

City of New Berlin Municipal Zoning Code

Section 275-30 Variances

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- A. Application filing. Applications for variances shall be submitted to the Director.
- B. Public hearing notice. Notice of the public hearing shall be published and mailed pursuant to the general notice provisions of § 275-20D.
- C. Review and action. The Board of Appeals shall hold a public hearing on each variance application and, within 15 days following the public hearing, act to approve, approve with conditions, or deny the variance based on the approval criteria of Subsection D. The Board shall transmit a signed copy of the Board's decision to the appellant or applicant and the Director.
- D. Approval criteria. No variance to the provisions of this chapter shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings.
- (1) Use variances prohibited. No variance shall be allowed.
 - (2) Preservation of district intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located.
 - (3) Exceptional circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.
 - (4) Economic hardship and self-imposed hardship not grounds for variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
 - (5) Preservation of property rights. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (6) Absence of detriment. That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- E. Conditions. Conditions may be placed upon any zoning or building permit ordered or authorized by the Board of Appeals.
- F. Expiration. Variances granted by the Board shall expire within one year unless substantial work has commenced pursuant to such grant.

Editor's Note: Former Subsection G, Special variance provisions for floodland districts, which immediately followed this subsection, was repealed 2-14-2006 by Ord. No. 2296. See now Art. IXA, Floodplain Zoning.