

AGENDA

EAST GRAND RAPIDS PLANNING COMMISSION May 10, 2022 - 5:30 PM Community Center – Commission Chambers

Citizens may also stream the meeting via the following link: <https://bit.ly/2xXILvn>
Comments not accepted via the livestream.

1. Call to Order
2. Approval of the Agenda
3. Approval of Minutes: March 8, 2022 Meeting
4. Public Comment on Non-Agenda Items
5. Introduction of Amendment to Chapter 50, Sections 5.111 and 5.116 of Zoning Ordinance – Nonconformities
6. Study Session – Discussion of Potential Future Zoning Ordinance Amendments (No action is requested)
 - a. Encroachments/Setbacks for Mechanical Units next to Accessory Buildings
 - b. Home Occupation Regulations
 - c. Clarification of Variance Standards
7. Report of the City Commission
8. Next Regular PC Meeting: June 14, 2022
9. Adjournment

PROCEEDINGS OF THE PLANNING COMMISSION
CITY OF EAST GRAND RAPIDS

March 8, 2022

East Grand Rapids Community Center – Commission Chambers

Present: Chairman Tom Getz, Commissioners Steve Achram, Matt Feyen, Karey Hamrick, Mary Mapes, Greg Metz, Peter Michell, Brian Miller and Whitney Renner.

Also Present: City Manager Shea Charles, Deputy City Manager Doug LaFave, Zoning Administrator Jay Gianotti, City Attorney John Huff, City Planner Paul LeBlanc of PLB Planning and Recording Secretary Lynda Taylor

1. CALL TO ORDER

Chairman Getz called the meeting to order at 5:30 PM.

2. APPROVAL OF AGENDA

A motion was made by Commissioner Hamrick and supported by Commissioner Mapes to approve the agenda as submitted.

Yeas: Commissioners Achram, Feyen, Getz, Hamrick, Mapes, Metz, Mitchell, Miller and Renner – 9

Nays: -0-

3. APPROVAL OF MINUTES – February 8, 2022

Commissioner Mapes pointed out that a commissioner's name was omitted from the motion to adjourn the February 8 meeting.

A motion was made by Commissioner Metz and supported by Commissioner Miller to approve the minutes as amended.

Yeas: Commissioners Achram, Feyen, Getz, Hamrick, Mapes, Metz, Mitchell, Miller and Renner – 9

Nays: -0-

4. PUBLIC COMMENT ON NON-AGENDA ITEMS

Chairman Getz opened public comment. No comments were received. Chairman Getz closed public comment.

5. PUBLIC HEARING-AMENDMENT TO CHAPTER 50, SECTION 5.26B, 5.27, 5.28A, 5.30, 5.37, 5.59, AND 5.771 OF ZONING ORDINANCE – MFR RESIDENTIAL DISTRICT AND RELATED PROVISIONS

Chairman Getz gave a few opening remarks regarding the proposed amendment and some rumors that have been posted based on an incorrect understanding of the proposed changes. A summary of his comments is following:

- The Planning commission has been working on proposed minor changes to the ordinances regulating the Multifamily Residential District. The changes have absolutely no effect on the R1, R2 or R3 residential districts.
- The MFR district is not new. It has existed since the 1950s. It makes up 1/2 of 1% of the entire city and is basically portions of three short blocks of Croswell, Bagley and Lovett, plus the condos along Lakeside adjacent to the park and one small intersection at Gladstone and Wealthy near Eastown.
- The goal has been to bring the MFR District more in line with the East Grand Rapids Master Plan which was approved in 2018.
- East Grand Rapids, like all cities, is required to update the Master Plan every five years. In 2018 there was extensive community involvement, public workshops with facilitators and public comment, both in person and in writing as part of the Master Plan revision. This included citizens of all neighborhoods in EGR, not just specific interest groups.
- In better aligning the MFR District with the Master Plan our goals have been to modestly increase density in this district, while incorporating design standards to ensure development quality and to insure appropriate integration of any new construction into the existing MFR District neighborhoods.
- The amendment does not increase the size of the MFR District or add any new MFR District. If that were to happen in the future, it would require another series of meetings with Public Comment at both the Planning Commission and the City Commission levels.

