

MEMORANDUM

TO: Brian Frantz, Director of Planning and Zoning
Village of Richfield

FROM: Northstar Planning & Design LLC
Mark Majewski AICP

RE: MODIFICATIONS TO SUBDIVISION REGULATIONS

DATE: 16 September 2015

As requested, the following are recommended amendments regarding the authority of the Planning Commission to approve modifications (variances) to the requirements of the Subdivision Regulations. This authority is currently only briefly addressed in Subsection 7.2 MODIFICATIONS of the Subdivision Regulations.

The proposed amendments provide some procedural guidance and standards for making such decisions and will be relocated to new Article VIII.

8.2 MODIFICATIONS

A. Authority.

1. Where the Planning and Zoning Commission finds that the land involved in a subdivision is of such size or shape, is subject to such title limitations, is affected by such topographical conditions, or is to be devoted to such usage that it is impossible or impracticable in the particular proposal for the ~~developer~~ **Subdivider** to conform fully to a provision of these Subdivision Regulations, the Planning and Zoning Commission may ~~accept~~ **approve** such ~~adjustments~~ **modifications** as may be reasonable, if within the general intent and purpose of these Regulations.
2. **The authority to grant modifications to the provisions of these Subdivision Regulations does not include the authority to vary the provisions of the Planning and Zoning Code.**

B. Request for Modification. An application for a modification of requirements shall be submitted in writing by the applicant when the Preliminary Plan or Final Plat is filed with the Planning Commission. The written modification request shall include the following:

1. **The location(s) for which the modification(s) is/are being requested.**
2. **The written request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based. The request is required to cite the particular conditions associated with the land in question.**
3. **A written or drawn explanation of the specific modification(s) requested.**
4. **An explanation of how the proposed modification(s) constitutes the minimum modification necessary and how the modification is not contrary to the public interest.**

C. Action of the Planning and Zoning Commission. After receipt of a request for modification, the Planning Commission shall approve, approve with conditions, or deny the requested modification and state the grounds for the decision taken. In approving modifications, the

Planning Commission may impose such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these Regulations.

- D. **Display on Plans.** All preliminary and/or final plans must display all granted modifications prior to approval by the Planning Commission and Village Council.
- E. **General Standards for Modifications.** The Planning Commission shall not grant modifications to these Regulations unless it makes written findings of fact based upon the evidence presented by each specific case that:
 - 1) The particular physical surroundings, environmental constraints, shape, topographical or other exceptional condition of the specific property involved would cause extraordinary hardship or exceptional practical difficulty to the applicant, as distinguished from a mere inconvenience, if the provisions of these Regulations were strictly enforced; and
 - 2) The conditions upon which the request for a modification is based are unusual to the property for which the modification is sought and are not applicable generally to other property; and
 - 3) The purpose of the modification is not based exclusively upon a desire to obtain additional income from the property; and
 - 4) The granting of the modification will not be detrimental to the public health, safety or general welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
 - 5) The special circumstances or conditions are created by the provisions or requirements of these Regulations and have not resulted from any act of the applicant or applicant's predecessor in interest; and
 - 6) The modification requested is the minimum adjustment necessary for the reasonable use of the land.