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Chapter 18.160

VARIANCES

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18.160.010 Purpose.

This chapter is intended to provide a mechanism for relief from certain dimensional and performance standards in this code where the strict application will deprive the property owner of privileges enjoyed by similar properties because of the subject property's unique and special conditions. [Ord. 14-12 § 1; Res. 14-36 § 506.01.]

18.160.020 Applicability and scope of variances.

Variances may be granted with respect to dimensional and performance standards, but variances from the use regulations of this code are not allowed. The ~~board of adjustment~~ **Hearing Officer** shall have power to grant such variances only to the extent necessary to overcome such practical difficulty or unnecessary hardship as may be established in accordance with the provisions of this chapter. [Ord. 14-12 § 1; Res. 14-36 § 506.02.]

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18.160.030 Limitations on authority to grant variances.

A. No variance shall be granted, in whole or in part, that would have an effect substantially equivalent to a reclassification of property, alter any use or grant a privilege for which a conditional use permit is required. A variance is not a vested right and is granted upon the discretion of the ~~board of adjustment~~ **Hearing Officer**. The burden of proof for satisfying the requirements for granting of a variance, as stated in this code, rests with the applicant.

B. No variance shall be granted based on an owner-imposed hardship on a lot. [Ord. 14-12 § 1; Res. 14-36 § 506.03.]

18.160.040 Application requirements.

Applications and fees for a variance shall be submitted in accordance with MCC [18.140.020](#), Application Submittal and Review. In addition to any other application requirements, the application for a variance shall include data or other evidence showing that the requested variance conforms to the required findings set forth below. [Ord. 14-12 § 1; Res. 14-36 § 506.04.]

18.160.050 Public hearing.

Variances shall be subject to a hearing by the ~~board of adjustment~~ **Hearing Officer** which shall review the recommendation of the zoning administrator and approve, conditionally approve, or disapprove the application. The issuance of a variance may require that the existing development site be brought into substantial conformance with the terms and standards of this code. All notification requirements of MCC [18.140.060](#), Public Hearing Notifications, must be followed prior to the public hearing. [Ord. 14-12 § 1; Res. 14-36 § 506.05.]

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18.160.060 Required findings.

Variance applications shall only be granted if the ~~board of adjustment~~ **Hearing Officer** determines that the project as submitted or as modified conforms to all of the following criteria, in addition to any criteria that may be required or associated with the specific request. If it is determined that it is not possible to make all of the required findings, the variance application shall be denied. The specific basis for denial shall be established for the record. The following findings must be met in order to grant a variance:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of this code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;
- B. The special circumstances or conditions are preexisting and are not created or self-imposed by the owner or applicant;
- C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which such property is located; and
- D. The granting of such variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or public welfare in general.
- E. Any other requirements as defined in A.R.S. § [9-462.06](#)(G)(2). [Ord. 14-12 § 1; Res. 14-36 § 506.06.]

18.160.070 Use variances prohibited.

A variance shall not be granted to permit a use otherwise not permitted in the applicable zoning district. [Ord. 14-12 § 1; Res. 14-36 § 506.07.]

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18.160.080 Conditions of approval.

In approving a variance, the ~~board of adjustment~~ **Hearing Officer** may impose reasonable conditions necessary to ensure that the variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the zoning district in which the subject property is located, including but not limited to:

- A. Achieve the general purposes of this code or the specific purposes of the zoning district in which the site is located;
- B. Protect the public health, safety, and general welfare;
- C. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses in the surrounding area; and
- D. Any other conditions that are found to be necessary to ensure that the provisions of the general plan and this code are met. [Ord. 14-12 § 1; Res. 14-36 § 506.08.]

18.160.090 Expiration and extension – Modification – Revocation.

- A. A variance granted pursuant to this chapter shall expire if it has not been exercised, or if a building permit has not been issued within one year of the date of the approval, or within the time stipulated, whichever is longer.
- B. ~~The board of adjustment~~ **Hearing Officer** may approve minor modifications that are consistent with the original findings and conditions approved and which would not intensify any potentially detrimental effects of the project. Changed plans, including changes in conditions of approval of a variance, shall be treated as a new application.
- C. A variance may be suspended, revoked, or modified upon a finding that any condition, stipulation, or term of the approval of the permit has been violated. [Ord. 14-12 § 1; Res. 14-36 § 506.09.]

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18.160.100 Appeals.

A variance is subject to appeal in accordance with MCC [18.140.140](#). [Ord. 14-12 § 1; Res. 14-36 § 506.10.]

The Maricopa City Code is current through Ordinance 23-09, passed March 7, 2023.

Disclaimer: The city clerk's office has the official version of the Maricopa City Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

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