

CHAPTER 5
VARIANCES

SECTION:

- 9-5-1: Purpose
- 9-5-2: Application Procedures
- 9-5-3: Hearing Procedures
- 9-5-4: Expiration Of Variance Approval

9-5-1: **PURPOSE:** The commission may authorize, in specific cases, such variances from the bulk requirements of this title as will not be contrary to the public interest, and when, due to natural site characteristics, compliance with the bulk requirements of this title would result in undue hardship. No nonconforming use of neighboring lands, structures or buildings and not allowed or nonconforming use of lands, structures or buildings shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of conveniences or profit, but only where strict application of the bulk provisions of this title would result in unnecessary hardship or inequity. Variance shall not be granted to allow a use where such use is prohibited by this title. (Ord. 426, 7-8-2002)

9-5-2: **APPLICATION PROCEDURES:** At least one owner or lessor, with the written permission of the property owner, of the property for which such variance is proposed shall file an application for a variance with the administrator. Application procedures are outlined in chapter 11, "Administration", of this title. (Ord. 426, 7-8-2002)

9-5-3: **HEARING PROCEDURES:** Following the acceptance of the complete variance application by the administrator and prior to granting a variance, a public hearing shall be held to review the variance request.

- A. Notification Of Hearing: Notification procedures are outlined in chapter 11, "Administration", of this title.
- B. Action By Hearing Body: Variance requests shall be heard by the planning and zoning commission. The planning and zoning commission shall consider the facts and circumstances of each variance application and shall make findings of fact based upon the following:
1. Special conditions and circumstances exist that are peculiar to the land, structure or building involved and that are not applicable to other lands, structures or buildings.
 2. A literal application of the provisions of this title would deprive the applicant of rights commonly enjoyed by like properties under the terms of this title.
 3. The hardship and/or unique circumstances do not result from actions or desires of the applicant.
 4. Granting the variance will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings.
 5. The relief granted by the variance will not be detrimental to the public health, safety, or welfare, or injurious to the property or improvements of other property owners, or the quiet enjoyment of such property or improvement.
- C. Conditions Of Approval: In approving any variance request, the commission may prescribe appropriate conditions in conformity with this title.
- D. Commission Actions: Following the public hearing, the commission shall approve, conditionally approve, or deny the application. The commission may table the item for further review or delay a decision for up to one hundred twenty (120) days for further study or hearing. The action must state, in writing:
1. The standards used in evaluating the application.
 2. The reason(s) for the decision. (Ord. 426, 7-8-2002)

9-5-4: **EXPIRATION OF VARIANCE APPROVAL:** Unless a longer time is specifically established as a condition of approval, a variance approval shall be considered void twelve (12) months following the effective date of the approval if construction is not being diligently pursued toward completion. (Ord. 426, 7-8-2002)