

CRITERIA / VARIANCE

The Cedar Rapids Board of Adjustment meets at 3:00 p.m. on the second Monday of each month in the Council Chamber Third Floor, 101 1st Street SE, Cedar Rapids, Iowa. The Board consists of five members who are appointed by the Mayor of Cedar Rapids; a quorum for a meeting shall consist of at least three members of the Board.

Order of Business: Roll call, approval of minutes of previous meeting, explanation of makeup of Board/voting procedures/continuation or withdrawal privileges, old business, new business, discussion and disposal of items other than appeals, adjournment.

When a case is called, the Applicant should proceed to the Board table. First, city staff will present its report, if any, with respect to the request. Requests for variances may be reviewed by various city departments as may be appropriate. Second, the Applicant will have the opportunity to present its case to the Board. Applicants should also be prepared to answer any questions that Board Members may have.

Following the receipt of evidence the Board will decide the case, either during that meeting or at a subsequent meeting of the Board. The Board shall make written findings based upon the evidence submitted in each case as to whether a literal enforcement of the provisions of the Ordinance will result in an unnecessary hardship and whether granting a variance will be contrary to the public interest. The Applicant has the burden of establishing whether a variance should be granted. Three affirmative votes from the Board are necessary for a variance to be granted.

Criteria for variances: Applicants should understand that variances are exceptions to the uniform provisions and application of the zoning Ordinance, and are to be granted only in extraordinary circumstances. The Board exercises the power to grant variances sparingly, with great caution, and only in exceptional instances. Applicants should understand that the Board cannot amend or set aside the zoning Ordinance under the guise of a variance. By law, the Board may grant a variance only if the evidence submitted in a specific case supports a finding that a special condition or conditions exist to the degree that a literal enforcement of the provisions of the Ordinance will result in an unnecessary hardship, and that granting such variance will be contrary neither to the public interest nor the spirit and intent of the Ordinance.

Listed below are factors which the Board may consider in determining whether to grant a variance. Applicants should expect to present evidence addressing these factors and to answer questions the Board members may have regarding them.

1. **Unique circumstances:** The subject property is unique or unusual as compared to other properties subject to the same provisions. Examples of unique circumstances, irregularity, narrowness, shallowness, substandard or exceptional topographical features; or other extraordinary conditions peculiar to and inherent in the property in question and which relate to or arise out of the property rather than the personal situation of the current owner of the property; and which amount to more than a mere inconvenience to the owner.
2. **Not exclusively for financial gain:** The purpose of the Variance is not based exclusively upon a desire to increase financial gain from the property.

3. **Hardship not self-created:** The previously described unique condition existed at the time of the enactment of the provisions of this Ordinance and has not been created by the current property owner.

4. **Substantial rights denied:** The carrying out of the strict letter of the Ordinance would deprive the property owner of substantial rights commonly enjoyed.

5. **Not special privilege:** Granting the Variance shall not result in a special advantage or benefit beyond what is available to others – subject to the same provisions.

6. **Not detrimental:** Granting the Variance will not be detrimental to the public welfare or to the enjoyment, use, or development of property in the vicinity; nor will it substantially diminish or impair property values in the vicinity.

7. **No other remedy:** There is no means other than the requested Variance by which the hardship can be avoided or remedied while still allowing a reasonable use of the property.

If you have any further questions concerning your Variance request/appeal, please feel free to contact the Zoning Officer assigned to your case or the Zoning Administrator at 319.286.5705.