

Sec. 113-62. Variances.

- (a) *Definitions.* The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Practical difficulties means the same as that term defined in Minn. Stats. § 462.357, as may be amended, meaning that the property owner proposes to use the property in a reasonable manner not permitted by this chapter, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and a variance, if granted, shall not alter the character of the locality. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include but are not limited to inadequate access to direct sunlight for solar energy systems.

Variance means a modification of or variation from the provisions of this chapter consistent with the state enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this chapter.

- (b) *Purpose.* The purpose of this division is to provide the procedure and criteria for variances.
- (c) *Application.*
- (1) Any owner of property or a person holding a contract to purchase property, or an optionee holding an option conditioned solely on the grant of a variance, or the duly authorized agent of such appellant, may make application for a variance. The application shall be made on forms prepared by the zoning administrator.
 - (2) The application shall contain the legal description of the property, the zoning district in which it is located, a brief statement of the reasons the variance is requested, a statement of the ownership interest therein of the applicant and the names and addresses of the owners of all abutting property as listed on the current real estate tax rolls. The application shall be verified.
- (d) *Use variances prohibited.* Variances may not be approved for a use that is not allowed in the zoning district where the property is located.
- (e) *Review criteria.* The city council shall not approve any variance request unless they find that failure to grant the variance will result in practical difficulties on the applicant, and, as may be applicable, all of the following criteria have been met:
- (1) The variance would be in harmony with the general purposes and intent of this chapter.
 - (2) The variance would be consistent with the comprehensive plan.
 - (3) That, there are practical difficulties in complying with this chapter.
 - (4) That the granting of the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.
 - (5) That the requested variance is the minimum action required to eliminate the practical difficulties.

- (6) Variances shall be granted for earth sheltered construction as defined in Minn. Stats. § 216C.06, subd. 14, when in harmony with this chapter. Variances may be approved for the temporary use of a one-family dwelling as a two-family dwelling.
- (f) *Conditions.* The city may attach conditions to the grant of the variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
- (g) *Procedure.*
 - (1) All applications for variances shall be referred to the planning commission for study and recommendation to the city council.
 - (2) Within 60 days, the planning commission shall forward its recommendations to the city council; if no recommendation is transmitted within 60 days after referral of the application for variance to the planning commission, the city council may take action without further awaiting such recommendation.
 - (3) Variances are granted or denied by motion of the city council.
- (h) *Termination.* The violation of any condition of the variance shall be the basis for the city council, following a hearing, to terminate the variance. If the property is not used or improvements substantially begun within a period of one year after the decision granting the variance, unless the variance decision provides otherwise, the variance shall be terminated. Unless the city council specifically approves a different time when action is officially taken on the request, approvals which have been issued under the provisions of this section shall expire without further action by the planning commission or the city council, unless the applicant commences the authorized use or improvement within one year of the date the variance is issued; or, unless before the expiration of the one-year period, the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as established by city council. The request for extension shall state facts showing a good faith attempt to complete or utilize the approval permitted in the variance. A request for an extension not exceeding one year shall be subject to the review and approval of the zoning administrator. Should a second extension of time, or any extension of time longer than one year, be requested by the applicant, it shall be presented to the planning commission for a recommendation and to the city council for a decision.

(Code 1993, § 9-15.03; Ord. No. 11-01, § 1, 7-13-2011)

State law references: Variances, Minn. Stats. § 462.357, subd. 6(2).

Secs. 113-63--113-82. Reserved.

Sec. 113-240. Accessory buildings and structures.

- (a) *Time of construction.* No accessory building shall be constructed on a lot prior to the time of construction of the principal building or land use to which it is accessory.
- (b) *Proximity to principal building.* An accessory building shall be considered as an integral part of the principal building if it is located less than 12 feet from the principal building

with respect to firewall and other requirements of the building code.

