

## CHAPTER 8. VARIANCES AND ADMINISTRATIVE APPEALS

### PART 1. VARIANCES

#### 8.1.1 Purpose and Scope

The "variance" process administered by the Planning Commission is intended to provide limited relief from the requirements of this Ordinance in those cases (other than signs and land uses) where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this Ordinance. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this Ordinance may impose on property owners in general. Rather, it is intended to provide relief where the requirements of this Ordinance render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested. Figure 8.1.1. illustrates the process for approval of a variance, as set forth in this Part.

**Figure 8.1.1. Process for Variances and Administrative Appeals**

|                                              |
|----------------------------------------------|
| APPLICATION<br>To Planning Director          |
| PUBLIC HEARING<br>Before Planning Commission |
| DECISION<br>By Planning Commission           |

#### 8.1.2 Provisions Which May Not Be Varied

In no event shall the Planning Commission (or Board of Aldermen if appealed to that body) grant a variance which would allow the establishment of a use which is not otherwise allowed in a zoning district or which would change the zoning district classification of any or all of the affected property. Variances are also not applicable to signs.

#### 8.1.3 Criteria for Review

The Planning Commission shall not grant a variance unless it makes the following findings:

- (a) 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 located in the same zoning district;
- (b) That the literal interpretation and strict enforcement of the provision to be varied would deprive the applicant of rights commonly enjoyed by other properties located in the same zoning district under the terms of this Ordinance;
- (c) That the special conditions and circumstances do not result from the actions of the applicant;

- (d) That granting the proposed variance will not confer on the applicant any special privilege that this Ordinance denies to other land, structures, or buildings located in the same zoning district; and
- (e) That granting the proposed variance will not significantly impact nearby properties, inhabitants of nearby properties, or values of nearby properties in a negative manner.

## **PART 2. APPEALS OF ADMINISTRATIVE DECISIONS**

### **8.2.1 Purpose and Scope**

Appeals to the Planning Commission from the decisions of the Planning Director or his/her designee are allowed under this Ordinance in order to ensure that any enforcement action taken by such an administrative officer pursuant to duties assigned by this Ordinance is consistent with the terms and purposes of this Ordinance and any related policies adopted by the City of Natchez.

### **8.2.2 Decisions Which May be Appealed**

Any order, requirement, permit, decision, determination, or refusal made by the administrative officer in implementing the provisions of this Ordinance may be appealed to the Planning Commission.

### **8.2.3 Persons Who May File an Appeal**

An appeal to the Planning Commission or Mayor and Board of Aldermen may be brought by any party of record, as defined herein, by the applicant, or the owner of the property within 160 feet of the subject property aggrieved by the order, requirement, permit, decision, or determination which is the subject of the appeal.

### **8.2.4 Filing of Appeal, Effect of Filing**

- (a) A request for an appeal shall be filed with the Planning Director no later than 10 days after the date of the contested action.
- (b) Once the request is submitted, the Planning Director shall schedule the appeal for consideration at a hearing before the Planning Commission.
- (c) Prior to the hearing, the Planning Director shall transmit to the Planning Commission all applications and other records pertaining to such appeal.

### **8.2.5 Action by the Planning Commission**

- (a) Upon receiving the application materials from the Planning Director, the Planning Commission shall hold a hearing on the appeal. The hearing shall be conducted in accordance with Chapter 7 of this Ordinance.
- (b) Either at the hearing or a subsequent meeting, the Planning Commission shall adopt a motion reversing, affirming, or modifying the contested action.
- (c) In reversing, affirming, or modifying the contested action, the Planning Commission shall have all relevant powers of the administrative officer from whom the appeal is taken.

- (d) The Planning Commission shall not reverse or modify the contested action unless it finds that the administrative officer erred in the application or interpretation of the terms of this Ordinance or related policies adopted by the City of Natchez.
- (e) The Planning Commission shall not reverse or modify the contested action unless there is a majority vote of the members voting.

#### **8.2.6 Effect of Reversal or Modification**

In the event that the Planning Commission reverses or modifies the contested action, all subsequent actions taken by administrative officers with regard to the subject matter shall be in accordance with the reversal or modification granted by the Planning Commission.