

ARTICLE VI. VARIANCE AND APPEAL PROCEDURE

Sec. 12.2-60. Variance and appeal procedure

(a) The floodplain administrator shall hear and decide requests for variances from the requirements of this Chapter.

(b) Variance Procedure.

(1) Application for variances shall be filed with the floodplain administrator and shall contain a statement explaining the type of variance requested, the justification for the variance, and the hardship the applicant will suffer if the variance is not granted. The floodplain administrator may require submission of additional information necessary to make any determination required under this section.

(2) The floodplain administrator's decision granting or denying the variance shall be in writing. Findings shall be made as to each of the requirements of Section 12.2-60(E) justifying the granting or denial of the variance. Any applicant to whom a variance is granted shall be given written notice by the floodplain administrator that (i) the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation, and (ii) such construction below the base flood level increases risk to life and property. A copy of the notice shall be recorded by the applicant in the office of the Solano County Assessor/Recorder and shall be indexed so that it appears in the chain of title of the affected parcel of land.

(c) The Board of Supervisors shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this Chapter.

(d) Appeal Procedure

(1) The decision of the floodplain administrator granting or denying a variance may be appealed to the board of supervisors by filing a copy of the decision and a statement of reason for the appeal with the clerk to the board of supervisors. The clerk shall set the matter for consideration by the board of supervisors and notify the floodplain administrator and applicant of the date and time of the hearing.

(2) The board of supervisors may affirm, reverse, or modify wholly or in part the decision of the floodplain administrator.

(e) In passing upon such applications, the floodplain administrator and the board of supervisors shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger of life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location, where applicable;
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (9) The safety of access to the property in time of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (f) Generally, variances may be issued 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, all items in Section 12.2-60 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors of Section 12.2-60 and the purposes of this Chapter, the floodplain administrator and the board of supervisors may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

(h) The floodplain administrator shall maintain the records of all variance and appeal actions and report any variances to FEMA.

(Ord. No. 1427, §1 Ord. No. 1700, §15)

Sec. 12.2-61. Conditions for variances

(a) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

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

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the board of supervisors need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to the elevation which the board of supervisors believes will both provide relief and preserve the integrity of the local ordinance.

(d) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(e) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. No. 1427, §1; Ord. No. 1506 §§1, 2, 3; Ord. No. 1700; §16)