Section 4.196. Variances.

(.01) Where difficulties exist rendering compliance with Chapter 4 impractical and such compliance would create unnecessary hardship to the owner or user of land or buildings, the Development Review Board may grant a variance from the provisions of this Code after the prescribed public hearing as set forth in Section 4.013, and after an investigation; provided all of the following conditions exist:

A. The difficulty would apply to the particular land or building regardless of the owner.

B. The request for a variance is not the result of an illegal act on the part of the applicant or the applicant's agent.

C. The plight of the owner is due to unique circumstances, such as lot size or shape, topography, and size or shape of building, which are not typical of the general conditions of the surrounding area.

D. The practical difficulty or unnecessary hardship asserted as a ground for a variance must relate to the premises for which the variance is sought and not to other premises or personal conditions of the applicant.

E. The variance does not allow the property to be used for purposes not authorized within the zone involved.

F. The variance is the minimum necessary to relieve the hardship.

G. Where the variance is sought to allow development within a flood zone, the following additional standards shall apply:
   
   1. Generally, the only condition under which a variance from the flood hazard elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items a-k in Section 4.172 have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.

   2. 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 procedures set forth in this subsection.

   3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

   4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

   5. Variances shall only be issued upon:
      
      a. a showing of good and sufficient cause;
b. a determination that failure to grant the variance would result in exceptional hardship to the applicant;
c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, or conflict with other existing local laws or ordinances.

6. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations will rarely be granted.

7. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, and complies with all other variance criteria except Section 4.172.

8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.