

CHAPTER 30 VARIANCE REVIEW

SECTION 30.10 INTENT

The intent of this chapter is to outline the process and standards for the consideration of variances.

SECTION 30.20 GENERAL REQUIREMENTS

A. AUTHORIZED VARIANCES

1. **Non-Use Variances.** Variances may be requested that relate to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the Zoning Ordinance or related to any other non-use-related standard in the Zoning Ordinance.
2. **Land Use Variances.** Variances may be requested that relate to land uses.

B. ADMINISTRATIVE DETERMINATION

A variance request shall be preceded by a written compliance determination by the Zoning Administrator.

C. STAY OF PROCEEDINGS

A request for a variance stays any related code enforcement actions.

D. CONDITIONS

The Zoning Board of Appeals may impose conditions as authorized by the Zoning Enabling Act if necessary and appropriate in accordance with Section 25.60. The Zoning Board of Appeals may impose greater or more restrictive conditions, restrictions, and requirements than are included in this ordinance. Violations of approved conditions, restrictions, and requirements shall be deemed a violation of this ordinance. Conditions, restrictions, and requirements may include the provision of financial security to guarantee performance in accordance with Section 25.80.

E. LESSER VARIANCE

At its discretion, the Zoning Board of Appeals may grant a lesser variance than requested.

SECTION 30.30 REVIEW PROCESS

A. APPLICATION REQUIREMENTS

See Chapter 25 for the general processes for submitting site plan applications and Section 36.10 for submittal checklists.

B. REVIEW PROCESS

1. **Authority.** The Zoning Board of Appeals shall review all details of the application and submittal to confirm compliance with all applicable zoning requirements and to ensure the satisfaction of approval standards (Section 30.40).
2. **Process.** The application shall be reviewed in accordance with the following process in Figure 30-1:

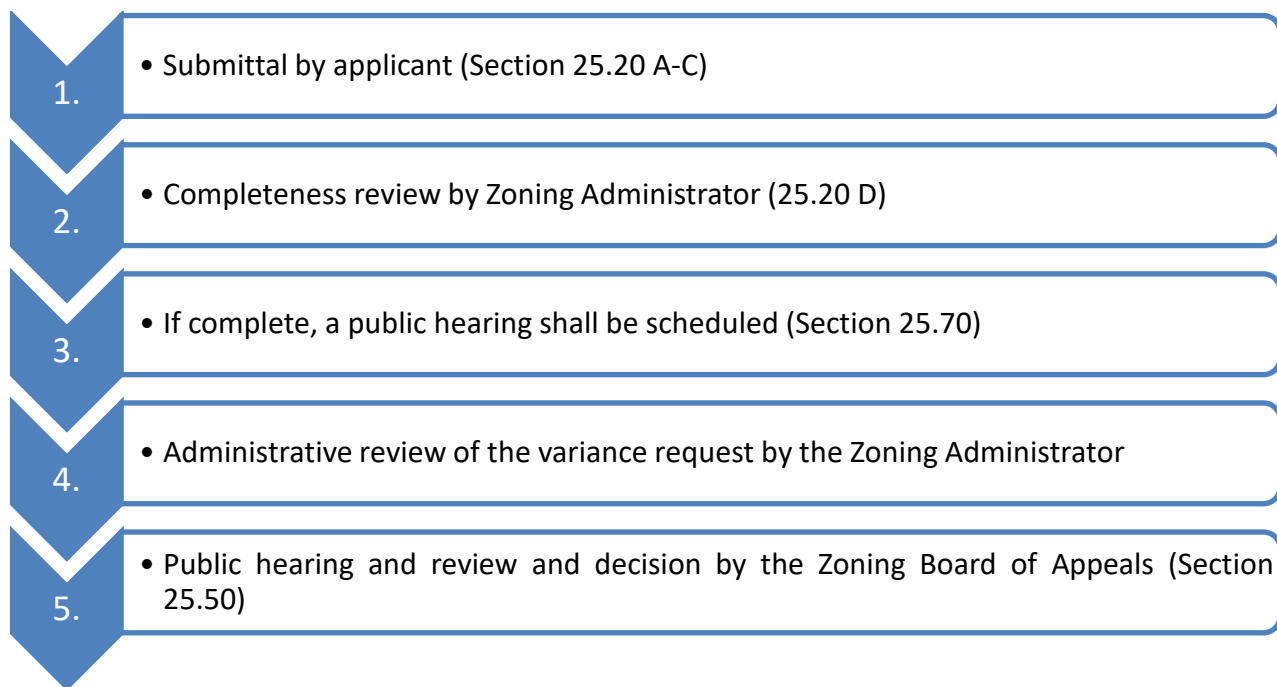


Figure 30-1 Process for Variance Review

C. DECISIONS

1. **Action.** Unless action is tabled or postponed, the Zoning Board of Appeals shall decide upon variance requests as follows:
 - a. **Approval.** The motion or resolution and minutes shall indicate the findings and conclusions serving as the basis for the decision and any conditions imposed.
 - b. **Denial.** In the case of a denial, the motion or resolution and minutes shall indicate the findings and conclusions serving as the basis for the decision.
2. **Conditions.**
 - a. The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision that it is required to make.
 - b. Conditions imposed shall be those necessary to ensure that the decision meets the standards of this Chapter.

