

SECTION 27. VARIANCES

Subd. 1. Application.

- A. Except as provided in Section 18, a variance may be granted from the requirements of this Ordinance, including restrictions placed on non-conformities, provided the variance is in harmony with the general purpose and intent of this Ordinance and the Comprehensive Plan.
- B. A variance may be granted by the City Council when the applicant for the variance establishes that there are practical difficulties in complying with the provisions of this Ordinance. Economic considerations alone do not constitute practical difficulties. Practical difficulties mean that:
 - 1. The property owner proposes to use the property in a reasonable manner not permitted by this Ordinance;
 - 2. The plight of the landowner is due to circumstances unique to the property not created by the landowner;
 - 3. The variance, if granted, will not alter the essential character of the neighborhood.
- C. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
- D. Variances must be granted by the City for earth sheltered construction as defined in State law when in harmony with this Ordinance.
- E. A variance may not be granted which would allow the use of property in a manner not permitted allowed within the applicable zoning district, however the City Council may grant a variance for the temporary use of a single-family dwelling as a two family dwelling.
- F. The City Council may impose conditions in the granting of variances, provided the condition is directly related to and proportional to the impact created by the variance.

Subd. 2. Procedure.

- A. A request for a variance shall be filed with the Zoning Administrator on an application form provided by the City, along with the following items, as more fully described in the application form:
 - 1. Payment of the application fee.
 - 2. A certificate of survey prepared by a registered land survey for the property according to the requirements listed in the application form.
 - 3. A site plan or architectural plan, as appropriate, of the proposed building, addition or condition requiring the variance according to the requirements listed in the application form.

4. A written statement describing the variance, according to the requirements listed in the application form.
- B. After receipt of a complete application for a variance, the Zoning Administrator shall set a public hearing date before the Planning Commission. A notice of the hearing shall be published in the official newspaper, and mailed to the applicant and to all property owners within three hundred fifty (350) feet of the property to which the variance relates a minimum of ten (10) days before the hearing date. Failure of a property owner to receive notice shall not invalidate the hearing or proceeding.
- C. The Planning Commission shall hold the public hearing and make a recommendation to the City Council on the request for the variance within a reasonable period of time. The Commission shall base its recommendation on information provided by the applicant, comments received at the public hearing, staff reports and this Ordinance.
- D. The City shall review the recommendation of the Planning Commission, the information provided by the applicant, comments received at the public hearing, staff reports and this Ordinance. The City Council shall act on the variance request within sixty (60) days of a complete application. Approval of a variance request requires a four-fifths (4/5) affirmative vote of the entire City Council. The City Council may grant any reasonable conditions in accordance with this section.
- E. No request for a variance may be resubmitted for consideration sooner than six (6) months following a denial by the City Council.

Subd. 3 Terms of Variance

- A. A certified copy of the variance shall be filed by the applicant with the Hennepin County recorder if the variance applies to abstract property. The variance shall contain a legal description of the property affected.
- B. A variance shall become void within one (1) year following the date of City Council approval unless a building permit has been obtained from the City or substantial work has occurred for the project associated with the variance.

Subd. 4 Violations

- A. The violation of any term or condition of the variance shall constitute a violation of this Ordinance.