- Zoning Ordinances do not tell you what you must do with your property or suggest what you should do with your property. They give you a range of options of what you may do with your property in each residential district.
- Being zoned as MFR doesn't mean there can't be single-family homes in that district. There are a number of single-family homes in the MFR District.
- The MFR District is intended as a buffer between the C-1 Commercial District and the Residential Districts which is why MFR buildings are not scattered around the city.
- We have the Master Plan and the Zoning Ordinances in place to have organized development.

Zoning Administrator Gianotti gave a summary of his memo, the Planning Commission's ordinance amendment meetings and procedures since starting in May 2021 and the proposed changes which are listed below:

- Refine the intent of the MFR District to better align with the goals and recommendations of the City Master Plan.
- Revise development standards for all uses in these districts to minimize nonconformities and allow more flexibility in design.
- Adjust permitted and special uses to better match the character of the MFR Districts.
- Introduce new standards to protect existing development and neighborhood character through the following measures:
 - Adding "Single Family Conversions" as a new permitted use, allowing an existing single-family home to be converted to a two-family or multiple family use.
 - Changes new multiple family construction to a special use to allow a higher level of review and approval standards.
 - Incorporates new design standards to ensure a basic level of development quality and integration in the existing MFR districts.

Most of the revisions are in Article 4 of the zoning ordinance. Other provisions in the zoning ordinance are also proposed for amendment to complement new regulations. A summary of the other proposed amendments is listed below:

- Section 5.27 (C-1 Commercial District) – Revise the maximum building height to 40' and 3 stories to put these standards in line with the revised height standards in the MFR Residential District.
- Section 5.59 (General Provisions, Height Exceptions) – Adding a provision to allow enclosed stairways used to access a rooftop patio or terrace in the MFR Residential District to exceed the maximum allowable height by nine feet, subject to other provisions.
- Section 5.77A (Minimum Parking Requirements, Residential and Institutional Uses) – Reduction in the amount of required parking for two-family and multiple family uses.

The next step is to move the amendment to the City Commission with the Planning Commission's recommendations where there will be an introduction and a final hearing – a minimum of two hearings and opportunity for public comment.

Commissioner Miller commented on public concern that there would be dramatic changes to the MFR district. He asked for clarification on multi-family construction which will require an extended review. Mr. Gianotti responded that multi-family is defined as having more than two units. Anything with three units or more requires some level of site plan review. Any new construction will be considered a special use. Deputy City Manager La Fave added that a special use would require public hearing. Mr. Gianotti added under the current ordinance any new construction up to four units is permitted without special review.

Chairman gets opened public comment.

William McCall – 2840 Woodcliff Circle, SE:

- Concerned that changes to one section of the city could change other sections in the future.
- Does not like the development of duplexes.
- Gaslight is a very busy area already and parking is scarce.
- He questioned the benefits of the changes and why it would be necessary to develop smaller lots.

Paul McCarthy – 554 Lovett Avenue, SE: He and his wife own properties on Lovett.

- Thanked and congratulated the Planning Commission for the body of work and that it is a long time coming to align in practice what is outlined Master Plans for a lot of communities.
- What is being proposed will model some best practices that will be seen in other communities. Expressed concerned that requiring that parking be in the rear of a multi-family building constrains and preordains a

design in advance. There could be interesting and appealing three or four-plexes with garages up front with different levels of roof patios and preserving greenspace behind the house for actual use as greenspace. To say that garages have to be in the back takes that option away.

- The work on the ordinance amendment was a move in a very positive direction for the community.

Bob Kirchgessner – 1900 El Dorado Drive, SE:

- Echoed Mr. McCarthy's statements.
- Supports the amendments and said they were a long time coming.
- Applauded the Planning Commission for recognizing the issues and advancing the changes.
- Allowing staff review and approve changes to a site plan without going back before the Commission is very important in advancing projects.

Laurel Abraham – 1108 Lakeside: Correspondence received is attached.

