

Chapter 18.48

VARIANCES, EXCEPTIONS AND ADJUSTMENTS

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18.48.010 Chapter application. Where practical difficulties, unnecessary hardships and results inconsistent with the general purpose of this title may result from the strict application of certain provisions thereof, variances, exceptions and adjustments may be granted, by the town council in appropriate cases, after public notice and hearing as provided herein and as further provided in Sections 18.48.020 and 18.48.030.

(1) Variances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

(2) Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

(3) A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. The provisions of this section shall not apply to use permits. (Ord. 375 §7, 1977; prior code §10 112 (part)).

18.48.020 Application--Contents. Application for any variance, exception or adjustment shall be made in writing in the form, and accompanied by the fee, prescribed by the town council and shall contain a statement and adequate evidence showing:

(1) That there are special circumstances or conditions applicable to the land, building or use referred to in the application;

(2) That the granting of the application is necessary for the preservation and enjoyment of substantial property rights;

(3) That the granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. (Prior code §10 112 (part)).

18.48.030 Conditions. In granting any variance, exception or adjustment under the provisions of this chapter, the town council shall designate such conditions in connection therewith as will in its opinion, secure substantially the objectives of the regulation or provision to which the variance, exception or adjustment is granted, as to light, air, and the public health,

safety, comfort, convenience and general welfare. In order to grant any variance, exception or adjustment, the findings of the town council shall be that the qualifications under Section 18.48.020 apply to the land, building, or use for which variance, exception or adjustment is sought, and that the variance shall be in harmony with the general purpose of this title. (Prior code §10 112 (part)).

18.48.040 Public hearing. A public hearing shall be held as provided in Section 18.44.020, except that notices need only be mailed to owners within three hundred feet and no published notice need be given. (Prior code §10 112 (part)).

18.48.045 Denial of incomplete or inactive applications. Consistent with state law, the town planner may administratively deny without prejudice any application which remains incomplete or inactive for a period of greater than ninety days, or is continued at the applicant's request for more than sixty days. (Ord. 584 §4, 2004).

18.48.050 Revocation or modification. (a) Whenever revocation because of noncompliance with conditions, or modification of a variance is proposed, notice of public hearing to be held on such revocation or modification shall be given to the permittee in writing at least ten days prior to the hearing and shall also be given as provided in Section 18.48.040.

(b) Failure to secure a building permit and/or commence construction will cause variance approval to expire one year from the date of approval without further notice. The town council may grant an extension of time of up to one year from the expiration date upon determining that the findings made in the original approval remain valid. An application for an extension of time must be filed with the planning department prior to the original expiration date.

A second extension of up to one year may be granted upon submittal of a request prior to the expiration of the first extension if the council determines that the original findings remain valid. (Ord. 575 (part), 2003; Ord. 561 (part), 2001; Ord. 534 (part), 1996; Ord. 480, 1990; Ord. 432 §1, 1981; Ord. 375 §8, 1975; prior code §10 112 (part)).