



# MEDINA, WASHINGTON

## AGENDA BILL

Monday, October 14, 2024

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**Subject:** Ordinance Amending Section 16.72.030 of the Medina Municipal Code Updating the Procedures and Performance Standards for Granting Non-Administrative Variances

**Category:** Consent Approval

**Staff Contact:** Steven R. Wilcox, Development Services Director

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### **Summary**

#### **Non-Administrative Variance.**

The 2024 Council work plan for Development Services included a review of the non-administrative variance procedures for the purpose of ensuring that the City's land use codes and comprehensive plan are implemented and that variances are a rare exception, granted only when truly necessary.

Non-administrative variances are heard by the City's hearing examiner. The City staff review the application and generate a staff report as part of the hearing examiner process. Often the applicant is represented by legal counsel for the hearing. In the past, non-administrative variances have been easily granted, which is contrary to the intent that they be a rare exception, and only granted when necessary for the property owner to make reasonable use of their property.

As an example, there have been code enforcement violations where structures were built without benefit of required Medina permits. Proper permitting would have identified that these structures were not allowed under our Municipal Code. Options would have been given, but permits would not have been accepted or issued. Once Medina staff became involved these structures were posted and work was stopped. Options were given including applying for variance which did occur. In two 2023 variance applications the hearing examiner approved of the structures in the non-compliant locations. Medina does not process very many variance applications annually with some years none.

On April 22, 2024, proposed amendments to the non-administrative variance code found at MMC 16.72.030 were presented to Council. Through a 7-0 vote, Council directed staff to forward the proposed amendments to MMC 16.72.030 to the Planning Commission.

On September 11, 2024 the proposed amendments to MMC 16.72.030 were presented to the Planning Commission. A motion was made to amend draft section 16.72.030.G "Hardship defined." Through a 7-0 vote, Planning Commission approved the proposed amendments with the inclusion of the change to the hardship definition.

The original draft as seen by Council on April 22, 2024 states:

“MMC 16.72.030.G Hardship defined. For purposes of this section, it shall not be deemed a hardship if the applicant can develop the property for its allowed use under the zone without the granting of a variance.”

Under the original proposed definition, if an owner could build a structure that is for an allowed use, then that owner could not get a variance. For example, for an irregularly shaped lot that is zoned residential, if the owner could build a home, even if it is much smaller than the homes on surrounding property, that owner would not be entitled to a variance.

The Planning Commission amendment as approved on September 11, 2024 added a second sentence to this definition as follows:

“Hardship defined. For purposes of this section, it shall not be deemed a hardship if the applicant can develop the property for its allowed use under the zone without the granting of a variance. In addition, if the variance is for a residential building and the lot coverage allowed without the variance is equal to 75 percent or more of the maximum structural lot coverage set forth in MMC 16.23.020, it shall not be considered a hardship.”

The Planning Commission rationale for adding the second sentence was to allow the use of a variance to pave the way for larger homes if the owner couldn’t build a home without the variance that was 75 percent or more of the maximum structural coverage of the lot. The table below contains the maximum structure coverage for a lot as set forth in MMC 16.23.020 and demonstrates how this is used to determine the maximum square footage (SF) of the building footprint. Please note that this is the *footprint*, so structural coverage of 3,000 SF for a two-story house amounts to a 6,000 SF house; for 3 stories this amounts to a 9,000 SF house.

<b>Square Footage of the Lot Area</b>	<b>Maximum Structural Coverage</b>	<b>Max Coverage under the Code in SF (rounded)</b>	<b>75 Percent Coverage in SF footprint (rounded)</b>
10,000 or less	30 percent	3,000 SF	2,250 SF
10,001 to 10,500	29.58 percent	3,106 SF	2,329 SF
10,501 to 11,000	29.17 percent	3,209 SF	2,407 SF
11,001 to 11,500	28.75 percent	3,306 SF	2,480 SF
11,501 to 12,000	28.33 percent	3,400 SF	2,550 SF
12,001 to 12,500	27.92 percent	3,490 SF	2,618 SF
12,501 to 13,000	27.5 percent	3,575 SF	2,681 SF
13,001 to 13,500	27.08 percent	3,656 SF	2,742 SF
13,501 to 14,000	26.67 percent	3,734 SF	2,800 SF
14,001 to 14,500	26.25 percent	3,806 SF	2,855 SF

14,501 to 15,000	25.83 percent	3,875 SF	2,906 SF
15,001 to 15,500	25.42 percent	3,940 SF	2,955 SF
15,501 to 15,999	25.21 percent	4,033 SF	3,025 SF
16,000	25 percent	4,000 SF	3,000 SF
16,001 to 16,500	24.5 percent	4,043 SF	3,032 SF
16,501 to 17,000	24 percent	4,080 SF	3,060 SF
17,001 to 17,500	23.5 percent	4,113 SF	3,084 SF
17,501 to 18,000	23 percent	4,140 SF	3,105 SF
18,001 to 18,500	22.5 percent	4,163 SF	3,122 SF
18,501 to 19,000	22 percent	4,180 SF	3,135 SF
19,001 to 19,500	21.5 percent	4,193 SF	3,144 SF
19,501 to 29,999	21 percent	6,300 SF	4,725 SF
30,000 and greater	21 percent	6,300 SF or larger	4,725 SF or larger

If adopted with the amendment, residential properties that cannot build to the 75 percent lot coverage amount (last column) would be able to apply for a variance.

Exhibit 1 is the draft ordinance for MMC 16.72.030. Nonadministrative variance as it was presented to Council on April 22, 2024 (without the 75% structural coverage carve-out).

Exhibit 2 is the draft ordinance for MMC 16.72.030. Nonadministrative variance. as approved by Planning Commission on September 14, 2024. Exhibit 2 includes the change made by Planning Commission to 16.72.030. G Hardship defined to provide for the allowance of a variance if the residential lot cannot be developed with 75 percent or more of the maximum structural coverage under the code.

- Our SEPA Official issued a Determination of Nonsignificance for the proposed amendments.
- The Washington State Department of Commerce reviewed the proposed amendments and made no comments.
- A public hearing was noticed as required and then was held at the September 11, 2024 Planning Commission meeting. There were no public comments.
- Medina did not receive any written public comments.

This meets and supports Council's priorities 3 through 5.

Council Priorities:

1. Financial Stability and Accountability
2. Quality Infrastructure
3. Efficient and Effective Government
4. Public Safety and Health
5. Neighborhood Character and Community Building

**Attachments**

- Exhibit 1, Draft Ordinance as presented to Council on April 22, 2024.
- Exhibit 2, Ordinance No. 1033 as amended by Planning Commission on September 11, 2024.

**Budget/Fiscal Impact:** None. Only the criteria that the Hearing Examiner uses in making decisions is affected through being better defined.

**Recommendation:** Adopt Ordinance No. 1033 (as amended by the Planning Commission)

**City Manager Approval:**

A handwritten signature in black ink, appearing to read "SRT", is positioned to the right of the "City Manager Approval:" text.