

12-3-5: APPEAL AND VARIANCE PROCEDURES:

A. Appeal Board: The appeal board as established by the community shall hear and render judgment on requests for variances from the requirements of this title.

B. Error By Floodplain Administrator: The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this title.

C. Appeal To Courts: Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

D. Records Kept: The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the federal emergency management agency upon request.

E. Historic Structures: Variances may be issued 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 title.

F. Lot Size: Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section [12-3-4](#) of this chapter have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

G. Conditions: Upon consideration of the factors noted above and the intent of this title, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this title.

H. Increase In Flood Levels Prohibited: Variances shall not be issued within any designated floodway if any increase in flood levels during the base food discharge would result.

I. Historic Structure Designation Preserved: Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

J. Prerequisites For Granting Variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

2. Variances shall only be issued upon:

- a. Showing a good and sufficient cause;

- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant which is not self-imposed; and

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

3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the 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.

K. Dependent Use: Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

1. The criteria outlined in subsections A through H of this section are met, and
2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (Ord. 212-A, 2-15-2006)