

ORDINANCE 2026-01

13.84.090 Variances And Appeals

(a) Purpose; Board of Adjustment.

- (1) A variance is required if some aspect of a proposed project does not conform with the development standards for the zone. The purpose of issuing variances is not to allow exceptions to the development standards but rather to help achieve equal treatment for owners who would be disadvantaged by strict application of these standards.
- (2) The City Council serves as the Board of Adjustment.

(b) Application and procedure.

- (1) The applicant for a variance shall complete and submit to the City an official application for a variance together with a non-refundable fee established by the City Council. In addition to the fee, the applicant shall sign an agreement, on forms provided by the City to pay the cost of all engineering, planning, legal and inspection expenses incurred by the City in processing the application. The application shall contain the names and mailing addresses of all property owners within 350 feet of the subject property.
- (2) Complimentary copies of detailed written and graphic materials fully explaining the proposed change or development that would require a variance shall accompany the application. The City shall refer the application, along with all related information, to the City Planning Commission for consideration and a report at least 15 days before the next regular meeting.
- (3) Upon determining that all required information has been provided, a public hearing shall be scheduled before the Planning Commission and notice shall be published, posted and mailed according to Minn. Stats. § 394.26.

(c) *Public hearing.*

- (1) The City, on behalf of the Planning Commission, shall set a date for a public hearing for the variance. Notice of the time, place and purpose of the hearing shall be published in the official newspaper.
- (2) Notice shall be mailed, not less than ten days prior to the hearing, to all property owners of record according to the county assessment records, within 350 feet of the property to which the request relates. A copy of the notice and a list of the property owners and addresses to which the notices were sent shall be attested to by the City and made part of official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bonafide attempt to comply with this subdivision has been made.

(d) *Planning Commission.* The Planning Commission shall consider the request and hold a public hearing at its next regular meeting unless the filing date falls within 15 days of the meeting, in which case the request shall be placed on the agenda and considered at the regular meeting following the next regular meeting. The City shall refer the application, along with all related information, to the City Planning Commission for consideration. The applicant or his representative shall appear before the Planning Commission in order to answer questions concerning the proposed variance.

(e) *Powers, duties and obligations of the Planning Commission.* The Planning Commission shall have the following powers, duties, and obligations:

- (1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter.
- (2) To hear requests for variances from the literal provisions of this chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.

(f) *Standards and findings of fact for granting variances.* A variance may be granted only in the event that the applicant demonstrates by factual presentation that all of the following circumstances exist:

- (1) The literal interpretation of the provisions of this chapter would cause undue hardship, deprive the applicant of rights commonly enjoyed by other properties in the same District under the terms of this chapter and leave the applicant without reasonable use of the land, provided that the applicant shall not have created the hardship.
- (2) The conditions causing the hardship are unique and are not shared by neighboring property in the same zoning district. Exceptional or extraordinary circumstances apply to the property which does not apply generally to other properties in the same zoning district and result from lot size or shape, topography, or other circumstances over which the owners of the property since enactment of this chapter had no control.
- (3) The variance would be in keeping with the spirit and intent of this chapter, would be consistent with the Comprehensive Plan, and would not essentially alter the character of the neighborhood, or adversely affect the environmental quality of the area.
- (4) The variance would not allow any use that is not permitted under this chapter for a property in the zoning district where the affected applicant's land is located.
- (5) The variance would not impair an adequate supply of light and air to adjacent properties.

- (6) The variance would not increase the congestion in the public rights-of-way.
 - (7) The variance would not increase the danger of fire or endanger the public safety.
 - (8) The variance would not cause an unreasonable strain upon existing municipal facilities and services.
 - (9) The variance would not have a negative direct or indirect fiscal impact upon the City, County or School District, unless the proposed use is determined to be in the public interest.
- (g) *Board of Adjustment action.* Upon receiving the report and recommendation of the Planning Commission, the Board of Adjustment shall place the report and recommendation on the agenda for the next regular meeting. The reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- (h) *Board of Adjustment decision.* Upon receiving the report and recommendation of the Planning Commission, the Board of Adjustment shall either:
- (1) Approve or disapprove the request as recommended by the Planning Commission, based upon whether the application meets the requirements stated in this chapter;
 - (2) Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations or differing conditions shall be in writing and made part of the Board's records; or
 - (3) Refer the recommendation to the Planning Commission for future consideration. This procedure shall be followed only one time on a singular action. Approval of a request shall require passage by two-thirds vote of the full Board. The City shall notify the applicant of the Board's action within 15 days of the decision.
- (i) *Conditions and restrictions.* In granting a variance, the Planning Commission may recommend and the Board of Adjustment may impose additional conditions and restrictions which are reasonably necessary to ensure compliance with all provisions of this chapter, and with the language and intent of the Comprehensive Plan, and to protect adjacent properties.
- (j) *Appeals.* Any person wishing to appeal an order, requirement, decision, or determination made by an administrative officer in enforcement of this chapter shall complete and submit to the City an application for appeal within 30 days after the date of the order or decision in question. The application for appeal shall contain a complete statement of the order, requirement, decision or determination, the name of the administrative officer involved, and a concise statement of the alleged error committed.
- (1) The City shall determine that the application contains all the required information before presenting the application to the Planning Commission.
 - (2) The Planning Commission shall review the application and make written findings of fact to the Board of Adjustment.
 - (3) The Board of Adjustment shall grant or deny the appeal request after receiving the recommendation of the Planning Commission.
- (k) *Lapse of variance or appeal.*
- (1) Whenever within one year after granting a variance or appeal the work as permitted by the variance or appeal shall not have been completed by the applicant, then such

