

Pender County Planning and Community Development

Planning Division

805 S. Walker Street
PO Box 1519
Burgaw, NC 28425



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www.pendercountync.gov

AGENDA

Pender County Planning Board
Tuesday, August 6, 2013 7:00 p.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina

Call to Order: Chairman Boney

Roll Call: Chairman Boney

Pender County Planning Board Members:

Boney: ___ Marshburn ___ Baker: ___ Edens: ___ McClammy: ___ Nalee: ___ Williams: ___

1. Adoption of the Agenda:

2. Adoption of Minutes: (June 4, 2013)

3. Public Comment:

(Public Hearings Open)

4. Zoning Text Amendment:

Pender County, applicant, is requesting an amendment to the Pender County Unified Development Ordinance. The proposal consists of amending Section 5.3.3. Table of Permitted Uses by adding and modifying NAICS uses 221320 and 713940 within the RM, Residential Mixed, PD, Planned Development, and RA, Rural Agricultural zoning districts; the amendment will also modify Section 7.10, Off-Street Parking and Loading/Parking Requirements by adding a Parking Study option; the amendment will modify Section 5.3.6, adding use standards to Sewer Treatment Facilities to be located within the RM and PD zoning districts. A detailed description of each amendment is available in the Planning Department offices for review.

(Public Hearings Closed)

Anyone wishing to address the **Pender County Planning Board** shall make a request on the "Public Comment" sign-up sheet. Please provide the information requested.

If you wish to speak on *a specific public hearing item*, please sign-in on the appropriate "Public Hearing" sign-up sheet. Speakers will be allowed to speak *prior* to any action/vote taken by the Board.

*A time limit of **two** minutes per speaker or up to **ten** minutes for groups of five or more, with a designated speaker will be imposed.

5. Discussion Items:

a. Planning Staff Items:

- i. HB 276, AN ACT TO CLARIFY AND MODERNIZE STATUTES REGARDING ZONING BOARDS OF ADJUSTMENT

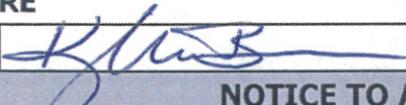
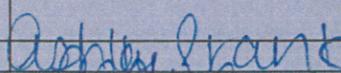
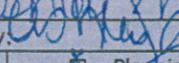
The North Carolina General Assembly recently adopted statutes which change certain aspects of the Board of Adjustment. Staff has prepared a preliminary report of the changes and will present them to the Board as information. The Bill comes in to effect October 1, 2013; therefore, Staff will need to present a text change to the UDO in September to reflect the legislative changes.

b. Planning Board Members Items:

- 6. Next Meeting:** Work Session and Regular Meeting, September 10, 2013

- 7. Adjournment:**

APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA case # 10995	Date	6.21.2013
Application Fee	\$ N/A	Receipt No.	N/A
Pre-Application Conference	4.17.2013	Hearing Date	PB August 6, 2013
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Pender County		
Applicant's Address:	805 South Walker Street		
City, State, & Zip	Burgaw, NC 28425		
Phone Number:	(910)259-1202		
SECTION 2: UDO TEXT TO BE AMENDED			
Current Text to be Amended (Please site accurate Article number referenced):			
The proposal consists of amending Section 5.3.3. Table of Permitted Uses by adding and modifying NAICS uses 221320 and 713940 within the RM, Residential Mixed, PD, Planned Development, and RA, Rural Agricultural zoning districts; the amendment will also modify Section 7.10, Off-Street Parking and Loading/Parking Requirements by adding a Parking Study option; the amendment will modify Section 5.3.6, adding use standards to Sewer Treatment Facilities to be located within the RM and PD zoning districts.			
Proposed Text to be added:			
See Attachment			
SECTION 3: SIGNATURE			
Applicant's Signature			Date: 6/21/2013
NOTICE TO APPLICANT			
If the applicant makes significant changes to the application for a text amendment after the Planning Board has made its recommendation, the Administrator may refer the modified request back to the Planning Board for an additional public hearing.			
TEXT AMENDMENT CHECKLIST			
<input checked="" type="checkbox"/>	Signed application form		
N/A <input type="checkbox"/>	Application fee		
<input type="checkbox"/>	A letter describing, in detail the intent and purpose of the amendment presented, meeting the approval criteria set forth in Section 3.18.5 of the Pender County UDO (shown on page 1 of this application)		
Office Use Only			
<input type="checkbox"/> ZTA Fees: \$250		Total Fee Calculation:	
Payment Method:	Cash : <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input checked="" type="checkbox"/> Visa	Check: <input type="checkbox"/> Check # _____
Application Received By:			Date: 6.21.2013
Application completeness approved by:			Date: 6.21.2013
Dates Scheduled for Public Hearings:	<input checked="" type="checkbox"/> Planning Board:	<input checked="" type="checkbox"/> BOC:	