Chairman Getz closed public comment.

Commissioner Mapes commented that in all the talks of the 2018 Master Plan and the ordinance amendment, there has been discussion about getting more affordable housing. By having the ability to convert single family dwellings to duplexes will provide more affordable house possibilities. She added that adding design standards will preserve the character of the area.

A motion was made by Commissioner Miller and supported by Commissioner Achram to approve the ordinance amendment as submitted and move it forward to the City Commission for their consideration.

Yeas: Commissioners Achram, Feyen, Getz, Hamrick, Mapes, Metz, Mitchell, Miller and Renner – 9

Nays: -0-

6. REPORT OF THE CITY COMMISSION

Commissioner Hamrick reported the following:

- The Mayor, City Commissioners and City Department Heads and City Staff attended a strategic planning meeting on March 5 that was very productive. She expressed her appreciation to staff.
- An agreement had been formed with Aquinas College for the use of the community pool.

7. NEXT REGULAR PLANNING COMMISSION MEETING: April 12, 2022

8. ADJOURNMENT

Chairman Getz adjourned the meeting at 6:07 PM.

Respectfully submitted,

Lynda Taylor
Recording Secretary

Attachment

March 8, 2022

The East Grand Rapids Planning Commission
750 Lakeside Drive SE
East Grand Rapids, MI 49506

I would like to submit public comments for the Planning Commission's discussion on proposed changes to the multi-family zoning district. I am disappointed that I am unable to attend Tuesday's meeting and hope there are additional opportunities to learn more about this massive change to our community and many more opportunities for public input.

Since this change will fundamentally shift our community, what is the plan is for both public education and feedback on this matter? I see several studies have been done but have not seen any effort to share this information with the broader community outside the commission meetings. What has been done to inform citizens of the upcoming change and invite them to become involved in the process?

The idea of multi-family zoning was included in the Master Plan to be considered, not a promissory document of items the Planning Commission is compelled to implement. The master plan does not mean all of the items listed will be approved. The proposed rules will change the face of our community permanently and, as such, should not be taken lightly. As citizens we were promised thorough dialogue and discussion before agenda items were passed and I ask that process to be done.

Can you also explain the efforts the Planning Commission has done to engage large groups of people and solicit feedback in an open discussion? The Planning Commission is composed of architects, builders, developers, and real estate agents. This is not a cross section of the community; and in fact, shows a biased representation of those who are likely in favor and even possibly stand to benefit from this rule change.

In addition to transparency, I would like to understand the studies done to address the environmental impact this change could have on the community. Changing current regulations sacrifices the ability of water to runoff into the ground and filtrate before entering back into the city water system. This is the opposite of an environmentally friendly proposal. What environmental impact studies can the commission point to ensuring these new regulations will not negatively impact the beauty of our community?

Finally, what issues does this rule change hope to address? I have heard the argument that this expansion will add more kids into the schools, however we already face concerns about overcrowded classrooms. As a parent, I worry that we are trying to solve a school "problem" that doesn't exist with a solution that isn't necessary, and may not even work.

It has also been communicated that this zoning change is an effort to revitalize local businesses. What else has been done to support local businesses? These businesses make our community fun, walkable and support our local schools. What has been done to truly support them and help them grow? Creating multi-family housing seems to be several steps removed from a true solution.

I await further discussion on this issue.

Sincerely, Laurel Abraham
1108 Lakeside Dr.



CITY OF
EAST GRAND RAPIDS

5

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(616) 940-4817 www.eastgr.org

JAY GIANOTTI, AICP
ZONING ADMINISTRATOR

Hearing Required?	No
Notices Mailed	N/A
Notice Published	N/A

MEMORANDUM

TO: East Grand Rapids Planning Commission
FROM: Jay Gianotti, Zoning Administrator
DATE: May 4, 2022

RE: **Introduction for Potential Zoning Ordinance Amendment
Sections 5.111 and 5.116 of Zoning Ordinance – Nonconformities**

Action Requested:

That the Planning Commission review and provide feedback on amendments to Sections 5.111 and 5.116 of the Zoning Ordinance related to nonconforming uses, lots, and structures.

