

ARTICLE 40

Variances

SECTION 3.40.000 Purpose

A variance may be granted whenever the strict application of a requirement of this Chapter would impose unusual practical difficulty on the applicant. Practical difficulty may result from the size, shape, or dimensions of a site or the location of existing structures thereon, geographic, topographic or other physical conditions on the site or in the immediate vicinity, or from population density, street location, or traffic conditions in the immediate vicinity. The authority to grant variances does not extend to use regulations.

SECTION 3.40.100 Criteria for Decision

A variance to the requirements of this Chapter may be granted with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, fences and walls, and other dimensional requirements only if, on the basis of the application, investigation and evidence submitted, all of the following circumstances are found to exist:

1. Unique circumstances, such as lot size, shape or topography, apply to the property which do not apply generally to other properties in the same zone or vicinity.
2. The variance is necessary for the preservation of a property right of the applicant.
3. The variance would conform with the purposes of this Ordinance and would not be materially detrimental to property in the same zone or vicinity in which the property is located, or otherwise conflict with the Comprehensive Plan.
4. The variance requested is the minimum variance necessary to make reasonable use of the property.
5. The variance is not the result of a self-created hardship.
6. A survey of the location of the property line subject to the request for a variance to setback requirements shall be completed by an Oregon licensed Professional Land Surveyor to ensure the location of the affected property line.
7. Unless otherwise authorized by Public Works, a variance to any County road right-of-way will require an analysis and report from a registered Professional Engineer that demonstrates the proposed setback does not adversely impact the travelling public along the adjacent County Road.

SECTION 3.40.200 Administrative Variance from Building Setback Requirements

1. An Administrative Variance from regulations covering any building setback requirements may be authorized as a use permitted with standards up to a maximum of 50% of the requirement (but not resulting in a setback of less than five (5) feet) upon written consent from the affected adjacent property owner(s). A pre-application conference and fee shall be required. Affected property owner consent shall be obtained by the applicant and submitted to the Planning Department on forms provided by the County. The affected adjacent property owner(s) shall be identified by the Planning Department.

Adjacent owner consent signatures shall be verified by sending a copy of the signed consent form to each identified owner of record. If no negative comments are received within 12 days, the request shall be granted.

2. A survey of the location of the property line subject to the request for a variance to setback requirements shall be completed by an Oregon licensed Professional Land Surveyor to ensure the location of the affected property line.
3. Unless otherwise authorized by Public Works, a variance to any County road right-of-way will require an analysis and report from a registered Professional Engineer that demonstrates the proposed setback does not adversely impact the travelling public along the adjacent County Road.
4. If adjacent owner consent cannot be obtained, the request shall be processed pursuant to the Administrative Action process of §2.060.1 and the necessary fee (current Variance fee less the owner consent application fee) shall be required in order to proceed with the Administrative review (up to a maximum of 50% of the requirement), by the Director, upon findings that:
 - a. Approval of the variance will not negatively impact adjacent properties; and
 - b. The variance does not result in a setback of less than five (5) feet.
5. An Administrative Variance is void if it conflicts with any restrictive covenant applicable to the property at the time such variance is granted.

SECTION 3.40.300 Administrative Variance from Building Height Requirements

1. An Administrative Variance from the regulations covering any building height requirements may be authorized as a use permitted with standards up to a maximum of 30% of the requirement upon written consent from the affected adjacent property owner(s). A pre-application conference and fee shall be required. Affected property owner consent shall be obtained by the applicant and submitted to the Planning Department on forms provided by the County. The affected adjacent property owner(s) shall be identified by the Planning Department. Adjacent owner consent signatures shall be verified by sending a copy of the signed consent form to each identified owner of record. If no negative comments are received within 12 days, the request shall be granted.

2. If adjacent owner consent cannot be obtained, the request shall be processed pursuant to the Administrative Action process of §2.060.1 and the necessary fee (current Variance fee less the owner consent application fee) shall be required in order to proceed with the Administrative review (up to a maximum of 30% of the requirement), by the Director, upon findings that:
 - a. Approval of the variance will not negatively impact adjacent properties; and
 - b. The variance does not result in a height in excess of three stories.
3. An Administrative Variance is void if it conflicts with any restrictive covenant applicable to the property at the time such variance is granted.