

2400.3160 VARIANCES.

Subpart 1. **Variance application.** An application for a variance from the requirements of this chapter must be submitted to the zoning administrator and contain:

A. a statement setting forth the precise nature and extent of the proposed variance and the reasons the variance is being requested;

B. supporting documentation necessary to provide a complete description of the proposal including site plan, architectural plans and drawings, topographical information, and project cost data; and

C. a detailed statement addressing each of the applicable variance criteria contained in this chapter and the reasons the variance request conforms to those criteria.

Subp. 2. **Disposition of variance requests.** The board shall grant or deny a variance request pursuant to the procedures in items A to E and the standards in subpart 3.

A. Upon receipt of a variance request or the determination by the zoning administrator that a variance is needed, the zoning administrator must send written notice to all persons who have registered their names with the board for the purpose of being notified of rulemaking proceedings or variance requests and to all parties who may be affected by the decision. The notice must be sent to all owners and possessors of record of property within 350 feet of the property.

The notice must contain a brief description of the variance request, a statement that any person wishing to comment on the request may do so in writing, and a statement that the board will not act on the variance request until interested persons have been afforded at least 30 calendar days after the issuance of the notice to submit their comments.

B. If, after receiving the variance request, the board determines that additional information is needed, it may direct the person seeking the variance to submit additional data regarding the variance request to the board or the zoning administrator or to appear before the board or the zoning administrator to provide additional information.

C. To facilitate full consideration of a variance request, the board may, in its discretion, request that the person seeking the variance and other persons who have submitted written comments regarding the variance appear before the board to make arguments to the board. The board must provide persons requested to appear notice of the request at least seven days before the board meeting at which the variance request is to be considered. This procedure does not constitute a contested case as defined in Minnesota Statutes, section 14.02, subdivision 3.

D. If a person requesting a variance fails to follow the variance procedures specified in this part, the variance shall be denied.

E. Within 30 days after its action on the request, the board must set forth in writing and submit to the person requesting the variance and other persons who have submitted written comments the reasons why it has granted or denied the variance request.

Subp. 3. **Standards for review of variance requests.** The board may grant a variance to the application of any of its rules, except for its design standards and sign rules, only if it determines that all of the following criteria have been met:

A. the property in question cannot be put to a reasonable use under the strict application of the rules;

B. the plight of the landowner is due to circumstances unique to the property, and the circumstances were not created by the landowner;

C. the proposed variance is in keeping with the spirit and intent of this chapter and is consistent with the health, safety, comfort, morals, and welfare of the inhabitants of the Capitol area and the city of St. Paul;

D. the proposed variance does not impair an adequate supply of light and air to adjacent property, nor does it alter the essential character of the surrounding area or unreasonably diminish established property values within the surrounding area;

E. the variance request, if granted, does not permit any use that is not permitted under this chapter for the property in the district where the affected land is located, nor does it alter or change the zoning district classification of the property; and

F. the request for variance is not based solely on the desire to increase the value or income potential of the land parcel.

Subp. 4. **Variations to design standards.** The board may grant a variance to the application of the design standards in this chapter only if it determines that:

A. strict application of the design rules would prevent implementation of a design that, in terms of meeting the intent of this chapter, is equal to or superior to the design alternatives authorized by this chapter; and

B. the criteria in subpart 3, items B to F, have been met.

Subp. 5. **Variations to sign rules.** The board may grant a variance to application of its sign rules only if it determines that:

A. unusual conditions exist with respect to a specific building or lot that require the installation of a unique sign;

B. the granting of the variance does not result in the installation of a sign in a zoning district in which such a sign is not permitted by this chapter; and

C. the criteria in subpart 3, items B to F, have been met.

Statutory Authority: *MS s 15B.06*

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