

§ 200-16. Watershed and Wetland Protection Overlay Districts. [Added 5-22-2006 ATM by Art. 50, approved 10-17-2006]

A. The purpose of this district is to:

- (1) Protect, preserve and maintain the water table and water recharge areas within the Town of Randolph so as to preserve the present and potential water supplies for the public health and safety of the inhabitants of the Town of Randolph.
- (2) Assure the continuation of the natural flow pattern of the watercourses' capacity to protect persons and provide against the hazards of floodwater within the Town in order to provide adequate and safe floodwater storage inundation.
- (3) Provide that the lands in the Town of Randolph subject to seasonal and/or periodic flooding shall not be used for residential or other purposes in such a manner as to endanger the health and safety of the inhabitants thereof.

B. In a Watershed and Wetlands Protection Overlay District, permitted uses shall be in accordance with the underlying zoning, subject to affirmative finding and approval of the Randolph Board of Appeals and the following restrictions:

- (1) Each Watershed and Wetlands Protection Overlay District **as specified in the Town of Randolph Wetlands ordinance Chapter 196 by** shall be subdivided into areas as follows:
 - (a) Area 1: all district land lying within the defined water and swampland area shown on the hereinbefore referenced topographic maps of the Town of Randolph and designated on said maps as "Area 1."
 - (b) Area 2: all district land lying outside the defined water and swampland area shown on the hereinbefore referenced topographic maps of the Town of Randolph and designated on said maps as "Area 2."
- (2) District area restrictions.
 - (a) Area 1: unsuitable for development of any type; not to be built upon, excavated or filled; may be used to satisfy applicable area requirements in accordance with the underlying zoning.
 - (b) Area 2: development allowed in accordance with all the applicable laws and bylaws of the Town of Randolph governing use in accordance with the underlying zoning, with the following restrictions:
 - [1] Any and all structures approved for construction within this area and required by law to be serviced with sanitary facilities shall be connected to the Town sewer systems.
 - [2] No structure may be constructed or paving placed within fifty (50) feet of the water and swamp land designated as "Area 1" or within twenty-five (25) feet of the bank of any brook, stream or river

within the area.

[3] The finished elevation of any basement floor of a structure approved for construction within this area shall be of a minimum of four (4) feet above the elevation of the closest approach to said structure of the water and swampland area delineated on the hereinbefore-referenced topographic maps of the Town of Randolph designated as "Area 1."

[4] All drainage must comply with the requirements of the Randolph Planning Board and **Randolph Stormwater Authority**.

(3) Permitted uses shall be as follows:

(a) Proper operation of and maintenance of dams and other water-control devices.

(b) Temporary alteration of water level for emergency or maintenance, upon written approval of the Town Engineer **as provided by the Randolph Department of Public Works Routine Operations and Maintenance Plan DEP file #268-0401.**

(c) Appropriate governmental use, including but not limited to water and sewage works, pumping stations and river and stream clearance, jointly approved by the Town Engineer and Water Department.

(d) Dams, excavations, relocation of waterways and creation of ponds and drainage improvements, consistent with the purpose of this chapter, upon written approval of the Town Engineer **and Conservation Commission**.

(e) The repair, rebuilding, modification or enlargement of all existing residential, commercial and industrial buildings, consistent with the laws of the Commonwealth of Massachusetts and in compliance with all other local bylaws, provided that such proposed work does not affect the natural flow pattern of any watercourse or groundwater supply.

(f) Driveways and roads where alternative means of access are impractical, consistent with the purpose of this chapter.

(4) Administration.

(a) Upon written application, the Building Commissioner shall, **with the consultation of a certified wetland scientist**, determine, ~~by any means at the Building Commissioner's disposal~~, whether the parcel identified in the application and shown on any accompanying plot plan lies within Area 1 and/or Area 2 of a Watershed and Wetlands Protection Overlay District. In order to expedite this determination, **the applicant shall provide the Building Commissioner** ~~shall, at the Building Commissioner's request, be provided by the applicant~~ with a complete overall topographic plan of the area proposed for use, prepared by a registered professional engineer

or registered land surveyor, showing contour elevations at two-foot intervals, referred to United States Geological Survey datum. **[Amended 4-16-1996 ATM by Art. 11, approved 7-29-1996]**

