

Ordinance Related to Variances

Chapter 14, Part 5. Procedures §5.5.3 Considerations by the City Council

- A.** The City Council may authorize a variance from these regulations if and only if the City Council determines all of the following:
- (1)** the variance will not be contrary to the public interest;
 - (2)** there are special conditions;
 - (3)** because of the special conditions, literal enforcement of the ordinance would result in unnecessary hardship;
 - (4)** the spirit of the ordinance will be observed; and
 - (5)** substantial justice is done.
- B.** For land being used or developed for a reason other than a homeowner building or improving the homeowner's residence:
- (1)** In a case pertaining to a variance related to a structure, the City Council may consider the following as grounds to determine whether compliance with the ordinance would result in an unnecessary hardship:
 - (a)** the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor of the municipality under Section 26.01, Texas Tax Code;
 - (b)** compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
 - (c)** compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - (d)** compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (e)** the municipality considers the structure to be a non-conforming structure.
 - (2)** In all other cases under this Subsection B, there is no unnecessary hardship unless:
 - (a)** The Ordinance does not permit any reasonable use of the land unless the variance is granted;
 - (b)** The hardship complained of is not self-created; and
 - (c)** The hardship complained of is not a financial hardship only.
- C.** In granting a variance, the City Council shall prescribe only conditions that it deems necessary to or desirable in the public interest.
- D.** In making the findings hereinbelow required, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the area, and the probable effect of such variance upon traffic conditions and upon the public health, safety, and general welfare in the vicinity.
- E.** Variances may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety, and welfare may be secured, and substantial justice be done.
- F.** The findings of the City Council made in granting a variance, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which such variance is granted.

**Please provide detailed information for consideration by the P&Z and City Council.
Use additional pages if necessary:**

1. Is the variance request contrary to the public interest? ☐ YES ☐ NO

2. Are there any special condition(s) affecting the property. ☐ YES ☐ NO

3. Explain the unnecessary hardship caused by the special condition(s).

4. Will the spirit of the ordinance be observed and substantial justice be done if the variance is granted? Please explain. ☐ YES ☐ NO

5. Is this land being used or developed for a reason other than a homeowner building or improving the homeowner's residence? ☐ YES ☐ NO

6. If YES checked above, do any of the unnecessary hardships in **Section B** apply to your variance request? Please explain.

7. I **affirm** that I have read, Chapter 14, Part 5, §5.5.4, Lapse of Variance. ☐ YES

A. Any rights authorized by a variance which are not exercised within **one (1) year** from the date of granting such variance shall lapse and may be reestablished only after a new application, notice and hearing pursuant to Section 5.5.

B. The City Council may waive the requirement for the payment of fees for such variance renewal application if there has been no material change of conditions pertaining to the property since the granting of the first variance.

APPLICANT SIGNATURE: _____

DATE: _____