variance or appeal shall become null and void unless a petition for extension of time in which to complete the work has been granted by the Board of Adjustment. Such extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original variance or appeal.

- (2) There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance or appeal. Such petition shall be presented to the Planning Commission for a recommendation and to the Board of Adjustment for a decision, and shall be requested only one time on a singular action.

- (l) *Performance bond.* Upon recommendation of the Planning Commission, the Board of Adjustment shall have the authority to require a performance bond or other securities when it is deemed necessary and appropriate.

- (1) Except in the case of non-income-producing residential property, upon approval of a variance or appeal the City may be provided with a surety bond, escrow Certificate of Deposit, securities or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the variance or appeal and the ordinances of the City.
- (2) The security may be in the amount of the Board of Adjustment's estimated costs of labor and materials for the proposed improvements or development.
- (3) The City may hold the security until completion of the proposed improvements or development and a Certificate of Occupancy, indicating compliance with the variance or appeal and ordinances of the City, has been issued by the City Zoning Administrator.
- (4) Failure to comply with the conditions of the variance or appeal and/or ordinances of the City shall result in forfeiture of the security.

(m) Administrative Amendments to Approved Variances

- 1) *Purpose* This section provides a process for administrative review of minor amendments to approved variances that do not materially increase the intensity of the variance, alter its fundamental nature, or adversely affect adjacent properties.
- 2) *Applicability* An applicant may request a minor amendment to an approved variance, subject to the criteria in this section. Minor amendments may be reviewed and recommended by the Planning Commission, with final approval by the City Council, without the need for a public hearing, unless the City determines that public input is warranted.
- 3)

<i>Criteria</i>	<i>for</i>	<i>Minor</i>	<i>Amendments</i>
A variance amendment shall be considered "minor" if it meets all of the following:			
(a) Does not increase the degree of the original variance (e.g., no further encroachment into setbacks, height, or lot coverage);			
(b) Does not expand the area or scope of the variance beyond what was originally approved;			
(c) Does not alter the approved use of the property;			
(d) Does not create any new nonconformities;			
(e) Does not negatively impact adjacent properties or the general public interest;			

(f) Is consistent with the original findings of fact and intent of the approved variance.

4) *Application Procedure*

- (a) The applicant shall submit a written request outlining the proposed amendment, including all necessary plans, surveys, and justification.
- (b) The Zoning Administrator shall determine whether the request qualifies as a "minor amendment" under this section.
- (c) If deemed eligible, the request shall be forwarded to the Planning Commission for recommendation.
- (d) The Planning Commission shall review the request at a regular meeting and may recommend approval, denial, or referral for full variance reapplication.
- (e) When the amendment is procedural, corrective, or does not substantively alter zoning rights or property impacts, the Planning Commission may recommend proceeding without a public hearing, subject to final City Council action.

5) *Time Limit for Amendment Requests* A request for a minor amendment under this section must be submitted within one (1) year of the original variance approval date. After that time, any proposed change shall require a new variance application, subject to standard procedures and public hearing requirements.

6) *Disqualification from Minor Amendment Process*
If at any point the Zoning Administrator, Planning Commission, or City Council determines that the proposed amendment constitutes a substantial change to the variance or would benefit from public input, the applicant shall be required to submit a new variance application, subject to public hearing requirements per Minnesota Statutes § 462.357 and this Code.

7) *Notification* While not required for minor amendments, the City may notify adjacent property owners as a courtesy when the Planning Commission will consider the request.

8) *Fees* The applicant for a variance amendment shall complete and submit to the City an official application for a variance together with a non-refundable fee established by the City Council.

Effective Date: This ordinance shall be effective immediately upon passage and publication according to law.

ADOPTED this 4th day of March 2026, by the City Council of the City of Pine City.

By: _____

Kent Bombard, Mayor

ATTEST:



Marcy Peterson, City Administrator

State of Minnesota
County of Pine

This instrument was acknowledged before me on 3/4/2026 by Kent Bombard,
Mayor of City of Pine City a Municipal Corporation under the laws of Minnesota on behalf of the
Municipal Corporation



A handwritten signature in black ink, appearing to read "Tabitha A. Pickett", written over a horizontal line.

SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Drafted by:
City of Pine City
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Pine City, MN 55063