PLANNING STAFF REPORT
Zoning Text Amendment

SUMMARY:

Hearing Date: Planning Board – August 6, 2013
Board of County Commissioners – August 19, 2013

Applicant: Administrator, Division of Planning

Application Number: ZTA 10995 Pender County

Text Amendment Proposal: The request consists of amending to the Pender County Unified Development Ordinance, specifically amending Section 5.2.3. Table of Permitted Uses by adding and modifying NAICS uses 221320 and 713940 within the RM, Residential Mixed, PD, Planned Development, and RA, Rural Agricultural zoning districts; the amendment will modify Section 5.3.6, adding use standards to Sewer Treatment Facilities to be located within the RM and PD zoning districts; the amendment will also modify Section 7.10, Off-Street Parking and Loading/Parking Requirements by adding a Parking Study option.

Background: The following text amendment is the result of various administrative discussions and situational circumstances that have been brought to Staff's attention since the effective date of the Pender County Unified Development Ordinance.

Administrator Recommendation: The Administrator respectfully recommends amending the Unified Development Ordinance as described in the staff report and supplemental information.

The following outline describes the proposed amendments by topic. The proposed amendments clarify recent issues that have been brought to staff's attention regarding allowable uses within the Table of Permitted Uses and Parking. Detailed information of all the changes is included in the informational packet which has been distributed to accompany this report.

Table of Permitted Uses 5.2.3

NAICS 221320 Sewer Treatment Facilities (Attachment 1)

Staff has been approached as to the use of sewage treatment facilities within the RM, Residential Mixed zoning district. Sewage treatment facilities are defined as: *Any device or system used in the storage, treatment, disposal or reclamation of sewage and industrial wastes generated by more than two uses or dwellings.* Currently this use is not permitted within the RM district.

The RM, Residential Mixed zoning district is outlined in section 4.7.3 of the Pender County UDO as a district designed to allow for a variety of conventional built and multifamily housing types which can be accommodated dependent on necessary infrastructure including but not limited to community or regional utilities and infrastructure. A variety of housing types as referenced within the Table of Permitted Uses shall be allowable, however only one housing type is required for development. The type of development should be compatible with surrounding land uses and consistent with the goals and policies of the Comprehensive Land Use Plan. The density development standards shall be

calculated similar to the Planned Development (PD) District. The PD District currently allows the use of a sewage treatment facility with the approval of a Master Development Plan (MDP). As Pender County has no other form of wastewater treatment the use of a sewage treatment facility would be required to achieve densities described in the RM district.

In order to protect adjacent land uses, design standards have been applied to both the RM and PD Districts. The standards will allow the sewer treatment facility to be approved with the MDP for both the RM and PD districts; however will require a Special Use Permit for sewer treatment facilities not located within the boundary of the Master Development Plan.

NAICS 713940 Fitness and Recreational Sports Centers (Attachment 2)

Fitness and recreational sports centers comprised of establishments primarily engaged in operating fitness and recreational sports. These facilities feature exercise and other active physical fitness conditioning or recreational sports activities such as; swimming, skating, or racquet sports as described in the North American Industry Classification System (NAICS).

