ARTICLE 9. VARIANCES

SECTION 9.010 - AUTHORIZATION TO GRANT OR DENY VARIANCES

The Planning Director or the Planning Commission may authorize a Variance from the requirements of this ordinance in accordance with this article, where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship. No Variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a Variance, additional conditions may be attached which are necessary to protect the best interest of the surrounding property or vicinity and otherwise achieve the purpose of this ordinance.
SECTION 9.020 - MINOR VARIANCES

Minor Variances involving the following may be granted by the Planning Director after a thorough examination and upon presentation of the following evidence:

A. Minor Variances involve only the following circumstances:

1. Deviation from a minimum lot size by not more than 10% or setback by not more than 25%.

2. Expansion of a nonconforming use by not more than 10%.

B. Evidence:

A Minor Variance may be granted only where the applicant can show that literal application or enforcement of the ordinance would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest or the intent or spirit of the ordinance.

C. Procedure.

Upon receipt of the application form and payment of the applicable fee for a Minor Variance, the Planning Director shall render a decision within five working days, or may elect to defer the decision to the Planning Commission for public hearing. Additional information may be requested by the Planning Director in arriving at his decision. If additional information is requested, the Planning Director shall have five additional working days to render this decision beginning when the additional information is given to the Planning Director.

D. Notice to Property Owners.

Should the Planning Director decide to grant a Minor Variance, the decision shall not become final until 15 days have elapsed. A notice of the proposed Variance shall be mailed within two working days of receipt thereof to all owners of property within 250 feet of the subject property, and objections and comments solicited. If written objections to the proposed Variance are received within the 15-day period, a public hearing shall be held before the Commission according to Section 11.100 of this article.
SECTION 9.030 - CIRCUMSTANCES FOR GRANTING A VARIANCE

A Variance may be granted unqualifiedly or may be granted subject to prescribed conditions, provided that the Planning Commission shall make all of the following findings:

A. That the literal application of the ordinance would create practical difficulties resulting in greater private expense than public benefit; and

B. That the condition creating the difficulty is not general throughout the surrounding area but is unique to the applicant’s site; and

C. That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased; and

D. That in the case of a use Variance, the literal application of the ordinance would result in unnecessary hardship to the applicant. An unnecessary hardship will be found when the site cannot be put to any other identifiable beneficial use under the terms of the applicable ordinance.
SECTION 9.040 - PROCEDURE FOR TAKING ACTION ON A VARIANCE APPLICATION

The procedure for taking action on an application for a Variance shall be as follows:

A. A property owner may initiate a request for a Variance by filing an application with the Planning Department, using forms prescribed pursuant to Section 11.130. Application shall be filed 21 days prior to the Planning Commission meeting of submittal thereto.

B. Before the Planning Commission may act on a Variance application, it shall hold a public hearing following the procedures established in Section 11.100.

C. Within five days after a decision has been rendered, the Planning Director shall provide the applicant and recognized parties with written notice of the decision of the Commission.
SECTION 9.050 TIME LIMIT ON A PERMIT FOR A VARIANCE

Authorization of a Variance shall be void after one year unless substantial construction has taken place or the proposed use has occurred. However, the Planning Commission may extend authorization for an additional period not to exceed one year, on request.