Background:

Article XIV of the City's zoning ordinance deals with standards for nonconforming uses, lots, structures. In Sections 5.111 (Intent) and 5.116 (Elimination of Nonconformities), some of these categories were discovered to have been inadvertently omitted from the text of these sections. This proposed amendment would correct this to show that these sections apply equally to nonconforming lots as they do for nonconforming uses and structures. The list of proposed amendments is attached to these materials. Mr. Huff will describe these proposed amendments in more detail.

This agenda item would constitute the formal introduction to these proposed amendments. The Planning Commission is free to make recommendations and suggests for revisions to the final amendment text if it so desires. If the Planning Commission is agreeable to these amendments, it would be scheduled for a public hearing and formal recommendation vote at the June 2022 Planning Commission meeting. If a vote to recommend approval is made after the public hearing, it would go to the City Commission for final approval.

**AN ORDINANCE TO AMEND SECTION 5.111 AND 5.116
OF CHAPTER 50 OF TITLE V
OF THE CODE OF THE CITY OF EAST GRAND RAPIDS**

THE CITY OF EAST GRAND RAPIDS ORDAINS:

Section 1. Section 5.111 of Chapter 50 of Title V of the Code of the City of East Grand Rapids is hereby amended in its entirety to read as follows:

5.111 INTENT.

Within the districts established by this chapter or any subsequent amendments, there exist lots, structures and uses of land and structures which were lawful, either as conforming or nonconforming uses before this chapter was effective, but which would be prohibited, regulated or restricted under the terms of this chapter or amendments hereto.

(A) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their continuance. It is further the intent of this chapter that nonconformities shall not be enlarged, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district, except by appeal to the Zoning Board of Appeals.

(B) Such nonconformities are declared to be incompatible with the permitted lots, structures, and uses in the districts involved.

(C) A nonconforming lot, a nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land shall not be extended or enlarged after the passage of this chapter by attachment on a building, structure or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited in the district involved.

(D) To avoid undue hardship or practical difficulties, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building or lot on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been continuously and diligently carried on. **ACTUAL CONSTRUCTION** is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be continuously and diligently carried on until completion of the building involved.

Section 2. Section 5.116 of Chapter 50 of Title V of the Code of the City of East Grand Rapids is hereby amended in its entirety to read as follows:

5.116 ELIMINATION OF NONCONFORMITIES.

In accordance with the State's Zoning Enabling Act, the City may acquire private property by purchase, condemnation or otherwise for removal of nonconforming lots, nonconforming uses, and nonconforming structures; provided the property shall not be used for public housing.

Section 3. This Ordinance shall be effective on May _____, 2022.

Section 4. Notice of adoption of this Ordinance shall be published within ten days of its enactment by a publication of a digest, summary, or statement of purpose of the Ordinance as provided in Chapter VII, Section 7.5 of the Charter of the City of East Grand Rapids.

NOTICE OF ADOPTION OF ORDINANCE BY THE CITY OF EAST GRAND RAPIDS:

On May _____, 2022, the East Grand Rapids City Commission adopted an Ordinance Amendment restating Sections 5.111 and 5.116 of Chapter 50 of Title V of the City Code. The purpose of Section 5.111 is to outline the intent of the City with regard to nonconforming lots, uses, and structures. The Amendment added some language to both Sections to clarify that all types of nonconformities are regulated by Article XIV of the Zoning Ordinance. The full text of this Ordinance is available for inspection by and distribution to the public at the Office of the City Clerk or at eastgr.org. No further or additional publication of this Ordinance is required or contemplated.

City of East Grand Rapids

By _____
Karen K. Brower
City Clerk



CITY OF
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JAY GIANOTTI, AICP
ZONING ADMINISTRATOR

Hearing Required?	No
Notices Mailed	N/A
Notice Published	N/A

MEMORANDUM

TO: East Grand Rapids Planning Commission
FROM: Jay Gianotti, Zoning Administrator
DATE: May 4, 2022

RE: **Study Session – Potential Zoning Ordinance Amendments**

Action Requested:

That the Planning Commission hold a study session to discuss ideas/concepts of potential amendments to the City of East Grand Rapids Zoning Ordinance. No formal action or recommendation is requested on any of these items.

