

Variances

Article 3B Variances

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10-3B-1 Purpose And Restrictions

The City Council may authorize in specific cases such variance from the bulk requirements of this title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this title would result in unnecessary hardship. No nonconforming use of neighboring lands, structures or buildings in the same district and not permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the bulk provisions of this title would result in unnecessary hardship or inequity. Variances shall not be granted to allow uses within a district where such uses are prohibited by this title. (Ord. 313-08, 6-9-2008)

10-3B-2 Application For Variance

An application for a variance shall be filed with the Administrator by at least one owner or lessor of the property for which such variance is proposed. At a minimum, the application shall contain the following information:

1. Name, address and phone number of the applicant.
2. Legal description of the property.
3. Description of the existing use.
4. Zone district.
5. Description of proposed variance.
6. Site plan.
7. An objective narrative stating the reasoning for a variance and justification of the variance.
8. Certificate of ownership (see section 10-2-2 of this title for definition).
9. A list of all property owners and their mailing addresses within three hundred feet (300') of the external boundaries of the property or across a right-of-way from the external boundaries of the entire subject property, which must be provided by and certified to by a licensed title company doing business in Adams County, Idaho.
10. Application fees. (Ord. 313-08, 6-9-2008)

10-3B-3 Hearing Procedures

Following the acceptance of the complete variance application by the Administrator and prior to granting a variance, a public hearing shall be held to review the variance request.

1. Notice Of Hearing: At least fifteen (15) days prior to the date of the public hearing, the Administrator shall cause notice of time and place and a summary of the variance request

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to be published in the official newspaper or paper of general circulation within the City and its impact area. Notice by first class U.S. mail shall be sent to all property owners within three hundred feet (300') of the external boundaries of the subject property at least fifteen (15) days prior to the public hearing date. The Administrator shall cause notice to be posted upon the subject site not less than seven (7) days prior to the public hearing.

2. Commission Recommendation:
 1. Variance requests shall be heard by the Planning and Zoning Commission. The Planning and Zoning Commission shall consider the facts and circumstances of each variance application and shall make a recommendation based upon the following:
 1. That special conditions and circumstances exist that are peculiar to the land, structure or building involved and that are not applicable to other lands, structures or buildings in the same district.
 2. That a literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title.
 3. That the hardship and/or unique circumstances do not result from actions or desires of the applicant.
 4. That granting the variance will not confer on the applicant any special privilege that is denied by this title to other lands, structures or buildings in the same district.
 5. The relief granted by the variance will not be detrimental to the public health, safety or welfare, or injurious to the property or improvements of other property owners, or the quiet enjoyment of such property or improvement.
 2. In recommending approval of any variance request, the commission may identify appropriate conditions to mitigate possible impacts such variance may have on surrounding property or utilities.
 3. Within fifteen (15) days following the public hearing, the commission shall forward its recommendation for approval, conditional approval, or denial to the Council or table the item for further review. The recommendation shall be in writing and shall specify:
 1. The standards used in evaluating the application.
 2. The reason(s) for the recommendation. (Ord. 313-08, 6-9-2008)
3. Council Action: At the next regularly scheduled Council meeting, the Council shall grant or deny the variance or delay a decision for up to thirty (30) days for further study or hearing. A hearing held by the Council is subject to the same notice requirements and hearing procedures for the commission's public hearing. All associated fees shall be assessed to the applicant. Denial of a variance permit or approval of a variance permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis provided by section 67-8003, Idaho Code, consistent with the requirements established thereby. (Ord. 313-08, 6-9-2008; amd. 2018 Code)

10-3B-4 Expiration Of Variance Approval

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Unless a longer time is specifically established as a condition of approval, a variance approval shall be considered void twelve (12) months following the effective date of the approval by the Council if construction is not being diligently pursued toward completion. (Ord. 313-08, 6-9-2008)