- (b) This topographic drawing shall show all pertinent information, including existing brooks, streams, rivers and areas of ponding, the extent and depth of proposed excavation and/or filling limits of other proposed construction and/or appurtenant work.
- (c) A determination by the Building Commissioner that the parcel identified in the application lies within Area 1 and/ or Area 2 of a Watershed and Wetlands Protection Overlay District shall require the Building Commissioner's immediate referral to the Randolph Planning Board for recommendation for a finding consistent with the intent of this chapter. The Planning Board will require copies of all information submitted to the Building Commissioner for its consideration of the application. Any owner of land in Area 1 and/or Area 2 who is aggrieved by a decision of the Building Commissioner and/or Planning Board may appeal to the Board of Appeals. **[Amended 4-16-1996 ATM by Art. 11, approved 7-29-1996]**

(5) ~~Special flood hazard areas. The Federal Emergency Management Agency has issued revised Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study Booklet (FIS) for the Town of Randolph, which identifies the special flood hazard areas within the Town. The revision date of the FIRM Maps and FIS Booklet is July 17, 2012 (new date to be added). All proposed new construction, substantial additions/improvements and utilities within the one hundred year floodplain must comply with the revised FIRM Maps, FIS Booklet, and the provisions in Subsection B(6) of this section. [Amended 5-10-2000 ATM by Art. 9, approved 9-27-2000; 6-11-2012 by Ord.No. 2012-017].~~ The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within Randolph designated at Zone A, AE, AH, AO, A99, V or VE on the Norfolk County Flood Insurance Rate Map (FIRM) dated July 8, 2025 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 8, 2025. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, Conservation Commission and Town Engineer.

(6) Floodplain Overlay District

Special flood hazard areas. Areas are as created by the National Flood Insurance Program (NFIP) and the Federal Emergency Management Agency (FEMA) on their most current maps adopted by the Town of Randolph in conjunction with the State Flood Hazard Management Program of the Department of Conservation and Recreation Office of Water Resources, the State Building Code, Wetlands Overlay Protection Act, State Sanitary Code and the Town of Randolph Watershed and Wetlands Protection Overlay District Zoning Code, and any other applicable zoning codes and/or bylaws.

A. Statement of floodplain area purposes:

- (1) Ensure public safety through reducing the threats to life and personal injury.
- (2) Eliminate new hazards to emergency response officials.
- (3) Prevent the occurrence of public emergencies resulting from water quality contamination and pollution due to flooding.
- (4) Avoid the loss of utility services which, if damaged by flooding, would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
- (5) Eliminate costs associated with the response and cleanup of flooding conditions.
- (6) Reduce damage to public and private property resulting from flooding waters.

B. Definitions. As used in this subsection, the following terms shall have the meanings indicated:

AREA OF SPECIAL FLOOD HAZARD — Land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V.

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTRICT — Floodplain district.

FEDERAL EMERGENCY MANAGEMENT AGENCY

(FEMA) — Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FLOOD BOUNDARY AND FLOODWAY MAP — An official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the one-hundred-year and five-hundred-year floods and the one-hundred-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or

E.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

FUNCTIONALLY DEPENDENT USE -- A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

MANUFACTURED HOME — A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

NEW CONSTRUCTION — For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, "new construction" means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

ONE-HUNDRED-YEAR FLOOD — See "base flood."

RECREATIONAL VEHICLE means a vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY — See "floodway."

SPECIAL FLOOD HAZARD AREA — An area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, or VE.

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The

actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE — For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. "Structure," for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a

manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be

substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

ZONE A — The one-hundred-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

ZONE A1-30 and ZONE AE — For new and revised maps, the one-hundred-year floodplain where the base flood elevation has been determined.

ZONE AH and ZONE AO — The one-hundred-year floodplain with flood depths of one (1) foot to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

ZONE A99 — Areas to be protected from the one-hundred-year flood by federal flood protection systems under construction. Base flood elevations have not been determined.

ZONES B, C, AND X — Areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

- C. **Designation of Flood Plain Administrator.** The Town of Randolph hereby designates the position of Building Commissioner to be the official floodplain administrator for the Town.
- D. **Permits required for all development in the Floodplain Overlay District.** The Town of Randolph requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

The permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed

development in the floodplain overlay district. The proponent must acquire all necessary permits and must submit the completed checklist demonstrating that all necessary permits have been acquired.

~~E. **Floodplain area boundaries.** The floodplain area is herein established as an overlay district. The district includes all special flood hazard areas within the Town of Randolph designated on the Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The FIRM maps indicate the one-hundred year regulatory floodplain. The exact boundaries of the areas may be defined by the one-hundred year base flood elevations shown on the FIRM and further defined by the most current Flood Insurance Study Booklet. The FIRM and Flood Insurance Study Booklet are incorporated into this Subsection B(6) and are on file with the Planning Board and the Department of Public Works, Engineering Division.~~

F. Base flood elevation and floodway data.

- (1) Floodway data. In Zones A, A1-30 and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in the floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) Base flood elevation data. Base flood elevation data are required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is less, within unnumbered A Zones.