Background:

From time to time, changing conditions in the City may require or suggest updating the City’s Zoning Ordinance. Typically, these amendments are done for three main reasons: to correct deficiencies or unforeseen issues with the current ordinance, to adapt to changing trends in design and development, and to formally codify recommendations in the City’s master plan. The following potential amendments have been identified to help strengthen the high standards that the City already promotes and protects. No official language has been drafted for any of these potential amendments. At this time, the Planning Commission is simply asked to review these ideas and give guidance to the City on which amendments should be researched and pursued further.

Potential Amendments to Consider:

- A. Encroachments/Setbacks for Certain Uses next to Accessory Buildings – Section 5.61 of the zoning ordinance lists items that are allowed to encroach into required yards in the City. Among these standards, mechanical equipment is allowed to encroach up to 3’ into a required side or rear yard and must also be within 5’ of a building. Similarly, window wells and egress windows are allowed to encroach 3’ into all required yards. Over the past year or so, the City has reviewed multiple permits and plans that have proposed mechanical units (primarily air conditioners and generators) to be located next to accessory buildings. The City has generally allowed this based on the specific setback requirements of accessory buildings, which are only required to be 3’ from the side and rear property lines. However, this does create the possibility where a mechanical unit could be located right up against a property line. The City has concerns that this could create a situation where a mechanical unit could effectively block access to certain parts of a property. While a window well right up to a property line by an accessory building has not been proposed in recent memory, a similar situation could arise under this interpretation. In light of this, the City wishes to discuss options to eliminate this possibility, as well as ascertain if any other adjustments to these regulations may be needed.

- B. Home Occupation Regulations – Section 5.81B of the zoning ordinance provides standards for home occupations in East Grand Rapids. In short, home occupations allow for small businesses, incidental to the primary (residential) use of a property, to operate in a residential home. Even before the COVID-19 pandemic, working from home has been a popular choice for many. According to the US Census Bureau, “approximately half of all businesses in the U.S. were home-based and nearly eight million people worked primarily from home.”¹ However, some of the current regulations may be vague in terms of what is or may not be allowed for such uses. In addition, some regulations may not meet current trends. Taking this into consideration, the Planning Commission may want to revisit these standards to see if they should be updated. If this is an area the PC would like to pursue, some suggested options that could be considered include, but are not limited to, the following:
- Allowing home occupations to be located in accessory buildings.
 - Listing specific types of uses that can be allowed for a home occupation, as well as uses that would not be considered or allowed as a home occupation.
 - Providing for some home occupation uses to allow customers/patrons to visit (e.g. architect, designer, lawyer, realtor, etc.)
 - Limits on the time and frequency clients/patrons and deliveries can be made.
- C. Clarification of Variance Standards – With the recent creation of a separate Zoning Board of Appeals (ZBA), City Staff & Consultants have suggested revising the standards of review for dimensional variances. This would have two primary benefits. First, it would give the ZBA members better clarity on how to evaluate requests that come before them. Second, it would help City Staff advise potential applicants on the viability of their request, and in turn help reduce the number of inappropriate applications that the City processes and schedules for the ZBA. City Planning Consultant Paul LeBlanc has provided examples of standard language that are used in other communities. These are attached to the end of the memo for the PC for inspiration and consideration.

Future Items:

City Staff is also planning to bring other items for discussion to the Planning Commission in the future. This includes topics about Accessory Dwelling Units (ADUs) which were first brought up last year, and rezoning of areas around Gaslight Village to MFR based on the 2018 City Master Plan and based on guidance from the City Commission. Because of the complexity of these topics, these discussions will be held at a later date.

