

Non-use Variance

Section 20.23. Non-use variance; practical difficulty standard.

Non-use variances relate to the modification of applicable area, dimension or structural regulations. The concurring vote of five (5) members of the Board shall be required to approve a non-use variance. No variation from the provisions or requirements of this Ordinance shall be authorized by the Board unless the Board finds that the applicant has demonstrated all of the following to establish there is a practical difficulty in complying with the ordinance requirement:

1. *Unreasonable impact/burden.* Strict compliance with area, setback, frontage, height, bulk or density requirements would unreasonably prevent the applicant from using the property for a permitted purpose, or would be unnecessarily burdensome.
2. *Not self imposed.* The condition was not created by the applicant or a previous owner of the property or reasonably discoverable by the owner.
3. *Property unique.* The property has unique physical features or characteristics; or the plight is due to unique circumstances of this property and is not due to general neighborhood conditions.
4. *Not a detriment.* Granting the variance will not result in detriment to nearby properties; will not impair an adequate supply of light and air to the adjacent properties; will not impair the property values in the surrounding area; and will not cause public safety concerns.
5. *Not personal or economic.* The variance request is not primarily related to personal or economic hardship, rather, it is related to the unique features of the property.
6. *Necessary.* The variance is necessary for the preservation and enjoyment of a substantial property right similar to that enjoyed by other properties in the same zoning district and in the vicinity.