



## **Sec. 27-33 Standards for granting Use Variances**

- a) A use variance shall not be granted by the City unless it determines that:
- 1) The nature of the use variance is such that is necessary for the health, safety, or welfare of the inhabitants of the City, and is not a mere convenience to such inhabitants;
  - 2) a present need for the proposed use exists for service to the population in the area, considering the present availability of similar uses that may serve such population and such area's existing development;
  - 3) Special conditions and circumstances exist that are peculiar to the land, structure, or building involved, which are not applicable to other lands, structures, or buildings in the same zoning district, which constitute marked exceptions to other properties in the district, and which prevent the reasonable use of said land, structure, or building;
  - 4) The literal application of the zoning and land development regulations under such special conditions and circumstances would create an unnecessary hardship which is not self-created;
  - 5) Not granting the use variance would deprive the applicant of a substantial property right that is enjoyed by other property owners within the district and within the surrounding property (nonconforming use of neighboring lands, structures or buildings, in the district or surrounding property, shall not be grounds for issuing a use variance);
  - 6) The requested use variance is of such character, size, and location so as to not change the nature of the principal permitted usage on the property, or will not conflict with the intent and purpose of the zoning district within which the property is located;
  - 7) The use variance requested is consistent with the comprehensive plan;

- 8) The use variance is compatible with the general plan for the physical development of the district and surrounding property, and is in harmony with the general character of the existing structures for the subject property, district, and the surrounding property, considering design, scale, and bulk of any new structures, the intensity and character of the proposed use, the use regulations of the district and how the district and subject to property has developed, the character of the surrounding property, and traffic and parking conditions;
- 9) The use variance will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections, or its location in relation to other buildings or proposed buildings on or near the site or the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital, or other public use or place of public assembly (where such use variance involves heavy vehicular traffic ingressing or egressing from adjacent roadways or on-site, or is deemed a trip generating use, a traffic analysis shall be submitted by the applicant with suggested means of ameliorating such traffic impact);
- 10) The use variance will not be detrimental to the use, peaceful enjoyment, economic value, or development of the subject property, district, surrounding property, or the neighborhood, and will cause no objectionable noise, vibration, fumes, odors, dust, glare, or physical activity;
- 11) The use variance will not adversely affect the health, safety, security, morals, or general welfare of the residents, visitors, or workers of the subject property, the surrounding property, or the neighborhood; and
- 12) The use variance will not, in conjunction with existing development in the neighborhood, or surrounding property, overburden existing public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public improvements, and will not create a hazard by virtue of its size and location to residents, visitors, or workers in the neighborhood or surrounding property.