

CHAPTER 4. VARIANCES

- 2-4-1. Board of adjustment - Appointment - Term - Vacancy.** (Repealed)
- 2-4-2. Organization - Procedures.** (Repealed)
- 2-4-3. Powers and duties.**
- 2-4-4. Appeals.** (Repealed)
- 2-4-5. Routine and uncontested matters.** (Repealed)
- 2-4-6. Repealed.** (Ord. 93-08, 05-13-93)
- 2-4-7. Variances.**
- 2-4-8. District court review of board of adjustment decision.** (Repealed)

2-4-1. Board of adjustment - Appointment - Term - Vacancy. (Repealed)
(Ord. 2016-15, 10-19-2016)

2-4-2. Organization - Procedures. (Repealed)
(Ord. 2016-15, 10-19-2016)

2-4-3. Powers and duties.
(1) The administrative hearing officer shall hear and decide:

- (a) appeals from zoning decisions applying the zoning ordinance; and
- (b) variances from the terms of the zoning ordinance.

(2) The Zoning Administrator may make determinations regarding the existence, expansion, or modification of nonconforming uses.
(Ord. 2016-15, 10-19-2016) (Ord. 2006-24, 11-15-2006) (Ord. 1993-08, 05-13-1993)

2-4-4. Appeals. (Repealed)
(Ord. 2016-15, 10-19-2016)

2-4-5. Routine and uncontested matters. (Repealed)
(Ord. 2016-15, 10-19-2016)

2-4-6. Repealed.
(Ord. 2006-24, 11-15-2006)

2-4-7. Variances.
(1) Any person or entity desiring a waiver or modification of the requirements of the zoning ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the administrative hearing officer for a variance from the terms of the zoning ordinance.

- (2) (a) The administrative hearing officer may grant a variance only if:
- (i) literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance;
 - (ii) there are special circumstances

attached to the property that do not generally apply to other properties in the same district;

(iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;

(iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and

(v) the spirit of the zoning ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection (2)(a), the administrative hearing officer may not find an unreasonable hardship unless the alleged hardship:

(A) is located on or associated with the property for which the variance is sought; and

(B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(ii) In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection (2)(a), the administrative hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the administrative hearing officer may find that special circumstances exist only if the special circumstances:

- (i) relate to the hardship complained of; and
- (ii) deprive the property privileges granted to other properties in the same district.

(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(4) Variances run with the land.

(5) Use variances shall not be granted.

(6) In granting a variance, the administrative hearing officer may impose additional reasonable conditions on the applicant that will:

(a) mitigate any anticipated detrimental effects of the variance; or

(b) serve the purpose of the zoning standard or requirement that is waived or modified.

(Ord. 2016-15, 10-19-2016) (Ord. 1993-08, 05-13-1993)

2-4-8. District court review of board of adjustment decision. (Repealed)
(Ord. 2016-15, 10-19-2016)