

SECTION 19: VARIANCES

Subdivision 1. Variance Application.

1. Applications for variances shall be submitted to the County Zoning Administrator in the manner prescribed by the Board of Adjustment and shall be accompanied by fees as determined by the County Board.
2. The County Zoning Administrator shall forward the application to the Chairman of the Board of Adjustment who shall set a time for a public hearing to consider the application and shall direct the County Zoning Administrator to give due notice thereof.
3. Notice of the time, place and purpose of the public hearing to consider the application shall be given by publication in a newspaper of general circulation in the Township in which the property is located for which the variance is requested and in the official newspaper of the County. Said published notice shall be made at least ten (10) days prior to the date of the public hearing.
4. Notice of the time, place and purpose of the public hearing to consider an application for a variance shall be sent to all owners of record within five hundred (500) feet of the affected property or the ten (10) properties nearest to the affected property, whichever would provide notice to the greater number of owners.
5. Written notice shall be given to the Board of the Township within which the property is located and any municipality within two (2) miles of the affected property.
6. When, in the opinion of the Board of Adjustment, a variance may result in having an adverse effect on the environment, the Board may request the applicant to demonstrate the nature and extent of the effect.

Subdivision 2. Decisions.

1. The Board of Adjustment shall make its decision upon all application for variances and appeals within fifteen (15) days of the conclusion of the public hearing.
2. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit.
3. The reasons for a decision by the Board of Adjustment shall be stated in writing.
4. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
5. The Board of Adjustment may impose conditions in the granting of variances to insure compliance and to protect adjacent properties and the public interest.

6. A certified copy of any order issued by the Board of Adjustment acting upon an appeal or a request for a variance shall be filed by the County Zoning Administrator with the County Recorder for recording.
7. All decisions by the Board of Adjustment in granting variances or in hearing appeals shall be final except that any aggrieved person or persons or any department, Board of Commission of the Jurisdiction or of the State shall have the right to appeal within thirty (30) days, after receipt of notice of the decision, to the District Court in the County in which the land is located on questions of law and fact.

Criteria for Granting Variances

A variance to the provision of the Zoning Ordinance may be issued to provide relief to the landowner in those zones where the Ordinance imposes a practical difficulties to the property owner in the use of his land. No use variances (uses other than that permitted in the district) may be issued. A variance may be granted only in the event that the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of the property since enactment of this ordinance have had no control.
2. The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
3. That the special conditions or circumstances do not result from the actions of the applicant.
4. That granting the variance requested will not confer on the applicant any special privileges that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district.
5. The variance requested is the minimum variance which would alleviate the hardship
6. The variance would not be materially detrimental to the purpose of this Ordinance
7. Economic conditions or circumstance alone shall not be considered in the granting of this variance request.