Staff is recommending adding uses that fall within the classification of NAICS 713940 by Special Use Permit in the RA, Rural Agricultural zoning district. After reviewing the types of uses that fall into this category, the uses may be appropriate within the RA district depending on locational criteria. These types of uses include:

Aerobic dance and exercise centers, athletic club facilities, body building studios, dance centers, aerobic centers, exercise centers, fitness centers, fitness salons, fitness spas without accommodations, gymnasiums, handball club facilities, health club facilities, health spas without accommodations, health studios, ice skating rinks, physical fitness centers, physical fitness facilities, physical fitness studios, racquetball club facilities, recreational sports club facilities, rinks, ice or roller skating, roller skating rinks, spas without accommodations, sports club facilities, squash club facilities, strength development centers, swimming pools, tennis club facilities, tennis courts, wave pools, and weight training centers.

The uses listed above are similar in intensity to the uses which fall under NAICS 713990, which are currently allowed by Special Use Permit in the RA zoning district. By allowing uses under NAICS 713940 to be permitted by Special Use Permit, site-specific proposals may be presented. This allows for specific concerns to be addressed or additional conditions be placed on the proposed use.

Section 7.10, Off-Street Parking and Loading/Parking Requirements (Attachment 3)

The proposed amendment serves to create a process that will bring greater flexibility in both the administration of and compliance with the parking requirements of the Unified Development Ordinance. Currently, commercial site development applicants are required to comply with 7.10.1 Minimum (minimum parking requirements) for their commercial development(s). The minimum parking requirements, when strictly enforced, do not apply to all developments uniformly. Accordingly, staff has identified a "Parking Study Option" which may be utilized through the commercial development process as an alternative to the current parking minimum in the Unified Development Ordinance.

Staff is proposing to allow flexibility within the prescribed parking standards by requiring sufficient evidence to be submitted by a traffic/parking professional. This evidence shall address several key

factors affecting a reduction to ensure that the public health, safety and general welfare of all stakeholders are being met. Some factors include; site specific access, mix and traffic loads, anticipated parking turnover, and alternative transportation option availability. The potential to reduce impervious surfaces may allow for the improvement of water quality by limiting the amount of run-off produced from a surplus of parking areas.

Currently, the Unified Development Ordinance requires parking to be enforced as stated below:

7.10 Off-Street Parking and Loading/Parking Requirements

Off-street parking spaces shall be provided for all uses listed below in the amounts specified below. Uses not listed shall be reviewed by the Administrator for a determination of the required spaces. Buildings with multiple uses shall calculate parking based on the square footage of each use in the building. Generally, minimum parking requirements are based on the square footage, number of employees or service areas. However, these requirements may not always correspond directly with actual realized parking utilization rate(s).

Evaluation:

As prescribed in the Pender County Unified Development Ordinance (UDO) Article 3.18.5 in evaluating any proposed ordinance text amendment, the Planning Board and the County Commissioners shall consider the following:

- 1) The extent to which the proposed text amendment is consistent with the remainder of the Ordinance, including, specifically, any purpose and intent statements;
- 2) The extent to which the proposed text amendment represents a new idea not considered in the existing Ordinance, or represents a revision necessitated by changing circumstances over time;
- 3) Whether or not the proposed text amendment corrects an error in the Ordinance; and
- 4) Whether or not the proposed text amendment revises the Ordinance to comply with state or federal statutes or case law.

In deciding whether to adopt a proposed Ordinance text amendment, the central issue before the County Commissioners is whether the proposed amendment advances the public health, safety or welfare and is consistent with any adopted County Land Use Plan documents and the specific intent of this Ordinance.

Comprehensive Land Use Plan Compliance:

The following goals and policies within the Pender County Comprehensive Land Use Plan may be relevant to the proposed Zoning Text Amendment request:

Policy 1A.1.4 The County should develop and utilize innovative and flexible land planning techniques that encourage developments to efficiently use land resources that result in more compact urban areas, infill development, redevelopment, and the adaptive re-use of existing buildings.

