

CHAPTER 10 LAND USE REGULATIONS

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Section 1020.01: CRITERIA FOR GRANTING VARIANCES. A variance from the provisions of the Zoning Ordinance may be issued by the Board of Adjustment to provide relief to the landowner in those cases where strict application of the regulations of the Ordinance would impose practical difficulties to the property owner in the use of his land. No use variances may be issued by the Board of Adjustments. A variance may be granted only in the event that all of the following circumstances exist:

- (1) That there are practical difficulties in complying with the Ordinance requirements. “Practical difficulties” means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.
- (2) That such variance is necessary to put the property to a reasonable use. Economic circumstances or the possibility of increased financial gain shall not in itself be deemed sufficient to warrant a variance;
- (3) That the granting of such variance is consistent with the intent and purpose of this Ordinance and the comprehensive plan;
- (4) That the condition or situation of the specific piece of property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such a condition or situation.

Section 1020.02: CONDITIONS. In granting a variance, the Board of Zoning Appeals may impose conditions which are directly related to and bear a rough proportionality to the impact created by the variance.

Section 1020.03: REQUIRED EXHIBITS FOR VARIANCES. The following exhibits shall be required unless waived by the Zoning Commission:

- (1) A certificate prepared by the Stearns County Auditor or by a Registered Abstractor showing all property owners' names and addresses within three hundred fifty feet of the outer boundaries of the property in question and
- (2) A boundary survey and preliminary building and site development plan prepared by a Registered Land Surveyor.

Section 1020.04: PROCEDURES. The procedure for obtaining a variance from the regulations of this Ordinance are as follows:

- (1) The property owner or his agent shall meet with the Zoning Administration to explain his situation, learn the procedures and obtain the appropriate form.

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- (2) The applicant shall file the completed application form accompanied by the required exhibits by the City Council and shall pay a filing fee as determined by the City Council.
- (3) The Zoning Administrator shall transmit the application to the Planning Commission for review and shall mail notice to all property owners within five hundred feet of the outer boundaries of the property in question; provided, however, that failure of any property owner to receive such notification shall not invalidate the proceeding. A similar notice shall also be published in the official City newspaper at least ten (10) days before the day of hearing for variance and appeal requests. The written and published notice shall state:
 - a. The date, time, and place of the public hearing;
 - b. The purpose of the public hearing;
 - c. The general scope of the proposed project, application or appeal.
- (4) The Planning Commission shall hold a public hearing on the proposed variance.
- (5) The Planning Commission shall, within sixty days after the hearing recommend one of three actions - approval, denial or conditional approval.
- (6) The recommendation of the Planning Commission shall be submitted to the Board of Adjustment for final decision.
- (7) Findings. The Board of Adjustments shall issue written findings stating the reasons for its decision and any conditions imposed, and send a copy of the findings to the Applicant by mail within ten (10) days after its decision. The Board of Adjustments must make a decision on each application within sixty (60) days after receiving the completed variance or appeal application, except that the Board of Appeals and Adjustments is allowed a longer time if:
 1. The Board of Appeals and Adjustments states in writing to the Applicant that a longer time is needed to protect against serious and significant harm to the public health, safety, or welfare, states the reason why, and specifies the additional time needed;
 2. The Board of Appeals and Adjustments states in writing to the Applicant that a longer time is needed to comply with state or federal requirements, states the requirements, and specifies the additional time needed;
 3. An agency that must take action on the application is a multimember board that meets periodically, in which case the agency must complete its action within sixty (60) days after its first meeting after receipt of the application, or within a longer period established under this subsection.
- (8) No application by a property owner for a variance shall be considered by the Board of Adjustment within a six month period following a denial of such a request, except that the Board of Adjustment may permit a new application if, in the opinion of the Board of Adjustment, new evidence or change of circumstances warrants it.
- (9) Revocation. The Board of Adjustment may revoke a variance if any conditions

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established by the Board as part of granting the variance request are violated.

- (10) Appeals. An appeal from any order, requirement, decision, or determination of any administrative official shall be made within 14 days by filing with the Board of Adjustment a notice of appeal specifying the grounds thereof.
 - a. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed. The reasons for the board's decision shall be stated in writing.
- (11) Decisions of the Board of Adjustments. All decisions by the Board of Adjustment in granting variances or in hearing appeals from any administrative order, requirement, decision, or determination shall be final, except that appeals from decisions of the Board of Adjustments may be made to the District Court.

Section 1020.05: BOARD OF ADJUSTMENTS. See Zoning Ordinance

Section 1020.06: FEES. The City Council shall establish a fee for variances, which shall be in an amount sufficient to reimburse the City for costs of mailing, publication, and staff time. The fee shall be as set forth in Section 215 of this Code.