- (c) *Garage restrictions.* Garages in a residential district must be set back at least five feet from an interior side or rear lot line unless:
- (1) The garage meets all of the following:
 - a. Is located on an alley, and is accessed from the alley or from a public street abutting an alley on a corner lot;
 - b. Is located in the rear 28 feet of the lot; and
 - c. Is oriented such that the vehicular access door is perpendicular to the alley; or
 - (2) The garage meets all of the following:
 - a. Is detached from the principal structure;
 - b. Is accessed from a driveway off of a public street, not an alley;
 - c. Is replacing an existing garage that is located less than five feet from the side lot line; and
 - d. Is located a minimum of five feet to the rear of the principal structure on the nearest adjoining property that is closed to the garage; or is located at least ten feet from any portion of the principal structure on the nearest adjoining property; or
 - (3) The garage meets all of the following:
 - a. Is detached from the principal structure;
 - b. Is accessed off an alley;
 - c. Is replacing an existing garage that is located less than five feet from the side lot line; and
 - d. Is located in the rear 30 feet of the lot.
- (d) *Garage locations; conditional.*
- (1) If all the conditions of subsection (c)(1) of this section are met, the garage can be located not less than one foot from an interior side or rear lot line.
 - (2) If all of the conditions of subsection (c)(2) of this section are met, the garage can be located at the same side yard setback as the existing garage that is being replaced, except that the new garage shall not be located less than two feet from the side lot line. The replacement garage does not have to be in the same location as the existing garage.
 - (3) If all of the conditions of subsection (c)(3) of this section are met, the replacement garage can be located at the same side yard setback as the existing garage, except the garage shall not be located less than two feet from the side lot line.
- (e) *Yard setbacks; building locations.* The corner side yard setback for accessory buildings, including garages, shall adhere to the setback requirement for principal buildings as

described in section 113-174(e)(2) (20 percent of the lot width). The rear yard and interior side yard setbacks shall be those required for garages and accessory buildings on interior lots. Lots smaller than 75 feet wide shall have a minimum corner side yard setback requirement of not less than fifteen feet. Garages on these lots may be located closer than 15 feet from the corner side lot line if the vehicular access door does not face the side street. In no case shall a garage or other accessory building be located within the corner side yard.

- (f) *Height limitations.* No accessory building in a residential district shall exceed the height of the principal building. No detached garage in a residential district shall exceed:
 - (1) A maximum of 18 feet in height from grade to peak if the roof has a pitch that is four feet (horizontal) to one foot (vertical) or greater.
 - (2) A maximum of 12 feet in height from grade to peak if the roof has a pitch that is less than four feet (horizontal) to one foot (vertical).
- (g) *Building location in certain districts.* Accessory buildings in the business and industry districts shall be located any place to the rear of the principal building, subject to the building code, and the fire zone regulations.
- (h) *Prohibited location.* No detached garages or other accessory buildings shall be located nearer to the front lot line than the principal building on that lot with the exception of an attached garage in an R-1 zone.
- (i) *Height limitation in certain districts.* No accessory building in a business or industrial district shall exceed the height of the principal building except by conditional use permit.
- (j) *Yard setbacks and building location in certain districts.* An accessory building in the business or industrial districts may be located within the rear yard setback, provided that the lot is not a through lot and said accessory building does not occupy more than 25 percent of the required rear yard. An accessory building shall be a part of the principal building if it is located less than 12 feet from the principal building. No accessory building shall be located less than ten feet from a rear lot line.
- (k) *Standards for utility structures.* Utility structures and other similar buildings shall conform to the following standards in residential districts:
 - (1) All structures 120 square feet or larger shall require a building permit.
 - (2) All such structures shall be secure from wind displacement.
 - (3) The area of such buildings shall not be less than 35 square feet. Only one such building shall be permitted per lot and permitted only within the single-family districts.
 - (4) The height of detached utility structures shall not exceed 12 feet. If attached, the structure shall not exceed the height of the principal building.
 - (5) Exterior colors or materials matching the principal structure or earthen tones shall be utilized. No door or other access opening in a utility structure shall exceed 28 square feet in area.
- (l) *Compost structure requirements.* One accessory structure for compost not to cover more than 25 square feet in area and five feet in height in the rear yard. A compost structure must meet the setback requirements in section 113-240(e).