Policy 1A1.5 The County supports a pro-business/pro-growth attitude, balanced by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.

Policy 2A.1.2 Allow the use of package treatment plants only in areas where development is desirable but public sewer service is not feasible. If package treatment plants are use they should be designed to enable, at minimum public cost, the conversion of the system to public ownership, operation and maintenance in the future when public sewer service is viable, and cost effective

Policy 3A1.2 Use the creation of the Unified Development Ordinance (UDO) as an opportunity to allow more development flexibility while setting higher standards for sustainable development.

There are no conflicting policies within any adopted land use documents.

Staff Recommendation:

The proposed text amendment is consistent with the Unified Development Ordinance and Comprehensive Land Use Plan. Therefore, staff is recommending approval of the amendments as presented.

Planning Board

Motion: _____ **Seconded:** _____

Approved: _____ **Denied:** _____ **Unanimous** _____

Boney: __ Marshburn: __ Baker: __ Edens: __ McClammy: __ Nalee: _____ Williams: __

Attachment 1

5.2.3 Table of Permitted Uses

TABLE OF PERMITTED USES														
P=Permitted Use D=Permitted w/ Use Standards S=Special Use Approval Required SD=Special Use Approval Required w/ Additional Standards PM=Permitted in conjunction w/ the MDP process														
Use Category Specific Use Type		Zoning Districts												
		Residential	Mixed Use	Commercial	Industrial	Special Purpose	RA	RP	RM	MH	PD	GB	OI	IT
Use Type	Ref NAICS	RA	RP	RM	MH	PD	GB	OI	IT	GI	EC			
Sector 22: UTILITIES														
Fossil Fuel Electric Power Generation	221112									S				
Other Electric Power Generation	221119	S	S			S			P	P				
Electric Bulk Power Transmission & Control	221121	S	S	S	S	S	S	S	P	P				
Natural Gas Distribution Except Transmission Lines	221210									P				
Water Supply Facilities*	221310		S			PM				P				
Sewage Treatment Facilities*	221320		S	PMD/S		PMD/S				P				
*County Owned or County Service District Provided Systems=P														

5.3.6 Sewage Treatment Facilities (Sector 22 Utilities)

- A. Sewage Treatment Facilities approved in conjunction with a Master Development Plan (MDP)
 - 1. Sewage Treatment Facilities may be approved in conjunction with a Master Development Plan if:
 - a. The sewage treatment facility will only provide service within the boundary of the approved (MDP).
 - i. The sewage treatment facility must be completed within phase one (1) of the development.
 - 2. Any changes to a Sewage Treatment Facility approved in conjunction with a MDP will require Administrator evaluation; changes to the facility include but are not limited to; enlarging footprint or building size, increase in capacity, or increase in area to be serviced.
 - 3. If the Sewage Treatment Facility services are expanded to areas outside of the MDP boundary, the facility shall be required to obtain a Special Use Permit (SUP) for modifications to the facility.
- B. Sewage Treatment Facilities not associated with an approved MDP:
 - 1. Sewage Treatment Facilities not associated with a MDP shall be required to obtain a Special Use Permit (SUP) for the facility.

Attachment 2

5.2.3 Table of Permitted Uses

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
Sector 71: ARTS, ENTERTAINMENT, AND RECREATION											
Performing Arts Companies	7111	S				P	P				
Spectator Sports	7112	S					P		P		
Promoters of Performing Arts, Sports and Similar Events	7113	S				S	S				
Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures	7114					P	P	P			
Museums, Historical Sites and Similar Institutions	712	S				P	P	P			
Amusement and Theme Parks	713110	S				S	S				
Amusement Arcades	713120						P				
Golf Courses and Country Clubs	713910	S	PM			P					
Fitness & Recreational Sports Centers	713940	S				P	P	P	P		
Bowling Centers	71395					P	P	P	P		
All Other Amusement & Recreation Industries	71399	S				P	P		P		
Aviation Clubs, Recreational	713990	S	S			P	P		P		
Canoeing, Recreational	713990	S	S			P	P		P		
Fishing Clubs, Recreational	713990	S	S			P	P		P		
Flying Clubs, Recreational	713990	S	S			P	P		P		
Guide Services (i.e. Fishing, Hunting, Tourist)	713990	S	S			P	P		P		
Horse Riding, Recreational	713990	P	S								
Outdoor Shooting Ranges	713990	S									

