

CITY OF NEWPORT
ORDINANCE
OF THE
COUNCIL

NO. 2019-

AN ORDINANCE IN AMENDMENT OF TITLE 17 OF THE CITY OF NEWPORT, RHODE ISLAND, AMENDED, ENTITLED, "ZONING."

BE IT ORDAINED by the City of Newport:

THE CODIFIED ORDINANCES REVISION OF 1994, AS SECTION 1. Chapter 17.108.010 of the Codified Ordinances of the City of Newport, RI, revision of 1994, as amended, entitled, 'Variances,' is hereby further amended as follows:

17.108.010. - Variances.

A. ~~The zoning board of review shall have the power and duty to authorize, upon appeal in specific cases, such variance from the provisions of this zoning code where, owing to special conditions, a literal enforcement of the provision of this zoning code would result in unnecessary hardship. Financial detriment shall not be considered an unnecessary hardship.~~

An application for relief from the literal requirements of a zoning ordinance because of a hardship may be made by any person, group, agency, or corporation by filing with the zoning officer an application describing the request and supported by any data and evidence as may be required by the zoning board of review or by the terms of the ordinance. The zoning officer shall immediately transfer each application received to the zoning board of review and a copy of each application to the planning board.

B. ~~Procedure.~~

- ~~1. A written application for a variance may be made by any person, group, agency, or corporation and shall be submitted to the zoning officer demonstrating that:
 - ~~a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;~~
 - ~~b. A literal interpretation of the provisions of this zoning code would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the provisions of this zoning code;~~
 - ~~c. Special conditions and circumstances do not result from the actions of the applicant. Purchase or lease of property shall not constitute such an action in this instance.~~~~
- ~~2. The zoning officer shall immediately transmit each application to the zoning board of review and shall also transmit a copy of each application for use variance to the planning board.~~
- ~~3. The zoning board of review may request that the planning board and/or staff report it's findings and recommendations, including a statement on the general consistency of the application with the goals and purposes of the comprehensive plan, in writing to the zoning board of review within thirty (30) days of receipt of the application from the board.~~
- ~~4. The zoning board of review shall hold a public hearing in an expeditious manner after receipt of a complete application. Public notice shall be given at least fourteen (14) days prior to the date of the hearing in a newspaper of general circulation in the city which shall specify date, time, place, purpose of the hearing, and street address of the subject property. Notice of hearing shall be sent by first class mail fourteen (14) days prior to the date of the hearing to the applicant and to all~~

~~those who would require notice under Section 17.112.070. The cost of notification shall be borne by the applicant.~~

B. The zoning board of review, immediately upon receipt of an application for a variance in the application of the literal terms of the zoning ordinance, may request that the planning board and/or staff report its findings and recommendations, including a statement of the general consistency of the application with the goals and purposes of the comprehensive plan of the City of Newport, in writing, to the zoning board of review within thirty (30) days of receipt of the application from that board. The zoning board shall hold a public hearing on any application for variance in an expeditious manner, after receipt, in proper form, of an application, and shall give public notice at least fourteen (14) days prior to the date of the hearing in a newspaper of general circulation in the City of Newport. Notice of hearing shall be sent by first-class mail to the applicant, and to at least all those who would require notices under GLRI §45-24-53. The notice shall also include the street address of the subject property. The cost of notification shall be borne by the applicant.

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~~5-C.~~ In granting a variance, the zoning board of review shall require that evidence to the satisfaction of the following standards ~~shall be~~ is entered into the record of the proceedings:

~~1.a.~~ 1.a. That the relief to be granted is the least relief necessary. —That the reasons set forth in the application justify the granting of the variance and that the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building or structure;

~~2.b.~~ 2.b. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based. —That the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the intent or purpose of the zoning code or the comprehensive plan upon which this zoning code is based;

~~3.e.~~ 3.e. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in GLRI §45-34-30(a)(16); and

~~4.d.~~ 4.d. That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

~~6-~~ 6. The zoning board of review shall, in addition to the above standards, require that evidence ~~be is~~ entered into the record of the proceedings showing that:

~~1.a.~~ 1.a. In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ~~code ordinance~~. Nonconforming use of neighboring lands or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and

~~b2.~~ b2. In granting a dimensional variance, that the hardship ~~that will be~~ suffered by the owner of the subject property if the dimensional variance is not granted ~~shall amount~~ amounts to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief. The zoning board of review shall have the power to grant dimensional variances where the use is permitted by a special use permit;

~~D.e.~~ D.e. In granting a variance or in making any determination upon which it is required to pass after a public hearing under a zoning ordinance, the zoning board of review may apply special conditions that may, in the opinion of the board, be required to promote the intent and purposes of the comprehensive plan and the zoning ordinance of the City of Newport. Failure to abide by any special conditions attached to a grant constitutes a zoning violation. Those special conditions shall be based on competent credible evidence on the record, be incorporated into the decision, and may include, but are not limited to, provisions for:

(1) Minimizing the adverse impact of the development upon other land, including the type, intensity, design and performance of activities;

(2) Controlling the sequence of development, including when it must be commenced and completed;

(3) Controlling the duration of use or development and the time within which any temporary structure may be removed;

(4) Assuring satisfactory installation and maintenance of required public improvements;

(5) Designating the exact location and nature of development; and

(6) Establishing detailed records by submission of drawings, maps, plats or specifications.

SECTION 2. This ordinance shall take effect upon its passage and all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

IN COUNCIL
READ AND PASSED

2019

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