

NOTICE TO APPLICANTS:
Written burden of proof statements addressing the following criteria, as applicable
to your request, must be submitted with your application

CLASS A VARIANCES

Class A variances may be authorized to standards relating to building setbacks, lot coverage or required landscape area. No variance under this section shall be greater than 10% of the requirements from which the variance is sought.

Criteria:

- A. The variance requested is required due to the lot configuration, or other conditions of the site;
- B. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;
- C. The variance will not result in violation(s) of Chapter 3, or other design standards.

CLASS B VARIANCES

Class B variances may be authorized for the following standards:

Minimum Housing Density;

Vehicular Access and Circulation;

Street Trees;

Parking Standards;

Building Setbacks to Reduce Tree Removal or Wetlands Impacts;

Transportation Improvements.

CLASS C VARIANCES

Class C Variances are for variances that exceed Class A and Class B criteria. The burden of proof statement shall describe the reason for the variance, why it is required, alternatives considered, and compliance with the following criteria:

- A. The proposed variance will not be materially detrimental to the stated purposes of applicable Code requirements, to any other applicable policies and standards, and to other properties in the same land use district or vicinity.
- B. A hardship to development exists that is peculiar to the lot size or shape, topography, sensitive lands, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);
- C. The use proposed will be the same as permitted under this title, and Town standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
- D. Existing physical and natural systems, such as but not limited to, traffic, drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred in compliance with the subject Code standard;
- E. The hardship is not self-imposed; and
- F. The variance requested is the minimum variance that would alleviate the hardship.

CLASS B VARIANCES CRITERIA

Minimum Housing Standard (Chapter 2)

- A. The minimum housing density provided in Chapter 2 cannot be achieved due to physical constraints that limit the division of land or site development. "Physical constraint" means steep topography, Floodplain Design Standards (Chapter 3.7) apply to the site, unusual parcel configuration, or a similar constraint.
- B. The variance is the minimum variance necessary to address the specific physical constraint on the development.

Vehicular Access and Circulation Standards (Chapter 3.1)

- A. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;
- B. There are no other alternative access points on the street in question or from another street;
- C. The access separation requirements cannot be met;
- D. The request is the minimum adjustment required providing adequate access;
- E. The approved access or access approved with conditions will result in a safe access; and
- F. The visual clearance requirements of Chapter 3.1 will be met.

Street Tree Requirements (Chapter 3.2)

- A. Installation of the tree would interfere with existing utility lines; or
- B. The tree would cause visual clearance problems; or
- C. There is not adequate space in which to plant a street tree; and
- D. Replacement landscaping is provided elsewhere on the site (e.g., parking lot area trees)

Parking Standards (Chapter 3.3)

- A. The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity;
- B. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses; and
- C. All other parking design and building orientation standards are met, in conformance with the standards in Chapter 2 and Chapter 3.
- D. Required bicycle parking may be reduced if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
- E. The amount of vehicle stacking area required for drive-through and drive-in facilities may be reduced if such a reduction is deemed appropriate after analysis of the size and location of the development and other pertinent factors.

Maximum or Minimum Yard Setbacks to Reduce Tree Removal or Impacts to Wetlands (Sensitive Lands, Chapter 3.7)

- A. Modification shall not be more than is necessary for the preservation of trees or wetlands on the site.

Transportation Improvement Requirements (Section 3.4.100)

- A. The required improvement is not feasible due to topographic constraints or constraints posed by sensitive lands (Chapter 3.7)
- B. When a variance request cannot be supported by the provisions of Chapter 3.4.100 then the request shall be reviewed as a Class C variance.

FLOODPLAIN VARIANCE CRITERIA

The burden of proof statement for a Flood Plain Variance shall describe the reason for the variance, why it is required, alternatives considered, and compliance with the following criteria:

- A. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, based on all the following criteria:
1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity to the facility of a waterfront location, where applicable;
 6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 7. The compatibility of the proposed use with existing and anticipated development;
 8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- B. The variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. A showing of good and sufficient cause.
- D. Failure to grant the variance would result in exceptional hardship to the applicant.
- E. The granting of the 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.