

VARIANCES

Subd. 1. Purpose. Relief from certain provisions of this Ordinance may be granted when, due to the particular physical surroundings, shape or topographical condition of the property, compliance would result in a hardship upon the property owner. A hardship is distinguished from a mere inconvenience or a desire to increase the value of the property. A variance shall not be used to permit a use in a district where it is not allowed under the terms of this Ordinance. Variances shall only be granted in compliance with Minnesota Statue Section 462, any amendments to said Section subsequently adopted, and the provisions of this Ordinance.

Subd. 2. Procedure.

- 1) Requests for variances, as provided within this ordinance, shall be filed with the Zoning Administrator or Town Board on an official application form. Such application shall also be accompanied by the application fee and complimentary copies of detailed written and graphic materials fully explaining the proposed change, development and use.
- 2) The application shall be accompanied by a site plan of the proposed variance showing such information as may be necessary or desirable, including, but not limited to the following:
 - A. The names and addresses of the petitioner or petitioners, and their signatures to the petition.
 - B. A specific description of the area for which the variance is requested and addresses of all owners of property lying within five hundred (500) feet of such area, and a description of the property owned by each.
 - C. Proposed use of land for which variance is requested.
 - D. A statement of the compatibility of the proposed variance with the Township Comprehensive Plan.
 - E. A legal description of the property for which the variance is requested.
 - F. A detailed map of the property showing the location of proposed buildings, and dimensional variances requested, and existing land uses and buildings of adjacent properties.
- 3) After determining that the application has been properly filed and is complete, the Board of Appeals and Adjustments or its authorized agent shall schedule a public hearing to consider the request following proper

notification periods. Notice of such hearing shall be published in the official newspaper of the Township at least ten (10) days prior to the date of the hearing. Written notice shall also be sent to all property owners of record within five hundred (500) feet of the affected property in incorporated areas and unincorporated areas. A copy of the notice and a list of the property owners and addresses and local governments to which the notices were sent shall be attested to by the Zoning Administrator or Town Board and made part of official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bonafide attempt to comply with this subdivision has been made.

- 4) The Board of Appeals and Adjustments shall consider the request at the public hearing. The applicant or a representative thereof, shall appear before the Board of Appeals and Adjustments in order to answer questions concerning the requested variance.
- 5) The Board of Appeals and Adjustments or its agent shall have the authority to request additional information from the applicant or to retain expert testimony, at the expense of the applicant, when said information is declared necessary.
- 6) Following the public hearing at which the request was considered, the Board of Appeals and Adjustments shall make a finding of fact. Such findings shall be entered in and made a part of the written record of the Board of Appeals and Adjustments meeting.
 - A. Variations - In considering requests for variances, the Board of Appeals and Adjustments shall make a finding of fact as to whether the request meets all of the following cases.
 1. The proposed action will be in keeping with the spirit and intent of the Comprehensive Plan and Zoning Ordinance.
 2. The property in question cannot be put to a reasonable use if used under conditions allowed by this ordinance.
 3. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.
 4. The variance, if granted, will not alter the essential character of the locality or adversely impact the environment.
 5. The variance requested is the minimum variance which would alleviate the hardship.
 6. If the variance request meets all of the conditions of items (a) through (e) above, the variance may be granted. Economic

considerations alone shall not constitute an undue hardship if reasonable use of the property exists under the terms of the ordinance. Access to direct sunlight in cases of solar energy systems shall constitute grounds for granting a variance. The Board of Appeals and Adjustments and Township Board may not permit as a variance any use which is not permitted within the zone where the land is located.

- 7) The Board of Appeals and Adjustments shall recommend to the Township Board the approval or denial of the application based on its findings of fact.
- 8) Upon receiving the report and recommendations of the Board of Appeals and Adjustments, such reports and recommendations shall be entered in and made part of the permanent written record of the Township Board meeting. The Township Board shall approve or deny the application based upon the finding of whether the application meets all of the requirements as stated in paragraph F, above.
- 9) The Zoning Administrator or Town Board shall notify the applicant of the action.
- 10) A certified copy of every variance shall be filed with the County Recorder.
- 11) The decisions of the Township Board shall be final, subject to judicial review.
- 12) In the case of denial of the application, the applicant cannot reapply for the same amendment and project within six (6) months of the Board action.

Subd. 3. Expiration of Variance. Whenever within one (1) year after granting a variance, the work as permitted by the variance has not been completed, then such variance shall expire unless a request for extension of time in which to complete the work has been granted by the Board of Appeals and Adjustments. Such extension shall be requested in writing and filed with the Zoning Administrator or Town Board at least thirty (30) days before the expiration of the original variance. There shall be no charge for the filing of such request. The written request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance. Such request shall be presented to the Board of Appeals and Adjustments for a decision, and shall be requested only one time on a singular action.

Subd. 4. Performance Bond. The Board of Appeals and Adjustments shall have the authority to require a performance bond or other securities when it is deemed necessary and appropriate.

- 1) Except in the case of non-income producing residential property, upon approval of a variance the Board may require a surety bond, cash escrow certificate of deposit, securities or cash deposit prior to the issuing of land use permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the variance and the ordinances of the Township.
- 2) The security may be in the amount of the Board's estimated cost of labor and materials for the proposed improvements or development.
- 3) The Board may hold the security until completion of the proposed improvements or development and a certificate indicating compliance with the variance and ordinances of the Board has been issued by the Zoning Administrator or Town Board.
- 4) Failure to comply with the conditions of the variance and/or ordinances of the Board may result in forfeiture of the security.