G. Notification of watercourse alteration. In a riverine situation, the Floodplain ~~Manager~~ **Administrator** for the Town of Randolph shall notify the following of any alteration or relocation of a watercourse:

- (1) Adjacent communities.
- (2) NFIP State Coordinator, Massachusetts Department of Conservation and Recreation.
- (3) NFIP Program Specialist, FEMA (Federal Emergency Management Agency) Region 1.

H. Use regulations.

- (1) The Floodplain Area is established as an overlay area to all zoning districts. All development in the area, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40, as amended, and with the following:
 - (a) Sections of the Massachusetts State Building Code (780 CMR) which address floodplain areas and coastal high-hazard areas.
 - (b) Wetlands Protection Regulations, Department of Environmental

Protection.

- (c) Inland Wetlands Restrictions, Department of Environmental Protection (310 CMR 13.00).
- (d) Minimum Requirement for the Subsurface Disposal of Sanitary Sewage, Department of Environmental Protection (310 CMR 15, Title 5).
- (2) Any variances from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of those state regulations.
- (3) No variance to the floodplain areas may be granted by the Town of Randolph Zoning Board of Appeals.

I. Other use regulations.

- (1) Within Zones AH and AO on the FIRM, adequate drainage paths are required around structures on slopes, to guide floodwaters around and away from proposed structures are required.
- (2) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the ~~Town of Randolph FIRM or Flood Boundary and Floodway Map~~, encroachments are prohibited in the regulatory floodway **unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.** ~~which would result in any increase in flood levels within the community during the occurrence of base flood discharge.~~
- (3) **Unnumbered A Zones. In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating non-residential structures to or above base flood level, and for prohibiting encroachments in floodways [44CFR 60.3(b)(4)]**
- (4) All subdivision proposals must assure that:
 - (a) Such proposals minimize flood damage.
 - (b) All public utilities and facilities are located and constructed to minimize or eliminate flood damage.
 - (c) Adequate drainage is provided to reduce exposure to flood hazards.
 - (d) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

~~(5) When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.~~

(6) **(5) Recreational Vehicles.** In A and AE zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

(7) **(6)** For development within the Special Flood Hazard Areas, a copy of the development or site plan shall be transmitted to the Conservation Commission, Planning Board, Board of Health, Town Engineer and Building Commissioner for comments prior to issuing applicable permits or approvals.

J. **Permitted uses.** The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged, provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

- (1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- (2) Forestry and nursery uses.
- (3) Outdoor recreational uses, including fishing, boating, play area, etc.
- (4) Conservation of water, plants and wildlife.
- (5) Wildlife management areas; foot, bicycle, and/or horse paths.
- (6) Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage or sale of crops raised on the premises.
- (7) Buildings lawfully existing prior to the adoption of these provisions.

J. **Public health.** The Board of Health and Department of Public Works, in reviewing all proposed water and sewer facilities to be located in the floodplain areas, shall require that:

- (1) New and replacement water supply systems be designed to minimize or eliminate infiltration of floodwaters into the systems.
- (2) New and replacement sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and on-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

K. **Institutional Open Space Districts.** The following uses are permitted in an Institutional Open Space District: houses of worship, schools, parish houses,

convents, cemeteries, rectories and accessory uses on the same lot with and customarily incidental to any of the above permitted uses.

- L. **Abrogation and Greater Restriction.** The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
- M. **Disclaimer of Liability.** The degree of flood protection required by this ordinance is considered reasonable but does not imply total flood protection.
- N. **Severability.** If any section, provision or portion of this ordinance is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.
- O. **Requirement to Submit New Technical Data.** If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within six (6) months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

NFIP Program Specialist

FEMA Region I ~~Risk Analysis Branch Chief~~
~~99 High Street, 6th Floor, Boston, MA 02110~~

~~And a copy of the notification to:~~

Massachusetts NFIP State Coordinator
MA Dept of Conservation & Recreation
~~251 Causeway Street, Boston, MA 02114~~

- P. **Variances to Building Code Floodplain Standards.**
 - (1) The Town of Randolph will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.
 - (2) The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that:
 - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and
 - (b) Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

- Q. **Variances to local Zoning Ordinances related to community compliance with the National Flood Insurance Program (NFIP).** A variance from these floodplain

ordinances must meet the requirements set out by State law, and may only be granted if:

- (1) Good and sufficient cause and exceptional non-financial hardship exist;
- (2) The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- (3) The variance is the minimum action necessary to afford relief.