

## Chapter 17.116

### VARIANCES

#### Sections:

- 17.116.010** Variance defined.
- 17.116.020** Grounds for granting variances.
- 17.116.030** Conditions.
- 17.116.040** Applications.
- 17.116.050** Notice of public hearing.
- 17.116.060** Effective date of decision.
- 17.116.070** Reconsideration of decision.
- 17.116.080** Revocation of variance.
- 17.116.090** Consolidations.

#### **17.116.010 Variance defined.**

Variances from the provisions of this title with respect to development standards such as lot dimensions, lot area, building coverage, yards, building height and parking requirements, may be granted for particular property, in the discretion of the granting authority, in accordance with the provisions of this section. (Ord. 617 § 1.1 Exh. A (part), 1996)

#### **17.116.020 Grounds for granting variances.**

No variance shall be granted unless it is found that:

A. There are exceptional or extraordinary circumstances or conditions applicable to the property such as size, shape or topography which do not apply generally to other properties in the vicinity with the same zoning;

B. The granting of a variance will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity with the same zoning;

C. The granting of a variance will not be materially detrimental to the public health, safety and general welfare or injurious to property and improvements in the area in which the property is located;

D. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other owners under like conditions in the same zoning district. (Ord. 617 § 1.1 Exh. A (part), 1996)

#### **17.116.030 Conditions.**

The granting of a variance may be subject to such conditions as the granting authority may deem to be appropriate or necessary to assure compliance with the intent and purpose of this title or to protect the public health, safety or welfare. (Ord. 617 § 1.1 Exh. A (part), 1996)

**117.116.040 Applications.**

A. Applications shall be filed with the Planning Department and shall be accompanied by the fee as provided in Section 17.12.050.

B. Application for a variance may be made only by the owner, purchaser under contract or lessee of the property for which the variance is requested, or his agent duly authorized in writing and shall:

1. Be in writing on forms furnished by the planning department, setting forth such information as the director may prescribe to assist in the investigation of the applications;

2. Set forth in detail the reasons for the requested variance including such facts as are relied upon to sustain the findings required in this chapter by section 17.116.020. The failure to set forth facts which would sustain such findings shall be sufficient ground for denial of the application. (Ord. 617 § 1.1 Exh. A (part), 1996)

**17.116.050 Notice of public hearing.**

As required by NRS 278. (Ord. 617 § 1.1 Exh. A (part), 1996)

**17.116.060 Effective date of decision.**

A. The decision of the board of adjustment shall be effective upon the adoption of a resolution setting the findings and conditions of approval.

B. A period of five working days is allowed after the public hearing and decision for any appeal of the decision.

C. After five working days, the planning department shall mail a letter to the applicant and each interested person who has previously filed with the department a written request therefore, the decision and conditions as approved by the board. (Ord. 617 § 1.1 Exh. A (part), 1996)

**17.116.070 Reconsideration of decision.**

A. In the event that an unsuccessful applicant or an interested person believes that the city council did not consider substantial relevant evidence, such person may petition the city council for a rehearing as provided hereafter.

1. A request for a rehearing must be filed with the city clerk for scheduling on the city council's meeting agenda.

2. A request for rehearing must be filed before five p.m. on the day the decision is to become effective.

B. At the next regular meeting after the filing of a written request for rehearing, the city council shall set a date for public hearing thereon. Notice of rehearing shall be given as provided in NRS 278.

C. The board may reaffirm its prior action or take such other action as may appear appropriate. Action must be taken within fifteen days of the rehearing. Action shall be taken by resolution with findings. (Ord. 617 § 1.1 Exh. A (part), 1996)

**17.116.080 Revocation of Variance.**

A. A variance shall be automatically revoked if not exercised within one year unless a longer period is specified in the approval.

B. The board of adjustment on its own motion at a public hearing may revoke any variance granted by it for non-compliance with the conditions set forth by the board in granting said variance.

C. The owner or lessee of the property for which the variance has been granted shall be given written notice at least ten days prior to a public hearing on any proposed revocation. (Ord. 617 § 1.1 Exh. A (part), 1996)

**17.116.090 Consolidations.**

Whenever an applicant for approval of a tentative subdivision map, special use permit or rezoning contemplates a need for a variance, he may concurrently file an application for a variance and in such case the planning commission shall be the granting authority. (Ord. 617 § 1.1 Exh. A (part), 1996)