

SECTION 7: Variances and Appeals

7.1 Variances

The Planning and Zoning Commission may recommend to the City Commission a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. The only variance that cannot be granted will be in the area of paving, curb and gutter for subdivisions located within the City of Harlingen, Texas.

Variances from certain requirements hereunder may be recommended by the Planning and Zoning Commission and granted by the Harlingen City Commission for subdivisions located outside of the city limits of Harlingen but within the extraterritorial jurisdiction of the City. Any variances requested must be submitted in writing by separate instrument at the time the preliminary plat is filed with the Planning and Zoning Commission on a form as specified by the City (See Exhibit K).

In recommending a variance, the Planning and Zoning Commission shall prescribe only conditions that it deems necessary or desirable in the public interest. In making the finding here in below required, the Planning and Zoning Commission shall take into account the nature of the proposed uses of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and on the public health, safety, convenience and welfare in the city. No variance shall be recommended unless the Planning and Zoning Commission finds:

- A. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land; and
- B. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- C. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and
- D. That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provision of this Ordinance.

Such findings of the P & Z Commission, together with the specific facts upon which such findings are based, shall be incorporated into official minutes of the P & Z Commission meeting at which such variance is recommended. Variances may be recommended only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Financial hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

Nothing herein shall prohibit a variance request being initiated or approved by the Planning and Zoning Commission or the City Commission upon its own motion and upon a showing of special circumstances or conditions existing in the immediate vicinity of the land involved, such that the strict application of the provisions of this ordinance would be to the detriment of the general health, safety, and welfare of the citizens of the City as they are related to the areas of traffic movement, utility extension, fire and police protection, and storm sewer and drainage installation.

All variances to this Ordinance must be submitted to the City Commission for approval or disapproval. A 4/5ths vote of the City Commission shall be required to override a recommendation for/or against the variance from the P & Z Commission. In granting any variance the City Commission shall comply with the provisions of this section.

Fee for this procedure is \$25. (Subject to change by City Commission approval.)

7.2 APPEALS

Any owner of any tract of land within the corporate limits of the City of Harlingen, or its extraterritorial jurisdiction (as defined in Article 970A, Revised Civil Statutes of Texas) who wishes to accomplish a subdivision shall comply with this ordinance and submit same to the Planning and Zoning Commission for its final approval.

Any decision on a subdivision can be appealed in writing within fifteen (15) days of the decision of the Planning and Zoning Commission to the City Commission by submitting such a request to the City Secretary stating the reasons. The City Commission must hear the request within thirty (30) days after the request is submitted to the City Secretary. The following persons may appeal the decision of the Planning and Zoning Commission to the City Commission:

1. Any three (3) current members of the Planning and Zoning Commission;
2. The Subdivider;
3. The City Manager or an official designated by the City Manager; or
4. By a duly signed and acknowledged petition by the owners of twenty (20%) percent of all properties included within a radius of two hundred (200') feet in any direction from the property included in the proposed subdivision.

A 4/5ths vote of the City Commission shall be required to override a subdivision decision by the Planning & Zoning Commission.