

Chapter 16.53

VARIANCES

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16.53.010 Minor Variances.

A. The following variances shall be reviewed using a Type II procedure (see Chapter 16.89), using the approval criteria in subsection B, below. Applications shall be made on forms provided by the Planning Department.

1. Setbacks: up to a ten percent (10%) reduction to the setbacks required in the zone.

B. A minor variance may be granted if the applicant demonstrates compliance with all of the following criteria, if applicable:

1. The variance is required due to the lot configuration or other physical conditions of the site;
2. The variance is proposed in order to preserve trees or will not result in the removal of significant natural resources, including trees;
3. The variance will not reduce allowable lot size, violate landscaping requirements, or result in a violation of other chapters or sections of this ordinance; and
4. The variance will not be materially detrimental to other property within the same vicinity. (Ord. 1080, 2000)

16.53.015 Minor Sign Variance.

A. Authorization. The City Planner may authorize a Minor Variance from the requirements of this title for signage where variation from the strict application of the regulations of this title is warranted by reason of exceptional circumstances and specified conditions. In granting a Minor Sign Variance, the City Planner may attach conditions which he finds necessary to protect the welfare of the City and otherwise achieve the purposes of this title.

B. Procedure. The following Minor Sign Variance requests shall be reviewed using a Type II procedure as set forth for minor variances in Chapter 16.89. Application shall be made on forms provided by the Planning Department. Following review, a Minor Sign Variance request shall be approved, approved with conditions, or denied, based upon findings of conformance with the criteria set forth in subsection C.

1. Up to a 10 percent variance from a single numeric standard regulating the location, height, or size of a sign.

2. Variance from more than one numeric standard regulating the location, height, or size of a sign, where the sum of all the variance percentages does not exceed ten.

C. Standards and Criteria. A Minor Sign Variance may be granted if the applicant demonstrates all of the following criteria are met:

1. The variance is required due to the lot configuration or other physical conditions of the site;

2. The variance is proposed in order to preserve trees, or will not result in the removal of significant natural resources, including trees;

3. The variance will not reduce allowable lot size, violate landscaping requirements, or result in a violation of other chapters or sections of this ordinance; and

4. The variance will no be materially detrimental to other property within the same vicinity.

D. Major Variance. A request for a variance in excess of the limitations set forth in 16.53.015.B shall be reviewed using a Type III procedure as set forth for major variances in this Chapter and in Chapter 16.89. (Ord. 1299, 2008; Ord. 1339 2010)

16.53.020 Major Variances.

These provisions are intended to prescribe procedures which allow variations from the strict application of the regulations of this title, by reason of exceptional circumstances and other specified conditions:

A. Authorization. The commission may authorize variances from the requirements of this title, other than Division VII, where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the regulations would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the district in which the proposed use would be located. In granting a variance, the commission may attach conditions which it finds necessary to protect the best

interests of the surrounding property or neighborhood and to otherwise achieve the purpose of this title.

B. Standards and Criteria. A variance may be granted only upon determination that all of the following conditions are present:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the city and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control. Actions of previous owners do not constitute other exceptional or extraordinary circumstances; and

2. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone; and

3. Granting of this variance will not be materially detrimental to the intent or purposes of the city's Comprehensive Plan or the Land Development and Planning Ordinance; and

4. Granting of this variance will not be materially detrimental to other property within the same vicinity; and

5. The variance requested is the minimum variance which will alleviate the hardship; and

6. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives.

C. Variance to Requirements of Hazard Overlay (H) Zone. Variances may be issued for non-residential buildings in very limited circumstances to allow a lesser degree of flood proofing than water-tight or dry-flood proofing, where it can be determined that such action will have a low damage potential, complies with all other variance criteria, and otherwise meets the requirements of the Hazard Overlay Zone. (Ord.805 section 4, 1987; Ord. 804 section 4(A), 1987; Ord. 740 section 10.8.50, 1984; Ord. 981 section 14, 1997; Renum. and mod. by Ord. 1080, 2001)

16.53.030 Revocation of variances.

A. Automatic Revocation. All variances shall be automatically revoked if not exercised within one year from the date of approval, or such additional time as is specified by the granting body at the time of approval. Variances shall not be deemed exercised until the use of the property permitted by the variance has actually commenced or, in the event that such use involves construction, that all required permits for said construction have been obtained.

B. Revocation for Noncompliance. Any major variance may be revoked by the City Council for noncompliance with conditions set forth in the original approval, after first holding a public hearing and giving written notice of such hearing to the grantee.

C. Extension of approval. A one-time extension will be allowed if applied for no later than ninety (90) days prior to the expiration of the original approval. A request for extension must:

1. Not change the original application.
2. Explain specifically why an extension is needed.
3. A minor variance or minor sign variance extension shall be approved by the City Planner. A major variance extension shall be approved by the Planning Commission as a new business item.
4. If approved, those with standing on the original application shall be notified of the extension by mail. Those so noticed may obtain a public hearing on the extension by filing a request in writing within ten (10) days of the notice date. The public hearing shall follow the notice requirements and procedure for major variances. The cost of notification and any required public hearing must be borne by the applicant.
5. An extension shall not be granted for more than one (1) year. (Ord. 740 section 10.8.20(C), 1984; Ord. 955 section 31, 1996; Ord 1237, 2007; Ord. 1299, 2008)