



City of Durham

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Variance Approval Criteria

As stated in section 10.3 of the Development Code, the City may allow;

- ❖ a variance greater than that allowed by an adjustment from the limitations on uses allowed by this Code
- ❖ a variance from a numerical or dimensional requirement of this Code as to the site and design features for which the City may allow an adjustment,

if the City finds that, as to the property proposed for a variance:

- Natural site conditions or practical difficulties exist on the property which do not result from the property owner's own actions; such as lot size or shape, topography, or similar circumstances, such as lot size or shape legally created prior to adoption of the Development Code, topography, or similar circumstances over which the owner has no control. (10.3.1)
- Literal enforcement of the requirements of this Code from which a variance is sought would necessarily result in financial hardship without corresponding public benefit. (10.3.2)
- The variance would not alter the character of the neighborhood nor impair the appropriate use or site development or land division of neighboring property. (10.3.3)
- The variance to be granted is the **minimum necessary** to cure the hardship. (10.3.4)
- As to a variance from a limitation on use, the use(s) that would be allowed by granting the variance will be compatible with other uses allowed in that zoning district and compatible with the intent of the Comprehensive Plan as to that district. (10.3.5)
- The City may grant an adjustment or variance to allow preservation of natural resources with a condition of approval that the property owner dedicate a particular tract to that purpose. (10.3.6)
 - The City may allow an adjustment or variance that allows reduced residential density only for property that includes regionally significant fish and wildlife habitat as determined by Metro or that includes a significant natural resource on the Statewide Planning Goal 5 resource inventory adopted in the City's comprehensive land use plan. (10.3.6.1)
 - The City may allow an adjustment or variance for a land division in the NR and NRO district in the form of reduced lot dimensions or reduced lot setbacks if the site does not meet the minimum dimensions allowed for a Planned Residential Development so as to allow setting aside a portion of the site to preserve a significant natural resource. (10.3.6.2)
- The City may grant a variance from a floodplain regulation only as allowed by federal law (44 C.F.R. Part 60.6, as amended from time to time)(10.3.7)