

ARTICLE 18

VARIANCES

18.01 PURPOSE

Where, owing to special circumstances, a stricter literal enforcement of this Ordinance would result in practical difficulty or unnecessary hardship inconsistent with the objectives of this Ordinance, the Commission is empowered to grant variances. A practical difficulty or unnecessary physical hardship may result from the size, shape, or dimensions of a site, or the location of existing structures thereon; from geographic, topographical, or other physical conditions on the site or in the immediate vicinity; or from population densities, street locations, or traffic conditions in the immediate vicinity.

A variance shall not be granted to permit a use not specifically listed in any zone, but shall be limited to modifications with respect to fences, walls, hedges, screening, landscaping, height, yards, setbacks, coverage, site area, width, depth, distance between structures usable open space, frontage on a public street, off-street parking, and off-street loading.

18.02 APPLICATION

Application for a variance shall be filed with the Planning Department on a form prescribed by the Planning Department and shall include the following data and exhibits:

- A. Name and address of the applicant.
- B. Statement that the applicant is the owner or the authorized agent of the property on which the variance is being requested.
- C. Address and legal description of the property.
- D. Statement of the precise nature of the variance requested and the practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning regulations that would result from a strict or literal interpretation and enforcement of a specified regulation, together with any other data pertinent to the findings prerequisite to the granting of a variance, prescribed in Section 18.06.B. (Findings)

- E. An accurate scale drawing of the site and any adjacent property affected, showing, when pertinent, the contours at intervals of not more than five feet, and all existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking, off-street loading, and landscaping areas.
- F. The names and addresses of all owners of real property within a distance of three hundred (300) feet from the exterior boundary limits of the property involved in said application, as shown by the latest assessment roll of the County of Riverside.
- G. The Planning Director may require additional information, plans and drawings if they are necessary to enable a determination as to whether the circumstances prescribed for the granting of a variance exist. The Planning Director may authorize omission of any or all of the plans and drawings required by this section if they are not necessary.

18.03 FEE

The application shall be accompanied by a fee established by the City Council. The purpose of the fee is to defray the costs incidental to the handling and proceedings of the application.

18.04 STAFF INVESTIGATION

The Planning Department shall make an investigation of the application to provide the information required for action and shall report the findings to the Commission.

18.05 PUBLIC HEARING

- A. The Commission shall hold at least one public hearing on each application for a variance. The hearing shall be set and notice given in the following prescribed manner:
 - 1. Notification of the public hearing shall be by mailing a notice not less than ten (10) days prior to the date of such hearing, to the applicant and to the owners of all property within at least three hundred (300) feet of the

boundaries of the property for which the conditional use permit is requested. Failure to send notices by mail to any such property owner, where the address of such owner is now shown or is different than that shown in the County Assessor's records, shall not invalidate any proceedings in connection with a proposed conditional use.

2. Notice shall be published at least ten (10) days before said hearing in newspaper of general circulation published and circulated in the City of San Jacinto, or, if there is none, notice shall be published in a newspaper of general circulation, printed and published in the County of Riverside giving the time, place, purpose and general description of the are affected.
- B. At the public hearing, the Commission shall review the application and the accompanying material and shall receive pertinent evidence concerning the variance, particularly with respect to the circumstances prescribed in Section 18.06.B (Findings).

18.06 ACTION BY COMMISSION

- A. Following the close of a public hearing on a variance application; the Commission shall act on said application within thirty (30) days. The Commission may grant by resolution a variance as the variance was applied for or in modified form, or the application may be denied. A variance may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the Commission may prescribe. Upon failure to act within the prescribed 30 day period, the Commission shall lose jurisdiction and an appeal may be taken to the City Council.
- B. Findings. The Commission may grant a variance to a regulation prescribed by this Ordinance as the variance was applied for or in modified form, if, on the basis of the application and the evidence submitted, the Commission makes findings of fact that establish that all of the circumstances prescribed in the following 1 through 4 apply.

1. That 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 district.
2. That strict or literal interpretation of the provisions of this Ordinance would result in practical difficulty or unnecessary physical hardship or would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
3. The special circumstances do not result from the actions of the applicant; and
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

18.07 VARIANCE RELATED TO PLANS SUBMITTED

Unless otherwise specified at the time a variance is granted, the variance shall apply only to the plans and drawing submitted as part of the application.

18.08 EFFECTIVE DATE OF VARIANCE

A decision of the Commission shall be effective ten (10) days after the date of the decision unless an appeal has been filed.

18.09 APPEAL TO CITY COUNCIL

A decision of the Planning Commission on a variance application may be appealed to the City Council by the applicant or any other person aggrieved thereby, and must be submitted within fifteen (15) days in writing together with payment of an appeal filing fee. If the decision of the City Council on an appeal is affirmative, the variance shall become effective immediately after it is granted.

18.10 NEW APPLICATION

Following the denial or revocation of a variance application no application for the same or substantially the same variance on the same or substantially the same site shall be filed within one year of the date of denial or revocation of the variance.

18.11 EXISTING VARIANCES

A variance legally established prior to the effective date of this Ordinance or prior to the effective date of subsequent amendments to the regulations or zone boundaries, shall be permitted to continue, provided that it is operated and maintained in accord with the conditions prescribed at the time of its establishment, if any.

18.12 VARIANCE TO RUN WITH THE LAND

A variance granted pursuant to the provisions of this article shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the variance application.

18.13 LAPSE OF VARIANCE

- A. A variance shall lapse and shall become void one year following the date on which the variance became effective unless prior to the expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the variance application, or a permit is issued authorizing occupancy of the site or structure which was the subject of the variance application, or the site is occupied if no building permit or certificate of occupancy is required, unless by conditions of the variance a greater time is allowed.
- B. A variance subject to lapse may be renewed for an additional period to be specified by the Commission, provided that prior to the expiration date, a written request for renewal of the variance is filed with the Planning Director.
- C. The Commission may grant or deny an application for renewal of a variance.

18.14 REVOCATION

A variance granted by the Commission subject to conditions shall be revoked by the Commission if the conditions are not complied with. The decision of the Commission revoking a variance shall become final ten (10) days following the date on which the variance was revoked, unless an appeal has been filed. A variance granted by the City Council subject to conditions shall be revoked by the Council if the conditions are not complied with.

ORDINANCE NO. 431, ADOPTED 10-11-66, ORDINANCE NO. 519, ADOPTED 09-07-71
STATE PLANNING LAW TITLE 7, CH. 4, ARTICLE 3, SECTION 65905
ORDINANCE NO. 707, ADOPTED 06-07-81