

8.1 VARIANCES

[the following would replace current Section A.]

- A. The Board may authorize upon appeal in specific cases a variance from the terms of this Ordinance.
 - 1. In order to authorize a variance, the Board must find that the variance meets all of the following criteria:
 - a. The variance will not be contrary to the public interest;
 - b. The spirit of the Ordinance will be observed;
 - c. Substantial justice will be done;
 - d. The values of surrounding properties will not be diminished; and
 - e. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
 - 2. For purposes of Section A.1.e., “unnecessary hardship” means that one of the following conditions exists:
 - a. Owing to special conditions of the property that distinguish it from other properties in the area, (i) no fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and (ii) the proposed use is a reasonable one. (Under this provision, an unnecessary hardship shall be deemed to exist only if both elements of the condition are based on the special conditions of the property.)
 - b. Owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it. (Under this provision, an unnecessary hardship shall not be deemed to exist if any reasonable use, including an existing use, is permitted under the Ordinance.)

3. The definition of “unnecessary hardship” set forth in Section A.2. shall apply whether the provision of the Ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the Ordinance.
4. Where this Ordinance contains a more stringent requirement or a higher standard than is reflected by existing conditions, it shall be deemed that the intent of the Ordinance is to promote compliance with such requirement or conformance to such standard rather than a continuation of existing conditions. Accordingly, whether surrounding properties violate a provision or standard for which a variance is requested shall not be a factor in determining whether “the spirit of the Ordinance would be observed” by the granting of a variance, as required by Section A.1.B.
5. Because “special conditions of the property that distinguish it from other properties in the area” must be present for a variance to be granted (Section A.2.), the existence in the surrounding area of conditions that are similar to the proposed nonconformity shall not be a basis for the granting of a variance.
6. The Board may attach to a variance any conditions that it deems necessary to ensure that the variance satisfies the criteria set forth in Section A.1.
[This is similar, but not identical to current 8.1.D.]

[the following would remain unchanged]

B.

C.

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

D.

E.

F.