Attachment 3

7.10.2 Parking Study Option

A. General

Innovative approaches which enable overall flexibility with regard to the administration of the UDO within Pender County are encouraged when the public interest is served and protected. The Administrator or Planning Board, as specified, may reduce or increase the amount of off-street parking required where developer-submitted parking data, prepared and sealed by a professional parking consultant or transportation engineer with proven experience providing similar studies, illustrates that the standards of 7.10 Off-Street Parking and Loading/Parking Requirements do not accurately apply to the specific development. The study shall be presented to the Planning Board at time of Master Development Plan. When an MPD is not required, the Administrator shall serve as the review and recommending authority.

The data submitted for an alternative parking plan shall include, at a minimum:

1) Introduction/Background: This section shall include details regarding the application such as application type, proposed use, history, a brief explanation as to why the study was undertaken and any other relevant information including Special Use Permits, restrictions, covenants, etc affecting the site.

2) Development Site Detail:

The following items shall be addressed in the parking study:

- a) The current zoning of the site
- b) The size and type of the proposed and existing development(s) on-site
- c) Site access
- d) The mix and traffic generation of all uses on site
- e) The anticipated rate of parking turnover
- f) The minimum parking amount required by the UDO as compared to Urban Land Institute (ULI) and/or Institute of Transportation Engineers (ITE) projections; other acceptable projections may be approved by the Administrator on a case by case basis
- g) Total existing on-site parking as well as existing conditions within two blocks of the site
- h) Alternative transportation options available to the site
- i) The 85-95% peak utilization threshold for both the UDO minimum and the applicant's supply proposal
- j) NCDOT Traffic volume counts for roadways adjacent to the potential development site

3) Survey Site(s) Parking Survey:

- a) The parking levels for similar use(s) shall be considered and be based on the appropriate NAICS classification and approved by the Administrator. The following shall be included in the survey:
 - 1) The PIN and address of the survey site(s)
 - 2) Each day of the week and times that the study was performed; subject to prior approval by the Administrator

- 3) A description of the existing supply and conditions on the survey site (zoning, parking supply etc.)
 - 4) If the use exists elsewhere (preferably in Pender County) in a similar situation, the study must outline the similarities between the two locations and why they will generate a similar parking demand
 - 5) The survey should occur for two normal business weeks and should capture peak parking demand, based on peak parking periods defined by the Urban Land Institute (ULI) or an alternative peak schedule for that particular use; the schedule shall be pre-approved by the Administrator
 - 6) Observed parking shall separate out legal, illegal, off-site and total
 - 7) Utilization rates for the survey site(s), including overall observed demand ratios as well as daily demand ratios/time of day. This comparison shall also include a comparison to the survey site's structural (not observed) 85-95% utilization rates, based on their existing supply (i.e. 100 spaces exist/85 & 95 spaces=85% & 95%) (The demand ratios should be presented, per square foot (i.e. 1 .8 cars per 250 ft²))
 - 8) The Minimum, Maximum, Median and Mode shall be reported
 - 9) An assessment of existing conditions within two blocks of the site
 - 10) NCDOT Traffic volume counts for roadways adjacent to the survey site(s)
-
- 4) A justification of peak periods and analysis of any deviations utilizing the Urban Land Institute's "Shared Parking"
 - 5) A recommendation concerning future parking needs and the site's capacity
 - 6) A section shall be provided that details the qualifications of the party responsible for preparing the study
 - 7) A section shall be provided that details the methodology for the study

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To: Pender County Board of Adjustment Members
From: Kyle M. Breuer, Director
Date: July 10, 2013
Re: H.B. 276 Updates for the Board of Adjustment

Legislative changes in H.B. 276, An Act to Clarify and Modernize Statutes Regarding Zoning and Boards of Adjustment, will be effective on October 1, 2013. Current documents and procedures must be updated to reflect the new statutes. It is pertinent to review and discuss several legislative changes and the extent to which the BOA is interested in including these items.

