

CHAPTER 14
VARIANCES

SECTION:

- 10-14-1: Power To Vary Or Adapt
10-14-2: Required Criteria
10-14-3: Additional Conditions
10-14-4: Procedure; Hearing

10-14-1: **POWER TO VARY OR ADAPT:** The Board of Adjustment shall have power to vary or adapt the strict application of any of the requirements of this Title in the case of exceptionally irregular, narrow or shallow lots, or other exceptional physical condition, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other uses except as specifically described. (Ord. 18, 5-1-1978)

10-14-2: **REQUIRED CRITERIA:** No variance in the provisions or requirements of this Title shall be authorized by the Board of Adjustment unless it finds evidence that all the following facts and conditions exist:

- A. There are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.
- B. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity. The possibility of increased financial return shall not in itself be deemed sufficient to warrant a variance.

- C. The authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Title or the public interest.
- D. The condition or situation of the specific piece of property or the intended use of said property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation. (Ord. 18, 5-1-1978)

10-14-3: **ADDITIONAL CONDITIONS:** In granting a variance, the Board of Adjustment may impose conditions to ensure compliance and to protect adjacent properties. The Board of Adjustment may not permit as a variance any use that is not permitted under this Title for the property in the district where the affected person's land is located. (Ord. 18, 5-1-1978)

10-14-4: **PROCEDURE; HEARING:**

- A. **Public Hearing:** Within sixty (60) days after receipt of the filing of a request for a variance or an appeal from an administrative order or determination, the Board of Adjustment shall hold a public hearing thereon, and shall hear such persons as wish to be heard, either in person or by agent or attorney.
- B. **Notice Of Hearing:**
 - 1. **Publication:** Notice of such hearing shall be published in a newspaper of general circulation at least ten (10) days prior to the date of hearing.
 - 2. **Mailing:** In addition, notice of such hearing shall be mailed not less than ten (10) days before the date of hearing to the person or persons who filed the appeal or request and in the case of a request for a variance to each owner of property situated wholly or partly within three hundred feet (300') of the property to which the variance relates. A map containing the names and addresses of property owners within three hundred feet (300') of the property whereon the variance is requested shall be submitted with and made a part of the application for variance.
- C. **Order Of Board:** Within a reasonable time after the hearing, the Board of Adjustment shall make its order deciding the matter and

10-14-4

10-14-4

serve a copy of such order upon the appellant or the petitioner by mail. (Ord. 18, 5-1-1978)