
1.13 Variances (Quasi-Judicial Application)

1.13.1. Purpose and Intent

- A. The purpose of a variance is to provide limited relief from the requirements of this LDR where a design alternative is not permitted and in those cases where strict application of LDR requirements will create a practical difficulty or unnecessary hardship, or where the requirements of this LDR render the land difficult to use because of some rare and unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested.
- B. Variances may not be requested for use; Sections 2.2.7 and 2.3.14 indicate where conditional uses may be permitted and which uses may be requested on such conditional basis.

1.13.2. Specific Application Requirements

- A. In addition to the requirements set out in Section 1.2, variance applications shall, at minimum, include a narrative justifying the need for a variance, referencing the standards from which the variance is requested, and responding to the items identified as decision criteria in Section 1.13.3.

1.13.3. Decision Criteria

- A. The Commission shall, based upon substantial and competent evidence, make an affirmative finding on each of the following in granting a variance application or find that the variance will correct a bona fide staff error that has led to design or construction that does not comply with the LDR:
 - 1. The particular physical surroundings, shape, topographical condition, or other physical or environmental condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
 - 2. The conditions upon which the request for a variance is based are unique to the parcel and would not be applicable, generally, to other property within the vicinity;
 - 3. The variance is not based on any conditions, including financial, occupational, or ability, which are personal to the applicant as applied to the property involved in the application;
 - 4. The alleged hardship has not been created by any person presently having an interest in the property or, if it was, it was created as a result of a bona fide error;
 - 5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity;
 - 6. The variance granted is the minimum variance that will make possible the reasonable use of the property; and
 - 7. The property cannot be put to a reasonable use which complies fully with the requirements of the Code unless the variance is granted.

1.13.4. Limitations on Power to Grant Variances

- A. In granting any variance, the Commission may prescribe additional conditions and safeguards to mitigate the required variance. Under no circumstances shall the Commission grant a variance to permit the establishment or expansion of a use not permitted under the terms of this chapter in the zoning district.
- B. In granting a variance, the decision shall be based upon the specific request, information, and testimony, and any variance granted shall not be grounds for establishing a precedent for any other variance request.

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- C. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and no permitted use of lands, structures or buildings in any other district, shall be considered grounds for the granting of a variance.

(Ord. No. 2022-15, § 3(Exh. B), 7-12-22)