

## **Chapter 17.10** **VARIANCES AND ADJUSTMENTS**

### Sections:

**17.10.010 Purpose.**

**17.10.020 General Provisions.**

**17.10.030 Adjustments.**

**17.10.040 Variances.**

**17.10.050 Expiration.**

### **17.10.010 Purpose.**

Recognizing that not every property is similar, Chapter 17.10 provides standards and procedures for adjustments and variances, which are modifications to prescriptive development standards that are not otherwise permitted elsewhere in the Kelso Code.

### **17.10.020 General Provisions.**

Adjustments and variances are intended to provide relief from development code standards in unique situations. Both procedures are intended to ensure that the resulting development for which relief is sought is compatible with adjacent properties and is consistent with the overall purpose of the code standard to be varied. Permitted uses within the underlying zone cannot be adjusted or varied.

- A. Adjustments. Adjustments provide relief from the dimensional code provisions when a code provision has the unintended effect of preventing reasonable development in conformance with all other code requirements. Adjustments are allowed in limited situations pursuant to Section 17.10.030.
- B. Variances. Variances provide greater flexibility to code standards than adjustments, where the physical characteristics of a site or its surroundings prevent reasonable development in compliance with a specific code standard. Variances are required where a proposed deviation from the dimensional standards exceed 20 percent, or when the standard is not numerical in nature.

### **17.10.030 Adjustments.**

Adjustments are minor modifications to Code standards that are intended to provide reasonable flexibility for planned land uses and development. Adjustments are subject to the following standards and procedures.

- A. Applicability. Adjustments to dimensional standards are processed through a Class 1 review procedure for the following standards:
  - 1. Setbacks: Up to a 10 percent reduction to a minimum front or rear setback.
  - 2. Lot Coverage: Up to a 10 percent increase to the maximum lot coverage.

3. Lot Dimensions: Up to a 10 percent decrease to a minimum lot dimension.

4. Lot Area: Up to a 5 percent decrease in minimum lot area.

5. Other Dimensional Standards: Up to a 5 percent increase or decrease in a numerical standard not listed above. It does not include number of parking spaces, landscaping requirements, building code requirements, engineering design standards, public safety standards, or standards implementing state or federal requirements, as determined by the Planning Manager.

B. Approval criteria. The City may grant an Adjustment only upon finding that all of the following criteria are met. The burden is on the applicant to demonstrate compliance with the criteria.

1. The Adjustment allows for a building plan that is more compatible with adjacent land uses, or it does not create a conflict with adjacent uses;

2. Approval of the Adjustment does not create (a) violation(s) of any other adopted ordinance or code standard, and does not create the need for a Variance;

3. An application for an Adjustment is limited to a single lot;

4. No more than two adjustments are requested for a single lot;

5. The adjustment will not result in violation(s) of any other adopted ordinance or Code standard, the building code, or any of the Engineering standards; each code standard to be modified shall require a separate request;

#### **17.10.040 Variances.**

A. Applicability. A Variance is a modification that does not otherwise meet the applicability under Section 17.10.030.

1. A variance exceeding the allowable relief provided for by an adjustment may be granted to the dimensional standards of the Kelso Code; provided, that all other provisions of this title can be met.

2. Under no circumstances shall the city grant a variance to allow a use not permissible under the terms of this title in the zoning district involved, or any use expressly or by implication prohibited in the zoning district by the terms of this title.

3. Variances may be approved by the city based on a finding that such variance will not be contrary to the public interest and the comprehensive plan or where literal enforcement of the provisions of this title would result in undue hardship.

B. Approval Criteria. Variances are subject to a Class 3 procedure and granted upon finding that it meets all of the following criteria:

1. That special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, do exist; and

2. That because of such special circumstances, strict application of this title would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity under identical zoning district classification; and
3. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district classification in which the property is situated; and
4. That the special circumstances do not result from the actions of the applicant; and
5. That the granting of a variance will be in harmony with the general purpose and intent of this title, the specific zoning district, and the comprehensive plan. (Ord. 3889 § 3 (Exh. A), 2017)

**17.10.050 Expiration.**

Approvals granted under Chapter 17.10 shall expire if not acted upon by the property owner within two years of City approval and are subject to the Performance section 17.10.170 of . Where the owner has applied for a building permit or final plat, has made site improvements consistent with an approved development plan (e.g., Site Design Review or preliminary subdivision plan), or provides other evidence of working in good faith toward completing the project, the City Planning Official may extend an approval accordingly.