

**CITY OF CHASKA
ORDINANCE 2024-1043**

NOW THEREFORE, be it ordained by the Council of the City of Chaska, in the State of Minnesota, as follows:

SECTION 1: **AMENDMENT** “15.08.080 Variances” of the City of Chaska Zoning Code is hereby *amended* as follows:

BEFORE AMENDMENT

15.08.080 Variances

- A. *Purpose/Standards.* The City Council may grant variances from the literal provisions of this Ordinance where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Ordinance.

“Undue hardship” as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions required by the official controls, the plight of the landowner is due to circumstances unique to his property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this Ordinance. Variances shall be granted for earth sheltered construction as defined herein when in harmony with this Ordinance.

The City Council may not permit as a variance any use that is not permitted under the Ordinance for property in the district where the affected person’s land is located. The City Council may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The City Council may impose conditions in the granting of a variance to insure compliance and to protect adjacent properties.

- B. *Exhibits.* Applications for variances shall describe the undue hardships and unique circumstances claimed as a basis for the variance. In addition, the following exhibits shall be submitted if required by the Zoning Administrator:
1. A boundary survey and/or site plan as required for building permits;
 2. Other material as may be required by the Zoning Administrator.
- C. *Procedure.* The procedure for applying for a variance from the regulations of this Ordinance shall be as follows:
1. The property owner or his agent shall meet with the Zoning Administrator to explain his situation, learn the procedures, and obtain an application form;

2. The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay the required filing fee;
3. The Zoning Administrator shall transmit the application and exhibits together with staff/consultant reports to the Planning Commission and shall give notice of the public hearing, if applicable, as provided by CZO 15.08.050 paragraph A;
4. Public hearings shall be held for variances which exceed the applicable zoning requirements by more than 30 percent;
5. The Planning Commission shall transmit its recommended action to the City Council within 45 days of filing;
6. The City Council shall act on the application within 45 days after receiving the recommendation from the Planning Commission;
7. Within all shoreland areas defined by CZO 15.24.020 paragraph B, a copy of every variance application along with supporting materials required by paragraph B, shall be submitted to the Minnesota Department of Natural Resources and also shall have received at least ten (10) days notice prior to the meeting date to consider the variance.

D. *Procedure For Minor Variance.* A property owner may file an application for a minor variance if the variance meets any of the following requirements:

1. If it relates to setbacks for driveway, garage, or swimming pool;
2. If it is less than five (5) feet; or
3. If it relates to the size and location of signs that deviate from the Ordinance by less than 10%.

The procedure for applying for a minor variance from the regulations of this Ordinance shall be as follows:

1. The property owner or his/her agent shall meet with the Zoning Administrator to explain the situation, learn the procedures, and obtain an application form.
2. The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay the required fee.
3. The applicant shall secure and present signatures from property owners contiguous to the affected yard for which the variance is requested, specifically noting awareness of the minor variance request. The Zoning Administrator shall determine the adequacy and accuracy of the names and addresses of such property owners.
4. The Minor Variance Board shall be composed of the Planning Director (or designee), Community Development/Code Administrator (or designee) and Building Official (or designee).
5. The Minor Variance Board shall unanimously recommend approval or denial of the application within five (5) days of filing with the Zoning Administrator. In the event the application is not recommended for approval by the Board, the applicant may proceed as provided in paragraph C, and the original fee shall be applied to the fee as required for a standard variance.
6. If recommended for approval by the Minor Variance Board, the application shall be placed on the City Council's consent agenda within 21 days of filing. The Minor Variance Board may recommend conditions upon the approval

which relate directly to the variance request.

7. Within all shoreland areas defined by CZO 15.24.020 paragraph B, a copy of every variance application along with supporting materials required by paragraph B, shall be submitted to the Minnesota Department of Natural Resources and also shall have received at least ten (10) days notice prior to the meeting date to consider the variance. (Ord. No. 644, 10/19/98)
- E. *Revocation Of Variance.* The granting of a variance from the provisions of this Ordinance shall be subject to the following conditions, which conditions shall apply to all variances granted and said conditions shall be continuing:
1. The variance shall be effective only for the specific purposes set forth in the variance grant. A violation of any condition set forth in granting a variance shall be a violation of this Ordinance and shall automatically terminate the variance;
 2. The variance shall be personal to the applicant for the specific purpose set forth in the variance grant until the construction or installation of such specific purpose has been completed, at which time said variance shall attach to the land; furthermore, said attachment to the land shall continue until such specific purpose is discontinued, at which time said variance shall be null and void;
 3. The variance shall become null and void without further action by the Planning Commission or City Council upon failure of applicant to utilize such variance by commencement of construction or installation of the specific purpose within 180 days of variance grant and completion within a reasonable time after commencement. A variance may be renewed by the City Council for good cause;
 4. No such variance is transferable without authorization by the City Council while same is personal with applicant.
- F. *Filing.* A certified copy of any variance shall be filed with the Carver County Recorder or Registrar of Titles and shall include a legal description of the subject property.

