

**ARTICLE 24
VARIANCES**

7 TCC 1-24 (a) Purpose. In order to provide for the orderly consideration of variances in the application of this ordinance, in harmony with its general purpose and intent, but where there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations established by this Ordinance, the following procedures are adopted.

7 TCC 1-24 (b) Authority.

- (1) The Community Development Administrator may approve applications for variances, without further action of the Zoning Board of Appeals in the following circumstances:
 - i. To permit any setback that is less than the setback permitted by the applicable regulations of the zoning district, but by not more than ten percent (10%).
 - ii. To increase the height of any structures or the lot coverage of any lot or parcel, but by not more than ten percent (10%).
 - iii. To permit the use of a lot or lots not of record on the effective date of this ordinance, for a purpose otherwise prohibited solely because of insufficient area or width of the premises involved, if the area or width of such premises is not less than ninety percent (90%) of that required.
- (2)
 - i. For variances to be approved solely by the Community Development Administrator, a notice of the intent to grant such variance shall be sent by certified mail to all adjoining landowners. If any adjoining landowner files a written objection with the Community Development Administrator within 15 days of receipt of the notice, the variance shall be referred to the Zoning Board of Appeals for hearing.
 - ii. Variances approved solely by the Community Development Administrator shall list in writing a findings of fact upon which approval or denial of the Variance is based.
- (3) The Zoning Board of Appeals may approve or deny applications for variances, and shall issue findings of fact in support of any approval or denial.
- (4) When the Zoning Board of Appeals cannot issue a decision due to a lack of four concurring votes, Variances in the application of this ordinance, shall be granted only by the County Board by ordinance after considering the findings and recommendations of the Zoning Board of Appeals and recommendation of the Land Use Committee.

7 TCC -1-24 (c) Application for Variance. Requests for Variance shall be filed with the Community Development Administrator and shall include, but shall not be limited to, the following information:

- (1) The names and address of the applicant and the name and address of the owner if applicant is not such owner;
- (2) The legal description and address (if available) of the premises;
- (3) The variance sought and the need for such variance requested;
- (4) The present zoning classification of the proposed property and surrounding zoning classifications;
- (5) A site plan in the size of 11" x 14"

7 TCC 1-24 (d) Standards for Variances. In evaluating Variance requests, the following factors shall be considered, not one of which shall be controlling:

- (1) That the particular surroundings, shape or topographical conditions of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
- (2) That the conditions upon which a petition for a variance are based are unique to the property for which the variance is sought and are not applicable, generally, to other property with the same zoning classification;
- (3) That granting the variance will not be detrimental to the public welfare, nor injurious to other property or improvements in the neighborhood in which the property is located;
- (4) That the proposed variance will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion in public streets or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood;
- (5) That the purpose of the variance is not based exclusively upon a desire to increase the monetary gain realized from the property;
- (6) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district;
- (7) That the alleged difficulty or hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property;
- (8) That the plight of the owner is due to unique circumstances.

7 TCC 1-24 (e) Conditions. Approval of a variance may be made subject to such conditions as are necessary to carry out the purposes of these regulations and to prevent or minimize adverse effects upon other property in the neighborhood.

7 TCC 1-24 (f) Action by Zoning Board of Appeals.

- (1) The ZBA shall conduct a public hearing to consider any variance from the terms of these regulations in accordance with the requirements of Article 27 (Application and Hearing Procedures).
- (2) The ZBA shall review the application and the testimony at the public hearing and shall grant the variance requested subject to specified conditions, or deny the variance.
- (3) The report of the ZBA in granting or denying a variance shall contain a findings of fact specifying the reason for their decision.

7 TCC 1-24 (g) Fees. The petitioner shall pay all required fees associated with the request as well as the required publication costs. The filing fee shall be paid to the Community Development Administrator at the time of filing of the Variance and the publication cost shall be paid prior to any final disposition of the request by the ZBA.