

Ordinance No. 00093

[Council Minutes 96/10/07](#)

ORDINANCE NO. 93

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AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Section 18.75.040 of the Lakewood Municipal Code, providing for variances

WHEREAS, in connection with the incorporation of the City of Lakewood, it was incumbent upon the City to provide for an interim zoning and land use code to address zoning and land use issues until the permanent zoning and land use codes have been adopted for implementation; and

WHEREAS, included in the provisions of the interim zoning code were provisions providing for variances, codified as Section 18.75.040 of the City Code; and

WHEREAS, among the provisions included in the initial variance code section, there were a number of conditions which would have had to be met in order for a person to be entitled to consideration for the granting of a variance; and,

WHEREAS, a number of the conditions included in the initial code provided for greater detail and a more difficult set of conditions than would have been necessary in order for the City to address its concerns; and,

WHEREAS, in conjunction with a review by the Planning Advisory Board, a modified/reduced number of conditions has been developed which still would serve the City=s needs for criteria for variances, but would not include elements that may be more cumbersome and numerous than would be necessary; and,

WHEREAS, pursuant to a hearing before the Planning Advisory Board to consider such amendment, which public hearing was duly noticed and which afforded individuals wishing to speak to the proposed amendment an opportunity to address concerns before the Planning Advisory Board, the Planning Advisory Board approved recommendation of the changes to the City Council, as set forth herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as Follows:

Section 1. That Section 18.75.040 of the Lakewood Municipal Code, providing for variances, is amended to read as follows:

18.75.040 VARIANCES

1. Purpose & Intent

2. Administrative and Examiner Variances

C. Granting of Variances

D. Required Showings for a Variance

1. Conditions on Variances ~~F. Appeals of Decisions~~

A. Purpose & Intent. The purpose of this section is to provide a means of altering the dimensional requirements of this Code in specific instances where the strict application of those requirements would deprive a property owner of privileges enjoyed by other property owners with the identical regulatory zone because of special features or constraints unique to the property involved. The variance procedure does not allow the establishment of a use that is not otherwise permitted in the zone in which the proposal is located nor does it allow any increase in density.

The purpose of this section is to provide a means of altering the dimensional requirements of this Code in specific instances where the strict application of those requirements would deprive a property owner of privileges enjoyed by other property owners with the identical regulatory zone because of special features or constraints unique to the property involved. The variance procedure does not allow the establishment of a use that is not otherwise permitted in the zone in which the proposal is located nor does it allow any increase in density.

The intent of this section is to afford an avenue for relief where the strict enforcement of the dimensional provisions of the Zoning Code has created an unnecessary hardship to the property owner and that hardship is not the result of deliberate actions of the applicant or property owner. Variances shall not relieve an applicant from (1) any of the procedural provisions of this title (2) conditions of approval established during prior permit review, or (3) any of the provisions of the critical areas code, except for the requirement buffer widths.

B. Administrative and Examiner Variances. There are two types of variances hereby established. A ~~A minor@~~, Administrative variance, and a ~~A major@~~, or Examiner variance. An administrative variance is one which is within 10% of the standard contained in the Code. An examiner variance is one that is greater than 10% of the standard contained in the Code. Both types are based on the same criteria or showings, as found in section D. below.

C. Granting of Variances. ~~The Planning Director Community Development Director~~ and the Examiner shall have the authority to grant a variance from the provisions of this Code, when, in the opinion of the ~~Planning Director Community Development Director~~ or Examiner, the conditions as set forth in Subsection D (below) herein have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this code so that the spirit of this code shall be observed, public safety and welfare secured, and substantial justice done.

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D. Required Showings for a Variance. **Before any Variance may be granted, it shall be shown that the applicant demonstrates all of the following:**

Required Showings for a Variance. Before any Variance may be granted, it shall be shown that the applicant demonstrates all of the following:

1. That the granting of such Variance will not adversely affect the Comprehensive Plan:

That the granting of said variance does not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and zone in which the subject property is located.

2. That there are special circumstances applicable to the subject property or to the intended use such as shape, topography, location, or surroundings that do not apply generally to the other property or other class of use in the same vicinity and zone

and are not the direct result of actions of the property owners to create said special circumstances;

3. That such Variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which because of special circumstances is denied to the property in question; and

4. That the granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvement in such vicinity and zone in which the subject property is located, and that it will not adversely affect the Comprehensive Plan.

~~5. That strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;~~

~~6. That the need for the variance is not the result of deliberate actions of the applicant or property owner;~~

~~7. That the variance does relieve an applicant from any of the procedural provisions of this title;~~

~~8. That the variance does relieve an applicant from any standard or provision that specifically states that no variance from such standard or provision is permitted.;~~

~~9. That the variance does not relieve the applicant from conditions of approval established during prior permit review;~~

~~10. That the variance does not allow establishment of a use that is not otherwise permitted in the zone in which the proposal is located;~~

~~11. That the variance does not allow the creation of lots or densities that exceed the base residential density of the zone;~~

~~12. That the variance is the minimum necessary to grant relief to the applicant;~~

~~13. That the variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;~~

~~14. That the variance does not relieve the applicant from any of the provisions of the critical areas code, except for the requirement buffer widths.~~

E. Conditions on Variances. When granting a Variance, the ~~Planning Director~~ Community Development Director or Examiner shall determine that the circumstances do exist as required by **Sub-section D** of this Section, and attach specific conditions to the Variance which will serve to accomplish the standards, criteria, and policies established by this Code. The Community Development Director and Examiner will specifically consider whether the granting of such variance relieves the applicant of any procedural provisions of the title or provision of the binding agreements applicable to the property. **F. Appeals of Decisions. Appeals of variance actions by both the Community Development Director and the Examiner shall follow the procedures established in Section 18.85.050 of the Lakewood Municipal Code.**

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Section 2. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 3. That this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary.

ADOPTED by the City Council this 7th day of October, 1996.

CITY OF LAKEWOOD

/S/

Bill Harrison, Mayor

Attest:

/S/

Alice M. Bush, CMC, City Clerk

Approved as to Form:

/S/

Daniel B. Heid, City Attorney

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