

DIVISION 17. VARIANCE PROCEDURE.**Section 14-116. Powers of the Planning, Zoning and Variance Commission.**

The City Planning, Zoning and Variance commission shall have, in addition to other powers set forth in this Chapter, the following additional powers:

- (1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or determination made by an administrative official based on or made in the enforcement of the Zoning Ordinance.
- (2) Hear and decide, grant or deny applications for variance from the provisions of the Zoning Ordinance. The Commission may also impose reasonable conditions and safeguards, as deemed necessary to address potentially adverse impacts upon adjacent property or the neighborhood.¹ However, the Commission may not grant variances from the provisions of the Zoning Ordinance governing the use or density of land or buildings, or the provisions governing Planned Unit Developments.

Section 14-117. Procedures.

In addition to any procedures the Commission may adopt by rule, the Commission shall conduct hearings and make decisions in accordance with the following requirements:

- (1) The Commission shall schedule and hold a hearing on any appeal from an order, requirements, decision or determination made by an administrative official based on or made in the enforcement of the Zoning Ordinance, and on any application for variance.
- (2) Public notice shall be given of all hearings and all hearings shall be open to the public.
- (3) The Commission shall keep a record of the proceedings, either by sound recording or stenographically, and a copy of the sound recording and of any graphic or written material received in evidence shall be made available to any party for a reasonable fee.
- (4) At the conclusion of any hearing or within not more than thirty (30) days thereafter, the Commission shall render its decision either orally or in writing. Such decision must set forth findings of fact and conclusions based thereon. Conclusions based on any provision of the Zoning Ordinance, or on any rule or regulation, must contain a reference to such provision, rule, or regulation and the reason why the conclusion is deemed appropriate in light of the facts found.

Section 14-118. Criteria for consideration of variance requests.

The Commission may grant a variance only if it makes findings that all of the following requirements, insofar as applicable, have been satisfied:

- (1) That there are unique physical circumstances or conditions, such as irregularity, narrowness or

shallowness of the lot, or exceptional topographical or other physical conditions peculiar to the affected property;

(2) That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;

(3) That because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of the Zoning Ordinance;

(4) That such unnecessary hardship has not been created by the applicant;

(5) That the variance, if granted, will not alter the essential character of the neighborhood, the Historic Preservation District, or other district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property; and

(6) That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the Zoning Ordinance provision which is in question.

Section 14-119. Effect of decision by the Planning, Zoning and Variance Commission.

The appellant or applicant shall be issued a copy of the written decision of the Commission or a written notice of the oral decision of the Commission as soon as practicable after the decision has been rendered. Unless such decision shall be appealed to the Board of Appeals within fifteen (15) days of the issuance of the written decision or written notice of the oral decision in accordance with Section 14-139 of this Code, the decision shall become final at the end of the fifteen (15) day appeal period.