

Chapter 17.134

VARIANCE

Sections:

- 17.134.010 Purpose.
- 17.134.020 Administration and approval process.
- 17.134.030 Criteria for granting a variance.
- 17.134.040 Extension of approval.
- 17.134.060 Application submission requirements.

17.134.010 Purpose. The purpose of this chapter is to provide standards for the granting of variances from the applicable zoning requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of the land, the literal interpretation of the provisions of the applicable zone would cause an undue or unnecessary hardship, except that no use variances shall be granted. (Ord. 634 §1 Exh. A (part), 1995)

17.134.020 Administration and approval process. A. The applicant for a variance shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. Minor Variance.

1. The planner may approve, approve with conditions, or deny any application for a minor variance. The planner shall apply the standards set forth in Section 17.134.030, when reviewing an application for a variance. Minor variances are small changes from the title requirements and which will have a minor impact on adjacent property owners. Specifically, minor variances include:

a. Deviation from any minimum property development standard or equal area by not more than ten percent;

b. Expansion of a conditional or nonconforming use by not more than fifteen percent of the gross building volume.

2. Upon receipt of the application form and payment of fifty percent of the usual application fee for a variance, the planner shall render a decision within ten working days, or the decision may be deferred to the planning commission. Additional information may be requested to arrive at a decision; and, if so, the decision shall be rendered within ten working days following the submission of such information.

3. Should a minor variance be granted by administrative action, a notice of the variance decision and reasoning shall be mailed to all property owners abutting the subject property, exclusive of any public rights of way, soliciting comments or objections. If any written objections to the proposed variance are received within ten working days of the mailing, a public hearing shall be required in accordance with Chapter 17.162. If no objections to the variance are received within the ten day period, the variance shall become effective at the end of that period.

C. The planning commission shall approve, approve with conditions, or deny any application for a major variance. The planning commission shall apply the standards set forth in Section 17.134.030 when reviewing an application for a variance. Specifically, a major variance is any variance not defined as a minor variance. (Ord. 634 §1 Exh. A (part), 1995)

17.134.030 Criteria for granting a variance. The planning commission or planner shall approve, approve with conditions, or deny an application for a variance based on finding that the following criteria are satisfied:

A. The proposed variance will not be materially detrimental to the purposes of this title, be in conflict with the policies of the comprehensive plan, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity;

B. Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of the lot size, shape or topography or other circumstances over which the applicant has no control;

C. The use proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;

D. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms, or parks will not be adversely affected any more than would occur if the development were located as specified in the title; and

E. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.
(Ord. 634 §1 Exh. A (part), 1995)

17.134.040 Extension of approval. A. Approval of a variance shall be void if:

1. Substantial construction of the approved plan has not been completed within a one-year period; or

2. Construction on the site is a departure from the approved plan.

B. The planner may, upon written request by the applicant, grant an extension of the approval period not to exceed one year; provided, that:

1. No changes are made on the original approved variance;

2. The applicant can show intent of initiating construction on the site within the one year extension period; and

3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.

C. Notice of the decision regarding the extension shall be provided to the applicant. (Ord. 634 §1 Exh. A (part), 1995)

17.134.060 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. Copies of the variance proposal and necessary data

or narrative which explains how the proposal conforms to the standards;

2. For major variances, a list of the names and addresses of all persons who are property owners of record within two hundred feet of the site;

3. If applicable, a copy of all existing and proposed restrictions or covenants;

17.134.060

4. Site development plans drawn to a standard engineering scale and including the following information:

- a. The proposed site and surrounding properties,
- b. The location, dimensions and names of all existing streets,
- c. The location and dimensions of:
 - i. Entrances and exits on the site,
 - ii. Parking and circulation areas,
 - iii. Loading and services areas,
 - iv. Pedestrian and bicycle circulation,
 - v. Outdoor common areas,
 - vi. Above ground utilities,
 - vii. Existing landscaping;
- d. The location, dimensions and setback distances of all existing structures, improvements and utilities which are located within twenty-five feet of the sites and are on adjoining property, and
- e. Proposed structures, improvements, landscaping and utilities on the site.

B. In the case of a request for a variance to the building height provisions, the following additional information is required:

1. An elevation drawing of the structure and the proposed variance; and
2. A drawing(s) to scale showing the impact on adjoining properties.

C. The required information may be combined on one map.
(Ord. 634 §1 Exh. A (part), 1995)

CHAPTER 17.134 PAGE 3
6/10)

(Scappoose