

PLANNING AND DEVELOPMENT

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Sec. 1-10. Variances.

The Planning Commission may authorize a variance when unnecessary hardships would result from carrying out the strict letter of this ordinance, the Planning Commission shall vary any of the provisions of the ordinance upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

~~The planning commission may authorize a variance from the provisions of this ordinance if such variance can be made without destroying the intent of this ordinance. Approval of variances shall be based upon written justification by the applicant and may be granted under one of the following circumstances:~~

- ~~(A) Physical hardship. Where because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of the ordinance would cause practical difficulties on the subdivider.~~
- ~~(B) Equal or better performance. Where, in the opinion of the planning commission, a variance will result in equal or better performance in furtherance of the purposes of this ordinance.~~
- ~~(C) Unintentional error. Where, through an unintentional error by the applicant, the applicant's agent, or the reviewing authorities, there is a minor violation of a standard of this ordinance and where such violation is not prejudicial to the value or development potential of the subdivision or adjoining properties.~~

In the event that the planning commission grants a variance, it shall be the minimum variance necessary in order to allow reasonable use of the applicant's land. Any variance granted by the planning commission shall require an affirmative vote of ~~two-thirds~~ **four-fifths** of the members of the planning commission ~~present at the meeting at which the variance is requested.~~ Any variance thus authorized is required to be entered in writing in the minutes of the planning commission with the reasoning on which the departure was justified set forth. In approving variances, the planning commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of this ordinance.

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