

(d) Whether the proposed amendment addresses concerns or problems recognized by the Zoning Commission or City Council.



(C) **Variances**

(1) **Purpose and Scope**

The Variance process is intended to provide limited relief from the strict requirements of this ordinance in those cases where strict application of a particular requirement will create practical difficulties due to circumstances unique to the individual property under consideration. It is not intended that Variances be granted to allow a use not permitted by the underlying zoning district, nor to merely remove inconveniences or financial burdens that the requirements of this ordinance may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant’s act or omission.

(2) **Initiation of Proceedings**

Variances shall be initiated by an owner of property or an authorized representative of an owner pursuant to Section 2.3(B), Authority to File Applications.

(3) **Application**

(a) All applications for a Variance shall be in accordance with Section 2.3, Common Review Procedures & Requirements.

(b) In addition to the common review requirements, applications for a Variance shall also include the following:

- (i) A written narrative demonstrating that the criteria for a variance as set out in Section 2.4(C)(4)(a) have been met.
- (ii) An up-to-date survey of the property showing all information necessary to allow the City to determine conformance with all zoning provisions, and to calculate the specific variance being requested. Information shall include but not be limited to:
 1. Property and structure dimensions;
 2. Setback dimensions/measurements;
 3. Parking and access locations and dimensions.

Section 2.3:
Common Review
Requirements

(4) Review

(a) Variance Criteria

Approval of a Variance requires that the City find that all of the following criteria are satisfied, as they may be modified from time to time by statute or interpretative court decisions:

*MN Statute 462.357
(6)(2) variances*

- (i)** The request is in harmony with the general purposes and intent of this ordinance.
- (ii)** The variances is consistent with the comprehensive plan.
- (iii)** The applicant can establish there are “practical difficulties” in complying with the zoning ordinance based on the following:
 1. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
 2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
 3. A Variance, if granted, will not alter the essential character of the locality.

(b) Practical Difficulties and Variance Guidelines

- (i)** Economic considerations alone shall not constitute a sufficient basis for granting a Variance if reasonable use for the property exists under the terms of the ordinance.
- (ii)** Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
- (iii)** Variances shall be granted for earth sheltered construction, as defined by State Statute, when in harmony with the ordinance.
- (iv)** A variance to permit a use that is not otherwise allowed by this ordinance is prohibited.
- (v)** Variances may be granted to permit the temporary use of a one-family dwelling as a two-family dwelling.

Section 2.3(I):
Public Notification

(c) Planning Commission

- (i) Before any variance is considered by the Board of Adjustments and Appeals, the Planning Commission shall review the request and take public input as it deems appropriate.
- (ii) Following discussion, the Planning Commission shall adopt findings and recommendations on the proposed variance for consideration by the Board of Adjustment and Appeals.
- (iii) The Zoning Administrator may forward an application to the Board of Adjustment and Appeals without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

(d) Board of Adjustment and Appeals

- (i) Before any variance is adopted, the Board of Adjustment and Appeals shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).
- (ii) Following the hearing, the Board of Adjustment and Appeals shall adopt findings of fact and recommendations on the proposed variance as soon as practical.
- (iii) Approval or denial of a Variance shall require a majority vote of the Board of Adjustment and Appeals.
 - a. In approving a variance, the Board of Adjustment and Appeals may impose conditions on the approval as deemed appropriate to ensure compliance with the approval and to protect adjacent properties. Any conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.
 - b. Denial of any request shall be accompanied by findings of fact as to how the request did not meet one or more of the review criteria.

(5) Effect of a Variance

- (a) The issuance of a Variance shall authorize only the particular variation that is approved by the Board of Adjustment and Appeals.
- (b) A Variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(6) Subsequent Development

Development authorized by the Variance shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable chapters or regulations. The granting of a Variance does not constitute, imply, or guarantee the granting of any other such required approval (e.g.: a building permit).

(7) Time Limit

(a) Unless otherwise specified in the Variance, if a Building Permit has not been secured within one (1) year of the date of the Variance approval, the Variance shall become invalid. Permitted timeframes do not change with successive owners.

(b) Upon written request, extensions of one (1) year may, but need not, be granted by the City Council if the applicant can show good cause.

(8) Amendment

(a) A Variance may be amended, extended, or modified only in accordance with the procedures and standards established for originally securing the variance.

(b) A request for a change in the conditions of approval of a Variance shall be considered an amendment and subject to the full review procedure set forth in this subsection.

(c) An additional application fee may be required before consideration of the amendment request.