

Chapter 17.66

VARIANCES

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17.66.010 Generally.

Variances from the provisions of this zoning title with respect development standards such as lot dimensions, lot area, building coverage, yards, building height and parking requirements may be granted for a particular property, in the discretion of the granting authority, in accordance with the provisions of this chapter. (Ord. 1-5-87A § 31 (part))

17.66.020 Required findings.

No variance will 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 property in the vicinity with the same district; and

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; and

D. The 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 district. (Ord. 1-5-87A § 31(A))

17.66.030 Conditions.

The granting of a variance may be subject to such conditions as the board of adjustment may deem to be appropriate or necessary to assure compliance with the intent and purpose of this zoning title or to protect the public health, safety or welfare. (Ord. 1-5-87A § 31(B))

17.66.040 Applications.

Applications for variances 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 will:

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- A. 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;
- B. Set forth in detail the reasons for the requested variance including such facts as are relied upon to sustain the findings required. The failure to set forth facts which would sustain such findings is sufficient ground for denial of the application;
- C. Applications will be filed with the planning department and will be accompanied by the fee prescribed therefore. (Ord. 1-5-87A § 31(C))

17.66.050 Public hearing-Decision.

- A. Date of Hearing. Upon receipt of an application for a variance the director of planning will, within fifteen days after receipt, set the matter for public hearing before the board of adjustment. The hearing will be held not more than sixty-five days after the initiation of proceedings.
- B. Notice. At least ten days before the date set for public hearing, the director will give notice by mail of the time place and the nature of the hearing to owners of property within a distance of three hundred feet of the exterior boundaries of the subject property, as the owners appear in the last adopted tax roll of the county.
- C. Hearing and Decision. At the time and place fixed for a hearing, the board of adjustment will hear relevant evidence as may be presented at the hearing, and the investigations as may be made by the director of planning and other departments, and shall, prior to the close of the hearing, issue a decision in writing denying, granting, or conditionally granting the requested variance setting forth its findings and conclusions.
- D. The decision of the board of adjustment shall be effective five working days after the issuance of the decision. (Ord. 1-5-87A § 31(D))

17.66.060 Revocation of variance.

- A. A variance is automatically revoked if not exercised within one year unless a longer period is specified in the approval. The board of adjustment on its own motion at a public hearing with or without a recommendation from the county commissioners, may revoke any variance granted by it for noncompliance with the conditions set forth by the board of adjustment in granting the variance. 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. 1-5-87A § 31(E))

17.66.070 Consolidations.

Whenever an applicant for approval of a tentative subdivision map, conditional 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 will be the granting authority. (Ord. 1-5-87A § 31(F))

17.66.080 Appeals.

A decision of the board of adjustment may be appealed to the planning commission only in accordance with the following provisions:

A. Who May File. An appeal may be filed by the applicant or interested person; however, the appeal must be filed before five p.m. on the day the decision is to become effective.

B. Filing. An appeal will be filed with the director of planning in writing and set forth the grounds of the appeal.

C. Hearing. At the next regular meeting after the filing of a written appeal, the planning commission shall set a date for public hearing thereon, not less than fifteen days or more than forty days thereafter. Notice of the appeal hearing will be given as provided in Section 17.66.050 (B).

D. Decision. The planning commission may approve the variance or disapprove the variance application by resolution. The decision will be made prior to the close of the hearing. The planning commission may add to or delete any of the conditions required by the board of adjustment.

E. Notice of Decision. Within five days after the decision is issued, the director will cause a notice of the decision to be mailed to the applicant and each interest person who has previously filed with the department a written request therefore. (Ord. 1-5-87A § 31(G))