

## SECTION 31. VARIANCES

- A. **GENERAL DESCRIPTION:** A variance is a waiver or modification of some requirement contained in the Zoning Ordinance. The statutory justification for a variance is that the owner would otherwise suffer unique hardship under general zoning regulations because his or her particular parcel is different from others to which the regulation applies due to size, shape, or topography. Variances may be granted only to authorize a change in development standards which is not otherwise authorized by the zoning regulations.

In considering a variance, the following guidelines shall be observed:

1. No special privilege. A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances.
  2. Use variance prohibited. The consideration of "use variances" is specifically prohibited. These are variances which request approval to locate a use in a zone from which it is prohibited by Ordinance.
  3. Disservice not permitted. A variance must not be injurious to the public welfare, nor to adjacent properties.
  4. Not adverse to General or Specific Plan. A variance must be in harmony with the general purpose and intent of the Zoning Ordinance and cannot adversely affect the General Plan or Specific Plans of the County.
  5. RD-1 Overlay Zone. Prior to approval of a variance for property within the RD-1 overlay zone, permission must be granted or deemed not necessary by the Secretary of Agriculture.
- B. **AUTHORITY - PLANNING COMMISSION.** A variance may be granted at the discretion of the planning Commission, with such conditions as may be necessary to carry out the intent and purpose of this Ordinance.
- C. **APPLICATION - FEES - NOTICE - HEARING.** An application for a variance to be considered by the Planning Commission shall be subject to the following requirements:
1. Application. The applicant shall submit his or her application on a form provided by the Planning Director. The Planning Director shall accept the application as complete pursuant to procedures indicated in Section 30.5 of this Ordinance.
  2. Fees. Fees are required for any entitlement required by this Ordinance unless the Board of Supervisors waives the fee prior to submittal of an application. The

required fees for any such applications not waived shall be governed by the provisions of Section 30.5 of this Ordinance.

3. Notice and Hearing. The procedural requirements for any hearing and the contents of the notice required by the provisions of this section shall be governed by the provisions of Section 34 of this Ordinance. At least one public hearing for a variance shall be conducted before the Planning Commission.
- D. RESUBMITTAL OF APPLICATION: If an application for a variance has been denied by the Planning Commission, no new application for substantially the same project or use at the same location shall be resubmitted for a period of one year from the effective date of the final denial of such application, unless approval to file, prior to expiration of the one year period, has been granted by the Planning Commission by Resolution.
- E. TIME LIMITS IMPOSED ON VARIANCES:
1. No time limit unless stated in variance. Variances, once utilized, are of indefinite duration unless an expiration date has been specified by the Planning Commission as a condition of approval.
  2. Temporary Variances. Where application is made for a structure which is temporary in nature, the Planning Commission may condition the variance to expire automatically a stated period of time after granting of the variance.
  3. Expiration for failure to utilize a Variance. Any variance granted shall expire at the end of one year unless a building permit or other County permit is obtained within the variance term.
  4. Extension of Time. Upon show of good cause by the applicant, the Planning Commission may grant an extension of time not to exceed one year. A public hearing shall not be required unless specified by the Planning Commission. A request for extension of time shall be subject to a filing fee as specified by the Board of Supervisors.
- F. PERMITS MAY NOT BE ISSUED: No building permit or other County permit involving a variance shall be issued until the ten day appeal period has expired. No building permit or other County permit involving a variance shall be issued while a variance hearing or appeal therefrom is pending.