

SECTION 27. VARIANCES.

Subd. 1. Application.

- A. Except as provided in Section 18, a variance may be requested only by the owner of the property (petitioner) to which the variance would apply. A variance may not be granted which would allow the use of property in a manner not permitted within the applicable zoning district, provided that the Planning Commission may recommend, and the city council may grant a variance for the temporary use of a single-family dwelling as a two family dwelling. In recommending the granting any variance, and in granting the variance, the Planning Commission and city council respectively may prescribe conditions, to ensure substantial compliance with the ordinance and to protect adjacent property, including without limitation, an expiration date. The violation of any written condition(s) shall constitute a violation of this Ordinance.
- B. A request for a variance shall be filed with the Building Official and Zoning Administrator on a form prescribed by the City. Along with the variance application, the following minimum requirements, without limitation, shall be satisfied:
 1. A pre-application meeting with City staff during which the appropriate application procedures, requirements and applicable Code provisions and reviewed and explained.
 2. Payment of the application fee.
 3. A site plan drawn at scale showing all abutting lots, existing buildings, existing uses, utilities, curb cuts, locations of trees having a diameter of six (6) inches or more.
 4. A proposed development plan showing proposed ingress and egress to the property and proposed structures, yards, off-street parking and loading areas, and where appropriate, plans for utilities, screening, buffering, landscape, lighting, signs and open space, and a development schedule.
 5. A written statement describing the variances, the intended use of the property and how the request would met the findings outlined in Section 27, Subd. 2. of this Ordinance.
- C. No request for a variance may be resubmitted sooner than six (6) months following a denial. A variance shall become void within one (1) year following issuance unless substantial action has been taken by the petitioner in reliance thereon.

Subd. 2. Findings. A variance may be recommended by the Planning Commission of Adjustment, and granted by the city council only if by four-fifths (4/5) vote of the entire council it finds:

1. That the literal enforcement of the ordinance would cause undue unnecessary, unavoidable, extreme) hardship.
2. That the hardship caused by special conditions and circumstances which are peculiar to the land and structure involved and which are not characteristic of, or applicable to, other lands or structures in the same district.
3. That the literal application of the provisions of this ordinance would deprive the petitioner of the rights enjoyed by other properties in the same district under the terms of this Ordinance.
4. That the special conditions and circumstances are not a consequence of the petitioner's own action or inaction.
5. That the variance will not be injurious to or adversely affect the health, safety or welfare, of the residents of the City or the neighborhood wherein the property is situated and will be in keeping with the spirit and intent of the ordinance.

Subd. 3. Procedure.

- A. Hearing. On receipt of the complete request for a variance the Planning Commission shall set a date for a hearing thereon which shall occur not later than sixty (60) days following the City's receipt of the completed request for variance. Not less than ten (10) days before the date of the hearing, notice of the hearing shall be mailed to the petitioner, be published in the official newspaper, and be mailed to each owner of property situated wholly or partly within three hundred fifty (350) feet of the property to which the variance relates. Failure of a property owner to receive notice shall not invalidate the hearing or proceeding.
- B. Planning Commission Recommendation. The city council shall make no decision on a request for variance until the Planning Commission has had a reasonable opportunity, not to exceed sixty (60) days, to review and make recommendations to the city council upon the variance. Within a reasonable time after the hearing, the Planning Commission shall make its recommendation on the matter which shall be transmitted to the city council for decision. The recommendation of the Planning Commission shall be in accordance with the provisions of the zoning ordinance.

- C. Council Action. On receipt of the report of the Planning Commission, the council shall review the recommendations of the Planning Commission on the request for variance from the literal provisions of the ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. The decision of the city council shall be in accordance with the provisions of the zoning ordinance, and shall transmit its decision to the petitioner by mail. The council shall act to approve the request for variance by a four-fifths (4/5) vote of the entire council, and may grant any reasonable conditions as it deems appropriate in accordance with the zoning ordinance.

- D. Recording. 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.