

Sec. 130-268. Appeal and variance procedure.

(a)

Appeal. Any person aggrieved by a decision of the director of engineering may appeal from any order, requirement, decision or determination of the director of engineering to the city manager. The aggrieved person shall file an appeal in writing with the city manager within ten days from the date of the decision. If no resolution of the appeal can be reached with the city manager, the city council shall hear the appeal within 30 days from the date received by the city manager.

(b)

Variance.

(1)

Variations concerning development permits may be issued by the city council for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.

(2)

Variations for any type of permit or storm sewer facilities shall be issued only upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard, drainage problems and soil loss. The variance shall be issued only upon meeting all three of the criteria listed below:

a.

A showing of good and sufficient cause;

b.

A determination that failure to grant the variance would result in exceptional hardship to the applicant, including an exceptional hardship created by the applicability of the effective date to the application for a permit; and

c.

A determination that the granting of a variance will not result in additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws.

(3)

Any applicant to whom a variance for building or renovating in a floodplain is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(4)

In considering variance requests, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and the:

- a. Danger that material may be swept onto other lands to the injury of others;
- b. Danger to life and property due to drainage, flooding or erosion damage;
- c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. Importance of the services provided by the proposed facility to the community;
- e. Necessity to the facility of a waterfront location, where applicable;
- f. Availability of alternative locations for the proposed use that are not subject to flood damage;
- g. Compatibility of the proposed use with existing and anticipated development;
- h. Relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
- i. Safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. Expected heights, velocity, duration, rate of rise and sediment transport by the floodwaters and the effects of wave action, if applicable, expected at the site; and
- k. Costs of providing governmental services during and after storm events, including maintenance and repair of public utilities and facilities, such as streets, bridges, and sewer, gas, electrical and water systems.

(5)

Upon consideration of the factors listed above and the purposes of this article, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(6)

The director of engineering shall maintain the records of all appeal actions, including technical information, and report any variances of the floodplain management portions of this article to the Federal Emergency Management Agency upon request.

(Code 1982, § 37-145; Ord. No. 99-04-39, art. 4, § E, 4-20-1999; Ord. No. 2006-12-145, § 1, 12-19-2006)