



ZONING VARIANCES

A Guide to Applying for a Variance from the City of Mission Board of Zoning Appeals

Background

Zoning regulations are intended to protect and serve the public good. To do so, they should be applied universally and consistently. Sometimes, however, because of atypical conditions unique to a particular property, carrying out the strict letter of a zoning regulation would not allow reasonable use of that property. To avoid unjust and unnecessary imposition of such extreme hardships on property owners the Mission Municipal Code provides a relief from the standards in unique circumstances. The Code authorizes the Board of Appeals (BZA) to grant variances from zoning regulations.

Definition

A variance is a waiver from compliance with a specific provision of the zoning ordinances. It is a type of exemption to a zoning regulation that allows a property owner to be legally in compliance with the zoning regulations without complying with specific requirements of that regulation. Variances are granted to a particular property owner because of the practical difficulties or unnecessary hardship that would be imposed upon him/her by the strict application of the provisions of the regulation. Zoning regulations that may be waived include yard size, building size, fence height, parking, landscaping, etc. A variance may not be granted in a planned zoning district.

Conditions

Submission of an application for a variance does not guarantee approval. The BZA must find that the zoning regulation in question causes a hardship. A hardship relates to the physical characteristics of the property, not the personal circumstances of the owner or user. The applicant must show that the physical characteristics of their property, like shape or

contour, actually prohibit the practical use of his/her property in the manner similar to that of other property in the zoning district where it is located. A variance may be appropriate if a property has unique physical conditions and the spirit and intent of the ordinance will be satisfied while varying from the regulations in the manner requested. The applicant must also show that the public health, safety, and welfare are not adversely affected by their request. If these legal tests cannot be met, a variance should not be granted. A variance is not appropriate as a matter of convenience, or if it would grant special privileges to an individual property. Economic considerations alone do not constitute a hardship if a reasonable use for the property exists under the Municipal Code.

Process

The granting of a variance in Mission is the responsibility of the BZA. The Board is made up of up to 5 citizen members appointed by the Mayor. A majority vote is necessary to approve or deny a variance. Applications for variances are reviewed by City Staff and the BZA. Any person considering seeking a variance should first contact Community Development Department Staff who will explain the review process and provide the necessary forms, checklists, and deadlines.

To request a hearing, an application must be submitted to the Community Development Department prior to the monthly filing deadline. Staff will review the application for completeness and consistency with applicable plans and ordinances. If the application is complete, the case will be scheduled for review at the next available BZA meeting. Before the meeting, Staff prepares a report containing a summary of the case and the applicant's proposed findings.

In addition to review by City Staff and the BZA, the application is subject to comment from the general public. A public hearing is conducted at the BZA meeting where the application is presented.

Decision

At the conclusion of the public hearing the BZA will deliberate and issue a decision. The BZA may only grant a variance upon a finding that all of the necessary conditions have been met.

Contacts

Community Development Department
913-676-8360

Fees

Application-\$75
Public Notice-\$6.49 per property owner within two hundred (200) feet which requires notification as required by City Code.