



ZONING ADMINISTRATION
DEVELOPMENT REVIEW
COMPREHENSIVE PLANNING
URBAN DESIGN
HISTORIC PRESERVATION
CULTURAL RESOURCES

CITY OF FORT PIERCE

2005 Florida League of Cities "City of Excellence" Award Winner

DEPARTMENT OF PLANNING

"IMPROVING THE WAY WE DO BUSINESS"

INSTRUCTIONS FOR APPLICATION FOR VARIANCE

Section 22-107, *Fort Pierce Code of Ordinances*, empowers the Fort Pierce Board of Adjustment to grant a variance from the regulation governing the height, area, and size of structures and size of yards and open spaces when:

- a. Existing conditions on the particular piece of property would result in unnecessary and undue hardship
- b. Such variance would not be in conflict with the public interest.

No variance shall be granted under the following:

- a. To establish or expand a property use not authorized within the zone where the property is located; or
- b. For any non-conformities; or
- c. For a previously denied request when no material change of circumstances has since occurred.

The Board of Adjustment shall not approve variances which would increase base flood elevation levels. They shall also consider the factors contained in Section 22-109, *Fort Pierce Code of Ordinances*, when granting variances from Flood Hazard Zone provisions.

If you feel that your request satisfies the conditions above and those of Section 22-108, *Fort Pierce Code of Ordinances*, then complete the attached application and submit it to the Department of Planning.

A Public Hearing on the application for variance will be held within thirty-five days (35) days of its filing. Within twenty-five (25) days of the Public Hearing, the Board of Adjustment will either approve, approve with conditions, or deny the application. The applicant will be notified of the decision within five (5) working days of the action.

APPLICATION ATTACHMENT – The following items must be included with your application:

- a. Application fee of \$375.00 (make check payable to City of Fort Pierce)
- b. 10 copies of (24"X26") Site Plan drawn to scale. Plans must show location and dimensions of existing and proposed structures (including off-street parking, if required)

APPLICATION FOR VARIANCE

1. Legal description for which variance is being requested:

Property Tax ID: _____

2. Description of Variance:

3. Name of Owners:

Signature of Applicant: _____

Mailing Address: (Street) _____

City: _____ State: _____ Zip: _____

4. Name of Applicant (if different from owner):

Signature of Applicant: _____

Mailing Address: (Street) _____

City: _____ State: _____ Zip: _____

5. Name of Representative:

Mailing Address: (Street) _____

City: _____ State: _____ Zip: _____

6. In order to determine whether your Application for Variance meets all the criteria in Section 22-108 of the City Code, please answer the following questions:

a. What type of exceptional question exists and are they inherent in the land?

b. Describe those conditions peculiar to the specific property and not applicable to other lands, structures, or buildings in the same zoning district.

c. Do the special conditions and circumstances result from actions other than that of your? If yes, explain.

d. Explain how a literal interpretation of the ordinance would deprive you of commonly enjoyed property rights in that zoning district. Identify any undue hardships that would result in this interpretation.

e. What would you consider to be the minimum variance that would give you the reasonable use of the land, building, or structure?

f. Explain how your variance request does not impair the intent of the zoning ordinance:

g. What effect does your variance request have on the general public welfare?

TO BE COMPLETED BY CITY

Date received: _____ By: _____

Fee Paid: _____ Receipt #: _____

VARIANCE APPLICATION INFORMATION

www.cityoffortpierce.com

Sec. 22-107. Authorization to grant or deny variances.

The board of adjustment may authorize a variance from the regulations governing the height, area and size of structures and size of yards and open spaces only when consistent with the purpose of this article, this section and the criteria in sections 22-108 and 22-109. In granting a variance, the board of adjustment may prescribe appropriate conditions and safeguards which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purpose of this chapter. Guarantees and evidence may be required that such conditions will be and are being complied with. No variance shall be granted without the concurring vote of four (4) members of the board of adjustment or:

- (1) To allow the establishment or expansion of a use of property for a purpose not authorized within the zone in which the property is located;
- (2) Due to nonconformities in any district or to a permitted use of lands, structures or buildings in an adjoining zoning district; or
- (3) When a previous request for a variance has been denied by the board of adjustment and there has been no material change of circumstances since the previous application.

(Ord. No. H-186, § 30-107, 6-15-81)

Sec. 22-108. Criteria for granting variances.

A variance may be granted only in the event that all of the following criteria are satisfied:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district;
- (2) The special conditions and circumstances do not result from the actions of the applicant;
- (3) The literal interpretation of the provisions of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would result in unnecessary and undue hardship on the applicant;
- (4) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and
- (5) The granting of the variance will be in harmony with the general intent and purpose of the ordinance and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

(Ord. No. H-186, § 30-107, 6-15-81)

Sec. 22-109. Variances for FH Zone provisions.

The board of adjustment may grant variance requests for FH Zone provisions subject to the following provisions:

- (1) 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 procedure set forth in the remainder of this section, except for subsection 22-109(5) a. and d., and provided the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historical designation.
- (2) In passing upon variance applications, the board of adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity of the facility to a waterfront location in the case of a functionally dependent facility;

- f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the affects of wave action, if applicable, expected at the site; and
 - k. 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.
- (3) Upon consideration of the factors listed above and the purposes of this chapter, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Conditions for variances:
- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the buildings;
 - b. Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;
 - c. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation;
 - d. The director of development shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(Ord. No. I-208, § 3, 3-2-87)

Editor's note: Section 3 of Ord. No. 208, adopted Mar. 2, 1987, repealed section 22-109, relative to special criteria for granting variances for FH Zone provisions, and enacted in lieu thereof new provisions to read as herein set out. Former section 22-109 derived from Ord. No. H-186, § 30-107, adopted June 15, 1981.