arises from conditions which are unique to the property in question, which are not ordinarily found in the same zoning district, and which are not caused by actions of the property owners or applicant. Such conditions include the peculiar physical surroundings, shape, or topographical condition of the specific property involved, which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.

2. ADJACENT PROPERTY: The granting of the variance will not be materially detrimental or adversely affect the rights of adjacent property owners or residents.

3. HARDSHIP: The strict application of the provisions of the zoning regulations from which a variance is requested will constitute an unnecessary hardship upon the applicant. Although the desire to increase the profitability of the property may be an indication of hardship, it shall not be a sufficient reason by itself to justify the variance.

4. PUBLIC INTEREST: The variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

5. SPIRIT AND INTENT: Granting the requested variance will not be opposed to the general spirit and intent of the zoning regulations.

6. MINIMUM VARIANCE : The variance requested is the minimum variance that will make possible the reasonable use of the land or structure.

Minutes of the public meeting, including evidence presented during the proceedings, and the findings of the Board of Zoning Appeals, shall be kept. Within sixty (60) days of the original application date the Board of Zoning Appeals may grant, grant conditionally, or deny the application for a variance. The Board of Zoning Appeals' written determination shall be sent to all affected parties, including the Planning Commission.

Attachment:

Variance Application