

CHAPTER 25. VARIANCES AND HOME IMPROVEMENT EXCEPTIONS

SECTIONS:

- 6530. PURPOSE
- 6531. GENERAL PROVISIONS
- 6532. PROCEDURE
- 6533. CONDITIONS
- 6534.1 VARIANCE FINDINGS
- 6534.2 HOME IMPROVEMENT EXCEPTION FINDINGS
- 6535. APPEALS
- 6536. EXPIRATION/EXTENSION
- 6537. REVOCATION

SECTION 6530. PURPOSE. The purpose of a variance is to allow, under special circumstances, development to vary from the requirements of the Zoning Regulations when strict enforcement would: (1) make it difficult to develop a parcel, (2) cause unnecessary hardships to the landowner, or (3) result in inconsistencies with the general purposes of the Zoning Regulations.

The purpose of a home improvement exception is to allow, under special circumstances, relief from the requirements of the Zoning Regulations where it is desirable to sustain the integrity or enhance an existing residential design concept or the neighborhood character.

SECTION 6531. GENERAL PROVISIONS. Variances are permitted when one or more of the following conditions exist: (1) development is proposed on an existing legal parcel zoned R-1/S-7 or R-1/S-17, which is 3,500 square feet or less in area and/or 35 feet or less in width; (2) the proposed development varies from minimum yard, maximum building height or maximum lot coverage requirements; or (3) the proposed development varies from any other specific requirements of the Zoning Regulations.

Notwithstanding Chapter 4 of the Zoning Regulations, home improvement exceptions may be approved to grant relief from the strict provisions of the Zoning Regulations for yards, lot coverage, daylight planes, and floor area ratio. To qualify for a home improvement exception, the following requirements must be met: (1) the home improvement exception is for an addition to an existing residential dwelling unit or a detached garage in the R-1, R-2, RE, RH, RM, and combining districts; (2) the home improvement exception is for addition to an existing one-family residential unit, an existing two-family residential unit, or a detached garage in the R-3 district; (3) the addition will not result in the creation of a new story; (4) at least 75% of the existing exterior walls (in linear feet) will remain; (5) at least 50% of the existing roof (in square feet) will remain; (6) the addition will be located at least three feet from a property line; (7) the existing structure is located in an area with an average slope of less than 20%;

(8) development on the parcel does not exceed maximum floor area, if located in the Mid-Coast; and (9) the total floor area approved through home improvement exceptions on a given parcel shall not be greater than two hundred and fifty (250) square feet and no more than one hundred (100) square feet may extend into a side yard. If the addition will not result in a visible change to the exterior shape and size of the residential unit, improvement exceptions may apply to projects which (1) require relief from the provisions of the Zoning Regulations for height; (2) involve the addition of a new story; and (3) exceed the 250 square feet limit.

A Home Improvement Exception application can only be submitted if the date of the application is five (5) years or more after the date certificate of occupancy was granted for subject residential unit.

Notwithstanding the above, the following restrictions apply to home improvement exception applications: (1) a home improvement exception shall not be granted for a structure if an existing building code violation involves the Zoning Regulations for yards, lot coverage, daylight planes, or floor area ratio; (2) a building code violation cannot be used to justify the integrity of an existing design concept pursuant to Section 6534.2(2); (3) a final building permit inspection for a home improvement exception may not occur until all building violations have been corrected.

Variances and home improvement exceptions may not be granted to allow a use, activity or an increased number of dwelling units which are not permitted by the Zoning Regulations.

SECTION 6532. PROCEDURE.

A. Applications

Applications for a variance or a home improvement exception must be made in writing to the Planning and Development Division. Applications must be signed and verified by the landowner or an authorized agent who must submit written authorization to act on behalf of the landowner. Applications shall be made to the Zoning Administrator on a form prescribed by the Zoning Administrator, and shall contain the following:

1. A description and map showing the location of the property for which the variance, or home improvement exception, is sought, and indicating the location of all parcels or properties within a distance of three hundred (300) feet from the exterior boundary of the property involved in the application.
2. Plans and descriptions of existing and proposed construction on the property involved, together with a statement of the circumstances which justify the application.

3. Such additional information as the Zoning Administrator may deem pertinent and essential to the application.
4. Fees prescribed by the fee schedule.

B. Notification

Within ten (10) calendar days of receipt of the application or seven (7) calendar days prior to the final decision, the Zoning Administrator must mail an optional hearing request notice to all owners of property, as shown on the last equalized assessment roll, within three hundred (300) feet of the exterior limits of the property for which the application is proposed.

The optional hearing request notice will include the date on or after which the application will be acted upon. If any person is concerned about the application and/or wants a public hearing, they must contact the Planning and Building Division in writing prior to the specified decision date. Public hearings shall be held as set forth in subsection D of this section.

C. Approval/Denial of Variances and Home Improvement Exceptions for Which No Hearing is Requested

Prior to making a final decision on a variance or home improvement application for which no hearing was requested, the Zoning Administrator will consider all comments made prior to the specified decision date. The decision of the Zoning Administrator shall be supported by the evidence contained in the application. Notice of the decision of the Zoning Administrator shall be mailed to the applicant and to any other person requesting such notice.