AFTER AMENDMENT

15.08.080 Variances

- A. *Purpose/Standards.* The City Council may grant variances from the literal provisions of this Ordinance where ~~their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances~~ applicant for the variance establishes that there are practical difficulties in complying with the zoning only when it is demonstrated that such ~~actions will be a variance is~~ in keeping harmony with the ~~spirit~~ general purposes and intent of ~~this Ordinance~~ the zoning code and will be consistent with the comprehensive plan.

~~“Undue hardship”~~ Practical Difficulties as used in connection with the granting of a variance means the property ~~in question cannot be put to~~ owner proposes to use the property in a reasonable ~~use if used under conditions required~~ manner not permitted by ~~the official controls~~ this ordinance, the plight of the landowner is due to circumstances

unique to ~~his~~the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. ~~Undue hardship~~Practical difficulties also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

Economic considerations alone shall not constitute ~~an undue hardship if reasonable use for the property exists under the terms of this Ordinance~~ practical difficulties.

Variances shall be granted for earth sheltered construction as defined herein when in harmony with this Ordinance.

The City Council may not permit as a variance any use that is not permitted under the Ordinance for property in the district where the affected person's land is located. The City Council may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The City Council may impose conditions in the granting of a variance to ~~ensure~~insure compliance and to protect adjacent properties.

- B. *Exhibits.* Applications for variances shall describe the ~~practical difficulties~~undue hardships and unique circumstances claimed as a basis for the variance. In addition, the following exhibits shall be submitted if required by the Zoning Administrator:
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 2. The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay the required filing fee;
 3. The Zoning Administrator shall transmit the application and exhibits together with staff/consultant reports to the Planning Commission and shall give notice of the public hearing, if applicable, as provided by CZO 15.08.050 paragraph A;
 4. Public hearings shall be held for variances which exceed the applicable zoning requirements by more than 30 percent;
 5. The Planning Commission shall transmit its recommended action to the City Council ~~within 45 days of filing~~;
 6. The City Council shall act on the application within ~~45~~60 days after ~~receiving the recommendation from~~City receives the ~~Planning Commission~~complete application filing unless the timeline for response is extended in a manner consistent with Minnesota Statutes Chapter 15.99;
 7. Within all shoreland areas defined by CZO 15.24.020 paragraph B, a copy of every variance application along with supporting materials required by paragraph B, shall be submitted to the Minnesota Department of Natural Resources and also shall have received at least ten (10) days notice prior to the meeting date to consider the variance.
- D. *Procedure For Minor Variance.* A property owner may file an application for a minor

variance if the applicant demonstrates practical difficulties and the variance meets any of the following requirements:

1. If it relates to setbacks for driveway, garage, or swimming pool;
2. If it is less than five (5) feet; or
3. If it relates to the size and location of signs that deviate from the Ordinance by less than 10%.

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6. If recommended for approval by the Minor Variance Board, the application shall be placed on the City Council's consent agenda within 21 days of filing. The Minor Variance Board may recommend conditions upon the approval which relate directly to the variance request.
7. Within all shoreland areas defined by CZO 15.24.020 paragraph B, a copy of every variance application along with supporting materials required by paragraph B, shall be submitted to the Minnesota Department of Natural Resources and also shall have received at least ten (10) days notice prior to the meeting date to consider the variance. (Ord. No. 644, 10/19/98)

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1. The variance shall be effective only for the specific purposes set forth in the variance grant. A violation of any condition set forth in granting a variance shall be a violation of this Ordinance and shall automatically terminate the variance;
2. The variance shall be personal to the applicant for the specific purpose set forth in the variance grant until the construction or installation of such specific purpose has been completed, at which time said variance shall attach to the land; furthermore, said attachment to the land shall continue until such specific


- purpose is discontinued, at which time said variance shall be null and void;
3. The variance shall become null and void without further action by the Planning Commission or City Council upon failure of applicant to utilize such variance by commencement of construction or installation of the specific purpose within 180 days of variance grant and completion within a reasonable time after commencement. A variance may be renewed by the City Council for good cause;
 4. ~~No such variance is transferable without authorization by the City Council while same is personal with applicant.~~
- F. *Filing.* A certified copy of any variance shall be filed with the Carver County Recorder or Registrar of Titles and shall include a legal description of the subject property.

PASSED AND ADOPTED BY THE CITY OF CHASKA COUNCIL FEBRUARY 26, 2024.

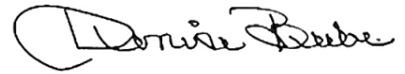
	AYE	NAY	ABSENT	ABSTAIN
Councilmember Grau	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Councilmember Hatfield	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Councilmember Huang	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Councilmember Hubbard	<u> </u>	<u> </u>	<u> X </u>	<u> </u>
Mayor Windschitl	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

Presiding Officer

Attest



 Mark Windschitl, Mayor, City of
 Chaska



 Denise Beebe, Senior Clerk, City of
 Chaska