

Section 7 VARIANCE/APPEALS

Subdivision 1: BOARD OF ADJUSTMENT

The Board of Adjustment shall be the City Council and shall act upon all decisions as they may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall decide appeals. The Planning Commission shall review any order or requirement. But the decision, or determination made by an administrative official charged with enforcing this Ordinance will be made by the Council. Such appeal may be taken by any person aggrieved or by any officer or department board of commission of the City of Rice. The Board of Adjustment shall have power to vary or adapt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, or shallow lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other uses except as specifically described. Any appeals on a Board of Adjustment decision shall be made to the District Court. Board of Adjustment decisions shall be final except said appeal to District Court.

Subdivision 2: VARIANCES

No variance in the provisions or requirements of this Ordinance shall be authorized by the Board of Adjustment unless it finds evidence that all the facts and conditions exist:

A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.

B. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity. The possibility of increased financial return shall not in itself be deemed sufficient to warrant a variance.

C. That the authorizing of such variance will not be of substantial detriment to the adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.

D. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

E. In granting a variance, the Board of Adjustment may impose conditions to insure compliance and to protect adjacent properties. The Board of Adjustment may not permit as a variance any use that is not permitted under this Ordinance for the property in the district where the affected person's land is located.

Subdivision 3: PROCEDURE

Requests for a variance or appeal shall be submitted on the forms prescribed by the City and shall be accompanied by a list of the names and addresses all property

owners within three hundred fifty (350) feet of the affected parcel plus the applicable fee as set by resolution of the City Council. Any application which does not contain all of the information and enclosures required shall be deemed incomplete and the initiating party notified of the missing information within ten (10) days of receipt of the application.

A. Said petition for variance shall be submitted to the Planning Commission for recommendation to the City Council.

B. Upon receiving the recommendation of the Planning Commission, the Council shall set and hold a public hearing on said request. If the Planning Commission has recommended obtaining public input prior to making its formal recommendation, said public hearing will be a joint public hearing between the Council and Planning Commission. Notice of such hearing shall be mailed not less than ten (10) days nor more than thirty (30) days to property owners within three hundred fifty (350) feet of the affected parcel . Such notice shall be published in the official newspaper of the City within the above time period. Failure of a property owner to receive said notice shall not invalidate any such proceedings.

C. The City will make its decision regarding the application within sixty (60) days of receipt of the same unless that time period is expanded as provided in Minnesota law.

D. The applicant will be notified of the City's decision.

Subdivision 4: LAPSE OF VARIANCE

If within one (1) year after granting a variance the work permitted is not started, such a variance shall become null and void unless a petition for an extension has been approved by the City Council.