
30.11 Variances

When an applicant has a condition of development that requires a variance from the requirements of these Zoning Regulations, an application may be submitted to request a Variance from the Board of Zoning Adjustment.

A. Application Filing

Variance applications shall be submitted to the Planning and Zoning Department on forms available in the Planning and Zoning Department.

B. Public Hearing Notice

Written and Published notice of the Board of Zoning Adjustment's public hearing on the Variance request shall be provided in accordance with Article 30.1H-1 and Article 30.1H-2.

C. Board of Zoning Adjustment Action

The Board of Zoning Adjustment shall hold a public hearing on the proposed Variance and take final action based on the Approval Criteria of Article 30.11D.

D. Approval Criteria

1. Use Variances

A Variance that would have the effect of allowing a use that the underlying zoning district prohibits may be granted by the Board of Zoning Adjustment if the Board of Zoning Adjustment determines that all of the following conditions have been met:

- a. the requested Variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;
- b. the granting of the permit for the Variance will not be contrary to the public interest and will not adversely affect the rights of adjacent property owners or residents;
- c. the strict application of the provisions of which the Variance is requested will constitute a practical difficulty because the property cannot be used for an otherwise permitted use without coming into conflict with applicable site development standards; and
- d. the Variance desired will not adversely affect the public health, safety, or general welfare, nor destroy the intent of the *Comprehensive Plan*.

2. Non-Use Variances

A Variance that does not have the effect of allowing a use that the underlying zoning district prohibits may be granted by the Board of Zoning Adjustment if the Board of Zoning Adjustment determines that all of the following conditions have been met:

- a. the requested Variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;
- b. the granting of the permit for the Variance will not be contrary to the public interest and will not adversely affect the rights of adjacent property owners or residents;
- c. the strict application of the provisions of which a Variance is requested will constitute an unnecessary hardship upon the property owner represented in the application; and
- d. the Variance desired will not adversely affect the public health, safety, or general welfare, nor destroy the intent of the *Comprehensive Plan*.

3. Conditions of Approval

In acting to approve a Variance, the Board of Zoning Adjustment may impose conditions deemed necessary to eliminate or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and intent of these Zoning Regulations, so long as the condition relates to a situation created or aggravated by the proposed use and is roughly proportional to its impact. Such conditions may include site design requirements and time limitations on the Variance.

4. Appeals

Any person aggrieved by a decision of the Board of Zoning Adjustment on a Variance application may present to the Circuit Court of Ray County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days of the date of the Board of Zoning Adjustment's decision on the matter.

REQUEST FOR VARIANCE

To the Ray County Board of Zoning Adjustment:

I, _____, make this request for variance on the following described property: _____

Location of property _____

Property is zoned as district: _____ Number of acres: _____

Please indicate in as much detail as possible the reason for the variance request, proposed plans, drawings, and any other information you feel would be helpful in evaluating your request: _____

The applicant must obtain a list of surrounding property owners within 600 feet of the property from a licensed abstractor, title company, registered surveyor or a similarly qualified person. The list of surrounding property owners must be attached and returned with this application.

Applicant's Name _____

Applicant's Mailing Address: _____

Applicant's Telephone Number: _____

Email Address: _____

Date _____ Signature of Applicant _____

_____ DO NOT WRITE BELOW THIS LINE _____

Received by Board of Zoning Adjustment _____

Request: Granted Denied Vote: Yea _____ Nay _____

Remarks: _____ Chairman _____ Date _____