

Section 4.05.020. - Zoning variance.

A. *Conditions for zoning variance.*

1. A variance from the strict application of any zone district requirement or supplementary regulation of this chapter may be granted by the Planning Commission following the procedures and conditions herein, except that no use shall be allowed in any zone district in which it is not listed as a permitted or special use. The Planning Commission may grant a variance provided it finds both Subsections (A)(1)(a) and (b) of this section and either Subsection (A)(1)(c) or (d) of this section are applicable.
 - a. That the variance granted is without substantial detriment to the public good and does not impair the intent and purposes of the Town's regulations, goals, policies and plan, including the specific regulation in question; and
 - b. That the variance granted is the minimum necessary to alleviate the hardship; and
 - c. That there exists on the property in question exceptional topography, shape, size or other extraordinary and exceptional situation or condition peculiar to the site, existing buildings, or lot configuration such that strict application of the zone district requirements from which the variance is requested would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property in question; or
 - d. That such exceptional situation or condition was not induced by any action of the applicant and is not a general condition throughout the zone district.
2. In granting a zoning variance, the Planning Commission shall modify the application of the regulation so that the spirit of the title is observed, public safety and welfare secured, and substantial justice done.
3. Pursuant to C.R.S. § 31-23-307, as amended, the Planning Commission may vary or modify the application of zoning regulations for the purpose of considering access to sunlight for solar energy devices.

B. *Procedures for variance review.*

1. *Application.*
 - a. Each application for a zoning variance shall be made on a form provided by the Town, and signed by the applicant which clearly states the reasons for the request and how it complies with the conditions for variance. The application shall be accompanied by:
 1. Proof of ownership of the land for which the application is made. If the applicant is other than the owner, notarized consent of the owner is required;
 2. A site plan drawn to scale depicting the locations and boundaries of existing and proposed lots and structures;

3. The proper zoning variance fee as set by the Town; and
4. A list of names and addresses of owners of record of adjacent property.
- b. A minimum of 20 copies of the application, site plan and supporting materials shall be submitted to the Town Planner at least 15 calendar days prior to the Planning Commission meeting at which the variance request is to be reviewed.
2. *Staff/agency review.* The Town Planner shall review the application with appropriate staff or other agencies and shall provide copies of the application and staff or agency comments to the Planning Commission.
3. *Planning Commission review.*
 - a. The Planning Commission shall review the zoning variance request at a regular meeting at which it shall hold a public hearing on the application. Public notice shall be given pursuant to Section 4.03.060. The applicant or his representative shall be present to represent the proposal. The Planning Commission shall take one of the following actions:
 - i. Grant the zoning variance, subject to Subsection (A) of this section;
 - ii. Deny the zoning variance, stating the specific reasons for denial; or
 - iii. Continue the hearing pursuant to Chapter 2.20.
 - b. Any decision of the Planning Commission shall be final, from which an appeal may be taken to a court of competent jurisdiction as provided in accordance with C.R.S. § 31-23-307.

(Ord. No. 1986-03, § 4.05.020, 3-5-1986; Amended 6-2-1991)