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CHAPTER 6 VARIANCES

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CHAPTER 6 VARIANCES

SECTION 6.010 Purpose

A variance may be granted whenever the strict application of a requirement of this ordinance 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 6.020 Criteria for Decision

A variance to the requirements of this Ordinance may be granted with respect to lot dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, fences and walls, and other dimensional requirements, except property size, only if, on the basis of the application, investigation and evidence submitted, all of the following circumstances are found to exist: (Revised 1-92)

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity which result from lot size or shape, topography, or other circumstances over which the property owner since the enactment of this Ordinance has had no control.
- B. The variance is necessary for the preservation of a property right of the applicant which is the same as that enjoyed by other property owners in the same zoning district in the area.
- C. 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 or reasonably be expected to conflict with the Comprehensive Plan.
- D. The variance requested is the minimum variance which would alleviate the difficulty.
- E. The variance is not the result of a self-created hardship.

SECTION 6.030 Dividing Feature Provision (Added 1-92)

The use of the proposed parcel is precluded as a practical matter by virtue of one or more of the following controlling factors:

- A. Physical separation of the parcel from the rest of the over-all ownership by a significant

water course; by a topographic or similar natural feature; or, by a railroad, or similar controlling man-made feature, the location over which the owner had no control. For the purpose of this section a controlling factor is a condition which effectively prevents the use of a portion of the land as a practical matter. Controlling factors do not include public highways, streets and alleys, seasonal drainage channels or minor creek beds, or topographic features with slopes of under sixty percent (60%). In addition to the requirements of Section 6.020, the following criterion shall be met:

- B. The proposed parcel shall have a sufficient area and otherwise be capable of being served by a domestic water supply and sewage disposal system approved by the appropriate sanitary authority. Written notification of such approval shall be filed with the Director as part of the application.
- C. The parcel requiring the variance is consistent with the Conditional Use approval standards in the applicable zone; and
- D. Complies with the circumstances listed in Section 6.020.
- E. The Director shall determine whether or not the controlling factor described above warrants approval of the application.
- F. The parent parcel shall otherwise have sufficient acreage, as required by the zone, to be divided.