

March 13, 2018

**To: Yachats Planning Commission**

**From: Larry Lewis, City Planner**

**Re: Chapter 9.80 Variances**

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The Planning Commission requested review of Yachats Zoning & Land Use Code Chapter 9.80 Variances (attached).

## **YACHAT ZONING & LAND USE CODE**

### **Chapter 9.80 – Variances**

#### **Section 9.80.010 Authorization to grant or deny variances.**

The Planning Commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title 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, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title. (Ord. 73E § 12.010, 1992)

#### **Section 9.80.020 Circumstances for granting a variance.**

A variance may be granted only in the event that all of the following circumstances exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of the ordinance codified in this title, topography, or other circumstances over which the applicant has no control;
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;
- C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;
- D. The variance requested is the minimum variance which would alleviate the hardship;
- E. The hardship asserted as a basis for the variance does not arise from a violation of the zoning ordinance. (Ord. 73E § 12.020, 1992; Ord. 73A, 1982)

#### **Section 9.80.030 Variance procedure.**

The following procedures shall be followed in applying for action on a variance:

- A. A property owner may initiate a request for a variance by filing an application with the City Recorder, using forms prescribed pursuant to Section 9.88.040. The application shall be accompanied by a site plan drawn to scale showing the condition to be varied and the dimensions and arrangement of the proposed development. The City Council or Planning Commission may request other drawings or material essential to understanding of the variance.
- B. If the request for a variance meets all the requirements of this title, the City Recorder shall set a time for a public hearing before the Planning Commission on the request within forty (40) days from the filing thereof and shall cause notice to be given in accordance with Section 9.88.060.
- C. At the conclusion of the public hearing the Planning Commission may approve or deny the request, based on findings which address applicable variance criteria, pursuant to Chapter 9.88. (Ord. 73E § 12.030, 1992)

#### **Section 9.80.040 Time limit on a variance.**

Authorization of a variance shall be void after one year unless substantial construction pursuant thereto has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year, on request. (Ord. 73E § 12.040, 1992)