

Chapter 5.5: Variances

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5.501 Purpose and Applicability

Variances provide a mechanism for relief from the strict application of the Zoning Code where the strict application will deprive the property owner of privileges enjoyed by similar properties and imposes practical difficulty or unnecessary hardship on the property owner. Variances may be granted with respect to dimensional and performance standards including, but not limited to site dimensions, yards, height of structures, distances between structures, open space requirements, signage dimensions, fences, and walls. No variances from the use regulations of the Zoning Code shall be granted.

5.502 Procedures

- A. **Application.** An application for a variance shall be filed with the Community Development Department in accordance with the application procedures set forth in Chapter 5.2: Common Procedures. In addition to any other requirements specified, applications shall at a minimum include the following:
 - 1. Evidence showing why, due to unique circumstances applicable to the property, including its size, shape, topography, location or surroundings, strict application of the Zoning Code would create an unnecessary hardship or practical difficulty, as distinguished from a mere inconvenience, and deprive the property owner of property rights enjoyed by other property owners in the same zoning district.
 - 2. Evidence that the unique circumstances applicable to the property were or are not self-imposed by the applicant
 - 3. Evidence showing that the requested variance will not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and district in which the property is located.
 - 4. Evidence showing why granting the variance:
 - a. Substantially meets the intent and purpose of the zoning district in which the property is located.

- b. Will not be detrimental to the health, safety, and general welfare of persons living or working in the neighborhood.
 - c. Will not alter the essential character of the locality.
- B. **Public Notice.** Public notice shall be provided in accordance with the public notification procedures set forth in Section 5.205: Notice of Public Hearings.
- C. **Staff Report.** The Director shall prepare and transmit to the Zoning Board of Appeals (ZBA) a staff report, including an analysis and recommendation, setting forth any proposed findings and conditions upon which the ZBA may base its decision. A copy of the staff report shall be made available to the public and the applicant prior to the public hearing.
- D. **Public Hearing.** The ZBA shall conduct a public hearing in accordance with the procedures set forth in Section 5.206: Public Hearing Procedures. In addition, variance applicants and property owners shall have all rights under 65 ILCS 5/11-13-7a.
- E. **ZBA Recommendation.** The ZBA shall make a recommendation to the Community Development Committee within 30 days after the hearing is closed. The ZBA may recommend approval, approval with modifications and/or conditions, or denial.
- F. **Community Development Committee Recommendation.** The Community Development Committee shall consider a draft variance ordinance and the recommendations of the ZBA and City staff, and may recommend approval, approval with modifications and/or conditions, or denial of the ordinance.
- G. **City Council Action.** The City Council may approve, approve with modifications and/or conditions, or deny the variance ordinance. City Council approval of variance applications recommended for denial by the ZBA shall require a two thirds vote.
- H. **Appeal.** Decisions of the City Council regarding variances are final.

5.503 Required Findings

The Zoning Board of Appeals shall make a recommendation on a variance only after finding, prior to making the recommendation, that:

- A. There are unique circumstances applicable to the property, including its size, shape, topography, location or surroundings, strict application of the Zoning Code would create an unnecessary hardship or other practical difficulty, as distinguished from a mere inconvenience, and deprive the property owner of property rights enjoyed by other property owners in the same zoning district; and
- B. Such unique circumstances were not created by the applicant; and

- C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and
- D. The variance will not alter the essential character of the locality.

5.504 Use Variances Prohibited

The City Council by granting a variance shall not approve any changes in the uses permitted in any zoning district or approve any modification of the requirements of the Zoning Code that would have the effect of allowing the establishment of a use not otherwise permitted.

5.505 Conditions of Approval

In approving a variance, the City Council may impose reasonable conditions to:

- A. Achieve the general purposes of the Zoning Code or the specific purposes of the zoning district in which the site is located, or to make it consistent with the Comprehensive Plan or a redevelopment plan;
- B. Protect the public health, safety, and general welfare;
- C. Require that the property that is the subject of the variance be developed in a manner consistent with the proposal approved by the Board; or
- D. Insure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.

5.506 Effective Date

The variance ordinance shall be in full force and effect upon its presentation, passage and publication according to the law. No building, grading, or construction permit shall be issued until the variance is effective.

5.507 Expiration

A variance shall expire:

1. Six months from the effective date of the ordinance unless the use is commenced;
or
2. Six months from the effective date of the ordinance unless a building permit is issued for the improvements approved by the ordinance and work is completed pursuant to the issued building permit.