

SEC. 153.17 VARIANCES.

(A) *General Conditions.* A variance to the literal provisions of this Code may be issued to provide a modification or variation where it is determined that their strict enforcement would cause practical difficulties. No use variances may be issued. No variance will be issued that would allow a lower degree of flood protection than the flood-protection elevation.

(B) Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the Planning Commission, acting as a Board of Appeals and Adjustments, may recommend the City Council issue variances from the provisions of this Code. A variance is a modification or variation of the literal provisions of the Code as applied to a specific piece of property.

(C) Variances shall only be permitted:

- (1) when they are in harmony with the general purposes and intent of the ordinance; and
- (2) when the variances are consistent with the comprehensive plan.

(D) Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

(E) “Practical difficulties,” as used in connection with the granting of a variance, means that:

- (1) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (2) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- (3) the variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. A variance will not be permitted for any use that is not allowed under the zoning ordinance for property in the zone where the affected person’s land is located. The Board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(F) *Action on Request.* The Board of Appeals and Adjustments shall hold a public hearing on the variance request. The procedures for the notice and public hearing shall be the same as that described in § 462.357, except that the public hearing shall be held by the Board.

The Board may recommend to the City Council and the City Council may grant approval or approval with conditions, or denial of the request. In considering a request for a variance and

whether the applicant established that there are practical difficulties in complying with provision(s) of this Chapter, the Board and City Council shall consider the following factors:

- (1) special conditions applying to the structures or land in question that are particular to the property and do not apply generally to other land or structures in the district or vicinity in which the land is located;
- (2) the granting of the proposed variance will not be contrary to the intent of this chapter;
- (3) the special conditions or circumstances do not result from the actions of the owner/applicant;
- (4) the granting of the variance will not merely serve as a convenience to the applicant, but is necessary to alleviate practical difficulties in complying with the zoning provisions of this Code; and
- (5) the variance requested is the minimum variance necessary to alleviate the practical difficulty.

The Council may grant the variance and impose certain conditions and safeguards therein which are directly related to and bear a rough proportionality to the impact created by the variance. The variance, however, may not be granted for a use that is otherwise not allowed in a particular zoning district, that is inconsistent with the comprehensive guide plan, or that is not in harmony with the general purpose and intent of the zoning provisions of this Chapter.