- (m) *Garage conversion requirements.* When an attached garage is converted to dwelling space, a replacement garage of the same or greater size must be constructed on the property. Furthermore, the existing driveway leading to the converted garage must be replaced with grass or approved landscaping materials unless the driveway provides access to the new garage. The curb cut provided to such a driveway may be removed by the city in the event the street curbs and gutters are rebuilt.
- (n) *Street access for alley property.* No property located on an alley shall be permitted a new curb cut for street access.
- (o) *Prohibited use.* No accessory building or structure shall be used for living purposes or as a dwelling unit.
- (p) *Detached accessory building conditions.* Detached accessory buildings shall not occupy more than 40 percent of the area of a required rear yard, and shall not exceed a total of 1,000 square feet.
- (q) *Minimum distance between buildings.* The minimum distance between the principal building and an unattached accessory building shall be five feet.
- (r) *Minimum setback.* The minimum setback from the rear lot line of a through lot shall be 30 feet.
- (s) *Tents.* A tent is not an approved accessory building and may not be used as a dwelling unit on any lot.
- (t) *Detached garage condition.* Detached garages in a residential district must be located entirely within the rear 30 feet of the lot if there is an adjacent alley.

(Code 1993, § 9-2.04; Ord. No. 0-89-12, 7-26-1989; Ord. No. 0-89-16, 11-8-1989; Ord. No. 0-90-1, 1-10-1990; Ord. No. 0-90-8, 8-22-1990; Ord. No. 0-91-13, § 1, 11-27-1991; Ord. No. 0-95-07, §§ 1--3, 10-11-1995; Ord. No. 0-96-01, § 1, 2-28-1996; Ord. No. 98-04, § 1, 6-24-1998; Ord. No. 0-99-10, § 1, 12-15-1999; Ord. No. 01-02, § 1, 10-10-2001)

Sec. 113-241. Required yards and open spaces.

- (a) *Existing yards.* No yards, now or hereafter provided for a building existing on the effective date of the ordinance from which this chapter is derived shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this chapter for equivalent new construction in any zone.
- (b) *Permitted encroachments on required yards.* The following shall be permitted encroachments into setback and height requirements except as restricted by other sections of this chapter:
 - (1) In any yards:
 - a. Posts, off-street parking, flues, sills, pilasters, lintels, cornices, eaves (up to three feet), gutters, awnings, open terraces, steps, sidewalks, essential services, stoops, or similar features provided that they do not extend five feet above the height of the principal structure or to a distance less than three feet from any lot line;
 - b. Yard lights and nameplate signs, trees, shrubs, plants;

- c. Floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas, or yard for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property;
 - d. No deck, uncovered porch, or air conditioner shall be less than five feet from a side or rear yard line and if in the required front yard area, a variance shall be required;
 - e. An exposed ramp is a permitted encroachment, provided that a setback of at least five feet in the side and rear yard is met and the design and materials are approved by the zoning administrator as being in harmony with the surrounding residential neighborhood and the documented medical needs of the user;
 - f. Chimneys, flagpoles and open fire escapes may not extend more than five feet above the principal structure or three feet from any lot line. Basement egress window wells may not extend closer than three feet to any lot line.
- (2) In side and rear yards:
- a. Fences that meet all other provisions of this chapter;
 - b. Walls and hedges six feet in height or less;
 - c. Bays not to exceed a depth of three feet or containing an area of more than 30 square feet, fire escapes and basement egress window wells not to exceed a width of three feet.
- (3) On a corner lot, nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of 2 1/2 and ten feet above the centerline grades of the intersecting streets within a triangular area 30 feet from the intersecting street right-of-way lines.
- (4) In no event shall off-street parking, structures of any type, buildings, or any impervious surfaces cover more than 75 percent of the lot areas, except for R-1 zoned land which is regulated by the schedule below:

TABLE INSET:

Lot Area (sq. ft.)	Maximum Impervious Lot Coverage
7,370 or less	45%
Over 7,370 to 1,5800	3,320 sq. ft. or 30%, whichever is greater
Over 15,800 to 34,000	4,940 sq. ft. or 20%, whichever is greater
Over 34,000	6,800 sq. ft. or 15%, whichever is greater

- (5) Porches with open railings which do not have walls, doors, windows or screens and which do not extend above the roof line of the building to which they are attached may encroach into the required front yard six feet if they are a minimum 24 feet from any front lot line. The encroachment into the front yard may not exceed 50 square feet.
- (c) *Street frontage.* All buildable lots must have frontage on and direct access to an

improved public street except for planned unit development in which private streets have been approved by the city.

(Code 1993, § 9-2.05; Ord. No. 0-96-01, § 2, 2-28-1996; Ord. No. 0-96-05, § 1, 8-14-1996; Ord. No. 99-05, § 2, 8-25-1999; Ord. No. 03-01, § 1, 1-22-2003; Ord. No. 12-03, § 2, 5-9-2012)