

ORDINANCE NO. 6541-08

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXXII., BOARD OF ZONING APPEALS, SECTION 45-3203, PROCEDURE FOR REVIEW AND APPROVAL OF VARIANCES.

BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXXII., Board of Zoning Appeals, Section 45-3203, Procedure for review and approval of variances, be, and the same hereby is, amended and reordained as follows:

CHAPTER 45

ZONING ORDINANCE

ARTICLE XXXII. BOARD OF ZONING APPEALS

Sec. 45-3203. Procedure for review and approval of variances.

(a) An application for a variance may be made by any property owner, tenant, government official, department, board or bureau and shall be filed with the zoning administrator. Applications shall not be processed unless the applicant provides satisfactory evidence that any delinquent real estate taxes owed to the city which have been properly assessed against the subject property have been paid.

(b) The board shall conduct a hearing on said application subsequent to the notice requirements contained in section 45-3202(e).

(c) The board may approve an application for a variance upon making the specific findings specified below:

(1) The affected property owner must show that his property was acquired in good faith and that by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this chapter, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property.

- (2) The board shall not authorize a variance unless it finds:
- a. That the strict application of this ordinance would produce undue hardship relating to the property.
 - b. That such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
 - c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the zoning district will not be changed by the granting of such variance.

- (3) No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

(d) In reviewing an application for a variance, the board may grant such variance when it is satisfied upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter. The provisions of this paragraph shall not be construed to authorize the granting of a variance without making the specific findings required by subsection (c) above.

(e) In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinances. The use or the structure permitted by the variance may not be expanded, unless the expansion is within an area of the site or part of the structure for which no variance is required. Where expansion is proposed within an area of the site or part of the structure for which a variance is required, the expansion may not occur unless an additional variance is obtained.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON OCTOBER 14, 2008

Mabel V. Washington, CMC
City Clerk

Joe S. Frank
Mayor

A true copy, teste:

City Clerk