D. Variances and Home Improvement Exceptions Requiring Public Hearing

At least ten (10) calendar days prior to the public hearing, the Zoning Administrator must mail a notice of the public hearing to: (1) the owner of the property for which the application is proposed, the owner's authorized agent, if any, and the applicant, if different from the owner; (2) all landowners who own property, as shown on the last equalized assessment roll, within three hundred (300) feet of the exterior limits of the property for which the application is proposed; and (3) all local agencies expected to provide water, sewerage, roads, schools or other essential services to the property when ability to provide those facilities and services may be significantly affected.

In addition, the notice must be published in at least one newspaper of general circulation within the County at least ten (10) calendar days prior to the hearing or posted within the County at least ten (10) calendar days prior to the hearing in three public places, one of which must be in a public place directly affected by the application. If the number of landowners who must be noticed is greater than

one thousand (1,000), the Zoning Administrator may, instead of individual notice, place a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the County at least ten (10) calendar days prior to the hearing.

The decision or the Zoning Administrator shall be supported by the evidence contained in the application. Notice of the decision of the Zoning Administrator shall be mailed to the applicant and to any other person requesting such notice.

SECTION 6533. CONDITIONS. When approving a variance or a home improvement exception, the approving authority may place as many conditions on the decision as necessary in order to ensure public safety, health, and welfare and to allow the approving authority to make required findings.

SECTION 6534.1 VARIANCE FINDINGS. In order to approve an application for a variance, the approving authority must make all of the following findings in writing:

- (1) The parcel's location, size, shape, topography and/or other physical conditions vary substantially from those of other parcels in the same zoning district or vicinity.
- (2) Without the variance, the landowner would be denied the rights and privileges that are enjoyed by other landowners in the same zoning district or vicinity.
- (3) The variance does not grant the landowner a special privilege which is inconsistent with the restrictions placed on other parcels in the same zoning district or vicinity.
- (4) The variance authorizes only uses or activities which are permitted by the zoning district.
- (5) The variance is consistent with the objectives of the General Plan, the Local Coastal Program (LCP) and the Zoning Regulations.

SECTION 6534.2 HOME IMPROVEMENT EXCEPTION FINDINGS. In order to approve an application for a home improvement exception, the approving authority must make all of the findings in writing:

- (1) The existing structure has a design or there are conditions applicable to the property such that the proposed project would result in only minor exterior changes.
- (2) The home improvement exception sustains the integrity or enhances an existing design concept or the neighborhood character.

- (3) The granting of the application will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convenience.
- (4) The home improvement exception authorizes only uses or activities which are permitted by the zoning district.
- (5) The home improvement exception is consistent with the objectives of the General Plan and the Zoning Regulations.

In determining whether or not to grant exceptions pursuant to this section, the Zoning Administrator shall consider such applicable residential design guidelines as may be adopted and published by the Planning Commission or Board of Supervisors.

SECTION 6535. APPEALS. Variances and home improvement exceptions acted on by the Zoning Administrator may be appealed to the Planning Commission within ten (10) working days only by aggrieved persons as defined in Section 6328.3 of the Zoning Regulations. Notice of the public hearing shall be provided as specified in Section 6532.D. The Planning Commission will review and consider only points of appeal for each variance or home improvement exception. The decision of the Planning Commission may be appealed to the Board of Supervisors in accordance with the same requirements as appeals to the Planning Commission.

SECTION 6536. EXPIRATION/EXTENSION. After two (2) years from the date of approval, if the applicant has not obtained all other necessary permits and made substantial progress toward completing the proposed development, the variance, or home improvement exception, will expire. Variances and home improvement exceptions may be extended beyond two (2) years if: (1) the applicant has obtained all other necessary permits and made substantial progress toward completing the proposed development, and/or (2) the applicant requests an extension in writing at least sixty (60) calendar days before the expiration date. The Planning Director may administratively issue an extension for one (1) year at a time.

SECTION 6537. REVOCATION. The approving authority may revoke an approved variance, or home improvement exception, following the procedure specified in Section 6505 if the terms and conditions of approval are violated.

- (Section 6530 - Amended by Ordinance No. 1919 - July 9, 1958)
- (Section 6531 - Amended by Ordinance 3985 - August 8, 2000)
- (Section 6531(d) - Added by Ordinance No. 2710 - December 16, 1980)
- (Chapter 25, Sections 6530 through 6532 - Repealed and Replaced with new Sections 6530 through 6537 - by Ordinance No. 3518* - September 13, 1988)
- (Chapter 25, Sections 6530 through 6537 - Repealed and Replaced with revised Sections 6530 through 6537 - by Ordinance No. 3171* - January 24, 1989)
- (Chapter 26, Sections 6540 - Repealed by Ordinance No. 2586 - May 15, 1979)
- (Chapter 25 - Amended by Ordinance No. 3689 - Effective in Non-Coastal Areas November 21, 1995; effective in Coastal Areas August 15, 1996)

(Section 6535 - Amended by Ordinance No. 3888 - Effective in Non-Coastal Areas
April 8, 1999; effective in Coastal Areas August 14, 1999)

JKE:LLT/kcd – JKEL2046_WKR.DOC
(09/18/01)