



Planning and Zoning Variance Criteria: Ordinance and Request for Variance

Ordinance Related to Variances

5.1.1. 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 affecting the property;
 - (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, there is no unnecessary hardship unless:
 - (1) Without the variance, the Smithville Code of Ordinances does not permit any reasonable use of the land;
 - (2) The hardship complained of is not self-created; and
 - (3) The hardship complained of is not a financial hardship only.
 - (4) the cost of compliance with the zoning ordinance is greater than 50 percent of the appraised value of the structure as shown on the most recent certified appraisal roll; or
 - (5) 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; or
 - (6) compliance would result in the structure not in compliance with a requirement of another city ordinance, building code, or other requirement; or
 - (7) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (8) the city considers the structure to be a nonconforming structure.
- 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 herein below 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.



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Request for Variance

Please answer the following questions as detailed as possible so that the City Council has enough information to consider this request, include information on additional pages if necessary:

Will granting this variance have any negative effect on the good order and functioning of the community and government affairs for the well-being of citizens?

Explain the special condition affecting the property.

Explain the unnecessary hardship caused by the special condition.

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 is done. Will substantial justice be done if this variance is granted? Explain.

For land being used or developed for a reason other than a homeowner building or improving the homeowner's residence, there is no unnecessary hardship unless:

- (1) Without the requested variance, the Code of Ordinances of the City of Smithville does not permit any reasonable use of the land;
- (2) The hardship complained of is not self-created; and
- (3) The hardship complained of is not a financial hardship only.
- (4) The cost of compliance with the zoning ordinance is greater than 50 percent of the appraised value of the structure as shown on the most recent certified appraisal roll;
or
- (5) 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; or
- (6) Compliance would result in the structure not in compliance with a requirement of another city ordinance, building code, or other requirement; or
- (7) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (8) The city considers the structure to be a nonconforming structure

Explain how the unnecessary hardship meets all of the above criteria.

[] By checking this box, I affirm that granting this variance will not negatively affect 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.

Other Comments:

Signature: _____ Print Name: _____ Date: _____