¹ Source: [Home Occupations \(planning.org\)](https://www.planning.org/home-occupations/)

Variance Criteria Examples

SAMPLE 1

- A. If there are practical difficulties in carrying out the requirements of this Ordinance because of the dimensional characteristics of a lot or parcel of land, a building or structure, or any of them in combination, the Board of Appeals may grant a dimensional variance in accordance with this Section, so that the spirit of this Ordinance is observed, public safety secured and substantial justice done, but only if the applicant demonstrates through competent, material and substantial evidence on the record that all of the following exist:
1. That there are practical difficulties in complying with the requirements of this Ordinance with respect to the dimensional characteristics of a lot or parcel of land, a building or structure, or any of them in combination, because of exceptional or extraordinary physical conditions involving land, a building or structure, or any of them. A practical difficulty resulting from an exceptional or extraordinary condition may include, for example, the exceptional narrowness, shallowness, shape or area of land; exceptional conditions in the elevations of land; the presence of unbuildable areas, such as wetlands or a floodplain; or other exceptional or extraordinary physical condition of the land or a building or structure.
 2. That there are exceptional or extraordinary conditions or circumstances which are peculiar to the land, structures or buildings involved, and which are different from those of typical properties in the same zoning district.
 3. That compliance with specified provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by the owners or users of other properties in the same zoning district.
 4. That the grant of the requested variance would not be substantially detrimental to other lands and land uses and would not be contrary to the spirit and purpose of this Ordinance.
- B. A dimensional variance shall not be granted if the practical difficulty in carrying out the provision or requirement of this Ordinance was created by or resulted from the affirmative action of the applicant; such practical difficulty shall be that which exists irrespective of the ownership of the property.
- C. The exceptional or extraordinary circumstance or condition alleged by the applicant shall apply only to the dimensional characteristics of the land, a building or structure, or any of them in combination, but shall not apply to the applicant personally. An applicant's alleged economic hardship or potential for financial profit shall not be grounds for the granting of a dimensional variance.
- D. A nonconforming use of nearby lands, structures or buildings shall not of itself constitute grounds for the granting of a dimensional variance.
- E. A dimensional variance, if granted, shall be the minimum necessary variance in order to grant relief created by the practical difficulty alleged by the applicant.

SAMPLE 2

Variances from the terms of the ordinance as shall not be contrary to the public interest. A literal enforcement of the provisions of this ordinance will result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship upon a finding by the BZA that:

- A. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and
- B. The application of this ordinance to the particular piece of property would create an unnecessary hardship; and
- C. The conditions are peculiar to the particular piece of property involved; and
- D. Relief, if granted, would not cause substantial detriment to the public good or impair purpose and intent of this ordinance.

[note this provision is from another state where “unnecessary hardship” is the test rather than “practical difficulty”]

SAMPLE 3

Nonuse variance. A nonuse variance may be allowed by the zoning board of appeals only in cases where there is evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district.
Exceptional or extraordinary circumstances or conditions may include:
 - a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of the ordinance from which this chapter is derived or amendment;
 - b. By reason of exceptional topographic or environmental conditions or other extraordinary situation on the land, building or structure; or
 - c. By reason of the use or development of the property immediately adjoining the property in question.
- B. That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility that compliance with this chapter may prove to be more expensive or otherwise inconvenient shall not be part of the consideration of the board.
- C. The variance will not be detrimental to adjacent property and the surrounding neighborhood.
- D. The variance will not materially impair the intent and purpose of this chapter or the provision from which the variance is requested.
- E. That the immediate practical difficulty causing the need for the variance request was not created by the applicant.

SAMPLE 4

Granting of Non-Use Variances

A non-use variance may be allowed by the Board of Zoning Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;
- B. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties;
- C. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- D. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
- E. The variance will not impair the intent and purpose of this Ordinance.
- F. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

SAMPLE 5

No variance, other than use variances, in the application of the provisions of this chapter, shall be made by the board relating to buildings, land or premises now existing or to be constructed unless, after a public hearing, the board shall find the following practical difficulties:

- 1. There are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district.
- 2. Such variance is necessary for the preservation and enjoyment of substantial property rights.
- 3. The granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets.
- 4. The condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.