Discussion Items

One item for discussion at our next meeting is the potential for parties to exercise mediation or alternative dispute resolution through the appeal process. Legislation allows for jurisdictions to include this, but the County must decide our interest to include voluntary alternative dispute resolution in the Ordinance and the potential effects of this modification.

H.B. 276 was passed in an effort to create consistency across the State in defining an unnecessary hardship. The criteria are broader than current definitions of unnecessary hardship to grant a variance in the Ordinance (§3.14.7). Legislation defines unnecessary hardship for a variance with four criteria, currently our Ordinance outlines seven (*see attachment*). The four criteria listed in the legislation may replace current text in the Ordinance. Adopting the wording directly from H.B. 276 would allow for a greater uniformity in the variance process aligning our criteria with other jurisdictions Statewide. Adjustments must be made to the Ordinance and Findings of Fact document used to grant variances.

Additional Changes

Voting standards currently require a 4/5 vote to reverse any order, requirement, decision or determination. H.B. 276 states that a 4/5 vote is necessary only for variance cases. All other quasi-judicial cases can pass with a simple majority vote of BOA members. This is especially relevant when hearing appeals, a majority vote will decide the outcome.

Presently, neither the Ordinance nor the BOA Rules of Procedure Document specify procedures for administering oaths. H.B. 276 specifies that oaths may be administered by both the chair of the board (or any member acting as chair), and the clerk to the board. Any person who, while under oath during a proceeding before the Board of Adjustment willfully swears falsely is guilty of a Class 1 misdemeanor. Similarly, in the chair's absence any member acting as the chair has the authority to subpoena witnesses. These changes will be updated in all relevant documents to ensure consistency with H.B. 276.

Changes necessary from H.B. 276 will be reflected in BOA documents following subsequent discussions including; Findings of Fact, Rules of Procedure and the Pender County Unified Development Ordinance.

**H.B. 276, AN ACT TO CLARIFY AND MODERNIZE STATUTES REGARDING ZONING AND BOARDS
OF ADJUSTMENT**

	Current	Changes
Alternative Dispute Resolution	No alternative dispute resolution.	"The parties to an appeal under this subsection may agree to mediation or other forms of alternative dispute resolution. The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution" (N.C.G.S. 153A-345 (b1) (10)).
Unnecessary Hardship Defined to Grant a Variance	See PG 2	See PG 2
Voting 2.4.1 C (6)	4/5 necessary to reverse any order, requirement, decision or determination	4/5 necessary for variance All other quasi-judicial simple majority required (includes appeals)
Oaths	Ordinance does not specify oaths	The chair of the board or any member acting as chair and the clerk to the board are authorized administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.
Subpoenas 2.4.1. C	11) The Board of Adjustment shall have the authority to subpoena witness and compel the production of evidence as specified in N.C.G.S. 153A-345 (g).	11) The Board of Adjustment through the chair, or in the chair's absence anyone acting as the chair shall have the authority to subpoena witness and compel the production of evidence as specified in N.C.G.S. 153A-345 (g).
Notice of Public Hearing 3.14.5	"Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage"	"The notice must be deposited in the mail at least 10 days, but not more than 25 days prior to the date of the hearing. Within that same period, the [County] shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way."

Defining Unnecessary Hardship

Ordinance

- 1) That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Building Official before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;
- 2) That the strict enforcement of this Ordinance would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Ordinance;
- 3) That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;
- 4) That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance;
- 5) That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and
- 6) That the variance will not result in the expansion of a nonconforming use.
- 7) In the case of expansions to nonconforming structures, the variance granted shall be the smallest that is reasonably necessary

Legislative Changes

- 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved.