

19.58 - Variances

Chapter 19.58 - VARIANCES

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19.58.010 Intent. The intent of this chapter is to provide standards for variances and to detail the responsibilities and authority of the Zoning Board of Appeals of the City of Evans. (Ord. 332-05: Ord. 015-00)

19.58.020 Duties of the Zoning Board of Appeals.

- A. The Zoning Board of Appeals (hereinafter "the Board") shall make recommendations to City Council on applications for variances from the dimensional or numerical requirements or limitations of Titles 12, 15, 19, and other regulations of the Evans Municipal Code, as specified in such sections of the Code, as amended.
- B. The Board shall also make recommendations to City Council on applications for appeals of staff decisions, which shall be processed the same as variance requests.
- C. Such recommendations and applications shall be in accordance with this chapter.
(Ord. 332-05)

19.58.030 Criteria for Variances.

- A. The City Council must find all of the following circumstances to be true in order to approve a variance:
 - 1. Approval of the variance would not jeopardize the health, safety, or welfare of any person;
 - 2. Denial of the variance would result in a practical difficulty and unnecessary hardship to the applicant;
 - 3. Such practical difficulty and unnecessary hardship are due to an irregular, narrow, or steep lot, or other physical situation or condition of the building or land;
 - 4. Such practical difficulty and unnecessary hardship have not been unreasonably self-imposed by the applicant.
- (Ord. 332-05)

19.58.040 Procedure for Variance Requests.

- A. Petition. A petition in the form prescribed by the City shall be filed with the City Clerk and shall be accompanied by a letter explaining why the variance should be granted. Additional supporting evidence such as letters of support from surrounding property owners, photographs, and maps may be submitted and may be required by the City.
- B. The Board shall hold a public hearing and make a recommendation to the City Council.
- C. The Board may recommend approval or denial of a variance as requested, or may recommend approval of a variance differing from the request. The Board may recommend conditions be placed on the approval of a variance.
- D. After the Board makes a recommendation on the request, the City Council shall hold a public hearing and make the final decision to grant the requested variance, grant a variance differing from the request, or deny the variance. The City Council may place conditions on such approval. Approval shall be made by resolution.
- E. Notification of the public hearings shall be given in accordance with Chapter 19.64 of the Evans Municipal Code.
(Ord. 332-05)

19.58.050 Regulations Not Eligible for Variances. The Board shall not consider applications for variances from Chapter 19.08, Annexation, or Chapter 19.40, PUD Planned Unit Development. Under no circumstances shall the Board consider a variance to allow a use not expressly permissible under the terms of this Title 19. (Ord. 332-05)

19.58.060 Minor Variances.

- A. The Director of Public Works/Planning shall have the authority to approve minor variances, subject to the

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following limitations:

1. Such authority shall only be to allow up to a ten percent reduction of required yard setbacks, required number of parking spaces, or a ten percent increase in the maximum height of structures including principal structures, accessory structures, and fences, and to the maximum size of accessory structures.
2. The applicant, in addition to the other items required by this chapter, shall provide letters from the owners of property adjacent to the property for which the request is made, stating they have no objection to the minor variance being granted, or other evidence to that effect satisfactory to the Director of Public Works/Planning. For the purpose of this section, property directly across the street from the subject property shall be considered adjacent. If the applicant is unable to provide such letters, staff shall notify such owners of the request and allow them ten days to object to its approval.
3. If the Director of Public Works decides not to approve the minor variance, the request shall be processed according to Section 19.58.040 if requested by the applicant. (Ord. 332-05)

19.58.070 Expiration. Unless otherwise stated in the approving resolution, all variance approvals not exercised within six months from the date of the approving resolution shall become null and void. (Ord. 332-05)

19.58.080 Fees. Each application for a variance shall be accompanied at the time of filing by a fee as established by City Council by resolution. The applicant shall also pay the cost of publication and notification of the public hearings in accordance with Chapter 19.64 of the Municipal Code. (Ord. 332-05)

Code Documents



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