

## CHAPTER 40 VARIANCES

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**40.1.0 AUTHORIZATION.** The County Commissioners, after proper public hearings, may vary or modify requirements of this ordinance where strict application would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. Variances will, under most circumstances be limited to requirements governing yards, lot dimensions and coverage, heights, and parking areas. In granting a variance, the County Commissioners may attach conditions which it finds necessary to protect the best interest of the surrounding property or vicinity, and otherwise achieve the purpose of this ordinance.

**40.2.0 PROCEDURE.** The procedures for variance applications shall be the same as described in Chapter 41(Special Permits), Section 41.6.0.

**40.3.0 NOTICE OF PUBLIC HEARING.** Notice of Public Hearing shall be the same as described in Chapter 41 (Special Permits), Section 41.7.0.

**40.4.0 ACTION OF THE PLANNING COMMISSION.** Action of the Planning Commission shall be the same as described in Chapter 41 (Special Permits), Section 41.8.0 – 41.9.0. The Planning Commission shall also make and enter findings of fact as to whether or not the application complies with the findings in Section 41.6.0.

**40.5.0 ACTION OF THE BOARD OF COUNTY COMMISSIONERS.** Action of the Board of County Commissioners shall be the same as described in Chapter 41 (Special Permits), Section 41.11.0.

**40.6.0 FINDINGS.** The Board of County Commissioners may approve an application for a variance if it finds:

- (1) That exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zoning district or vicinity, and result from lot size, shape, topography or other circumstances over which the applicant has no control.

- (2) That the variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zoning district or vicinity.
- (3) That the granting of the variance will not materially affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.
- (4) That the variance would not be materially detrimental to the intent of this ordinance, or the property in the same zoning district or vicinity in which the property is located, or otherwise conflict with the objectives of any County plan or policy and the variance requested is the minimum variance which would alleviate the hardship.

**40.7.0 APPEAL OF RECOMMENDATION.** The appeal process of the Planning Commission's recommendation shall be the same as described in Chapter 41 (Special Permits), Section 41.10.0.

**40.8.0 REAPPLICATION.** Reapplication shall be the same as described in Chapter 41 (Special Permits), Section 41.17.0.

**40.9.0 FEES.** Fees for Variances shall follow the fee schedule as provided in Appendix A of this Ordinance.