SECTION 30.40 NON-USE VARIANCE APPROVAL STANDARDS

A. PRACTICAL DIFFICULTY

A non-use variance may be approved by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing.

B. STANDARDS

The Zoning Board of Appeals shall not grant a non-use variance unless it finds that all of the following standards below are met:

1. The situation or predicament is caused by exceptional, unique, or extraordinary physical conditions, dimensions, or circumstances that directly relate to the lot involved rather than the individual situation or desire of the applicant or property owner (see definition of “unique circumstance”).
2. The variance is necessary for the preservation and enjoyment of a substantial property right that is similar to that possessed by other landowners in the same Zoning District and vicinity and does not grant special privileges to the applicant that are not available to the owners of these properties.
3. The practical difficulty for which the variance is requested does not result from a self-created problem by the applicant, current landowner, or any previous landowner of the property involved (see definition of “self-created problem”).
4. The variance will not be detrimental to the public welfare, injurious to neighboring properties, or change the essential character of the neighborhood.
5. The variance is consistent with the purpose and intent of the Master Plan and the intent and provisions of the Zoning Ordinance and Zoning District designation of the subject property.

SECTION 30.50 USE VARIANCE APPROVAL STANDARDS

A. UNCESSARY HARDSHIP

Subject to other provisions of this Ordinance, the Zoning Board of Appeals shall have the authority to decide applications for use variances. The Zoning Board of Appeals shall not grant a use variance unless it finds that unnecessary hardship will occur unless the variance is granted.

B. STANDARDS

The Zoning Board of Appeals shall not grant a use variance unless it also finds that all of the following standards below are met:

1. The variance request, if granted, will be the minimum variance (i.e., the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.
2. The granting of the variance will not be injurious or detrimental to neighboring properties or residents.
3. The variance will not be detrimental to the public welfare or change the essential character of the neighborhood.
4. The variance will not impair the intent or purpose of this Ordinance.
5. The problem or condition for which the variance is requested is not a self-created problem by the applicant or property owner (or their predecessors in title) as to the property involved.
6. The condition or situation involved is not of so general or recurrent a nature that it would be more reasonable or practical for the Township to amend the provision of the Ordinance involved rather than to grant a variance for the condition or situation.
7. There are exceptional, unique, or extraordinary physical conditions or circumstances that directly relate to the property itself (including the land or a structure or building thereon) rather than the individual situation or desire of the applicant or property owner. In other words, the problem, exception,

extraordinary circumstances, or conditions must be inherent in the land, structure, or building involved.

8. The variance must be necessary for the preservation and enjoyment of a substantial property right, which is similar to that possessed by other properties in the same zoning district and vicinity. A possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.
9. The property cannot be reasonably used as currently zoned.
10. As specified above, the Zoning Board of Appeals must also find that unnecessary hardship will occur if a use variance is not granted.

C. VOTE

No use variance shall be granted unless at least two-thirds (2/3) of all members of the Zoning Board of Appeals vote in favor of such use variance. Furthermore, before the members of the Zoning Board of Appeals may vote on a given use variance request, the matter shall be referred to the Planning Commission. The Planning Commission shall be asked for its recommendation regarding the proposed use variance request. The Zoning Board of Appeals may take final action regarding such a use variance request once the Planning Commission has forwarded its recommendation on the particular use variance request to the Zoning Board of Appeals or 45 days have elapsed since the referral to the Planning Commission, whichever occurs first. No variance granted by the Zoning Board of Appeals shall be valid for a period longer than 18 months from the date of its issuance unless the construction and/or use associated with said variance is completed or has been started with completion being diligently pursued. However, the applicant may, upon application, request up to one six-month extension of said variance. The Zoning Administrator may grant such an extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the control of the applicant. The Zoning Administrator may refer any request for an extension to the Zoning Board of Appeals for a decision.

SECTION 30.60 TERM, VALIDITY, AND COMPLIANCE

A. TERM AND VALIDITY

See 25.30 D.

B. COMPLIANCE

Unless otherwise determined by the Zoning Board of Appeals, the specifications of the lot, building, or structure for which the variance was granted shall comply with the specifications reviewed in the variance application. Any change to the specifications of the lot, building, or structure after a variance is granted must be resubmitted to the Zoning Board of Appeals for variance review in accordance with this chapter.