

## CHAPTER 108

### VARIANCES

108.01 Nature of a Variance

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108.02 Application

108.04 Effect of Approval

### CROSS REFERENCES

Ch. 103 Administration and Enforcement

Ch. 105 Board of Zoning Appeals

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#### 108.01 NATURE OF A VARIANCE

On a particular property, extraordinary circumstances may exist making a strict enforcement of the applicable Development Standards of the Zoning Resolution unreasonable. Therefore, the procedure for Variance from Development Standards is provided to allow the flexibility necessary to adapt to changed or unusual conditions, both foreseen and unforeseen, under circumstances which do not ordinarily involve a change in the application of this Zoning Resolution. Applications for Variances are heard by the Board of Zoning Appeals, hereinafter the Board.

#### 108.02 APPLICATION

Two (2) copies of a provided application not more than twenty (20) days from the date such denial of the Certificate of Zoning is issued.

A. Description of Property and Nature of Variance. The application shall include the following statements:

1. The nature of the Variance; i.e., including the specific provisions of the Zoning Resolution upon which the Variance is requested.
2. A legal description of the property.
3. A statement of the special circumstances or conditions applying to the land or structure and not applying generally throughout the Zoning District.
4. A statement showing that the special conditions and circumstances do not result from the actions of the applicant.
5. A statement showing that the granting of the application is necessary to the preservation and enjoyment of substantial property rights.

6. Such other information regarding the application for appeal as may be pertinent or required for appropriate action by the Board.
- B. Site Plan. The application shall be accompanied by three (3) copies of a site plan prepared by a licensed surveyor, drawn to an appropriate scale, showing the following:
1. The boundaries and dimensions of the lot.
  2. The nature of the special conditions or circumstances giving rise to the application.
  3. The size and location of existing and proposed structures.
  4. The proposed use of all parts of the lot and structures, including accessways, walks, off-street parking and landscaping.
  5. The relationship of the requested Variances to the Development Standards.
  6. The use of land and location of structures on adjacent property.
  7. And other information as determined by Jackson Township, such as wastewater treatment and disposal facilities, and water wells.
- C. Fees. Applicable fees are established based upon the fee schedule and shall be paid at time of application submittal.

### **108.03 PROCEDURE**

- A. Acceptance of a Complete Application. The Zoning Administrator shall only accept a complete application and fee for a Variance.
- B. Notice of Public Hearing. The Board of Zoning Appeals shall hold a public hearing on the application. Notice setting forth the time and the place of such hearing and the nature of the requested Variance shall be given by the Board by one (1) publication in one (1) or more newspapers of general circulation in Jackson Township at least ten (10) days before the date of such public hearing.
- C. Action by the Board. The Board shall only approve a variance or modification thereof if the following findings are made:
1. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same Zoning District.
  2. That a literal interpretation of the provisions of this Zoning Resolution would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under terms of this Zoning Resolution.

3. That the special conditions and circumstances do not result from the action of the applicant.
4. That granting the variance requested will not confer on the applicant any special privilege that is denied this Zoning Resolution to other lands or structures in the same Zoning District.
5. That granting the variance will not adversely affect the health or safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

#### **108.04 EFFECT OF APPROVAL**

- A. Certificate of Zoning. A Certificate of Zoning Compliance may be issued only within the period of one (1) year from the date of final approval by the Board.
- B. Building Permit. A building permit may be obtained only for the development in accordance with the approved plot plan.