

PROPOSED ZONING AMENDMENTS FOR MARCH 2009

Purpose: revise to make a distinction between “use” and “area” variances.

ARTICLE XX BOARD OF ADJUSTMENT

20.1.4. The board of adjustment may authorize a variance from the terms of this ordinance only where the board finds that all of the following conditions apply:

20.1.4.1. The granting of the variance would not be detrimental to the convenience, welfare, and character of the district within which it is proposed, and would not diminish surrounding property values.

20.1.4.2. The granting of the variance will be in harmony with the general purposes and intent of the ordinances.

20.1.4.3. The granting of the variance would not be injurious or otherwise detrimental to the public welfare.

20.1.4.4. The specific variance as granted is the minimum variance that will provide reasonable relief to the owner, and is the minimum necessary for the reasonable use of the property.

20.1.4.5. There are special circumstances or conditions applying to the land or structure for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness, or shape of the property in question, or exceptional topographical conditions), which are peculiar to such land or structure, and the application of the requirements of this ordinance will deprive an owner of such property a reasonable use of it, and will impose upon such owner a hardship not shared by the owners of other property in the same district.

Amend by striking sections 20.1.4.1., 20.1.4.2., 20.1.4.3., 20.1.4.4., and 20.1.4.5. in their entirety and replacing them with the following sections:

20.1.4.1. There would not be a diminution in value of the surrounding properties as a result of the grant of the variance requested.

20.1.4.2. The grant of the variance requested would not be contrary to the public interests.

20.1.4.3. By granting the variance requested, substantial justice would be done.

20.1.4.4. The requested variance would not be contrary to the spirit of the ordinance.

20.1.4.5. Unnecessary Hardship.

- A. With respect to a use variance requested, the Board finds:
 - i. The zoning ordinance as applied to the property interferes with the reasonable use of the property considering the unique setting of the property in its environment.

ii. There is not a fair and substantial relationship between the general purposes of the zoning ordinance and the specific restriction on the property.

iii. That the requested variance would not injure the public rights or the private rights of others.

B. With respect to an area variance requested, the Board finds:

i. The area variance is necessary in order to allow the development as designed due to special conditions of the property.

ii. The same benefit cannot be achieved by some other reasonably feasible method that would not impose an undue financial burden.