



PLANNING & ZONING COMMISSION

TO: City of Peoria Planning & Zoning Commission
FROM: Development Review Board (Prepared by Leah Allison)
DATE: December 6, 2018
CASE NO: PZ 18-G
REQUEST: Hold a Public Hearing and forward a recommendation to City Council on the request of the City of Peoria to amend Appendix A, the Unified Development Code, relating to Variations.

SUMMARY OF PROPOSAL

Current regulations for variations include two types:

1) Administrative Deviations

Deviations from height, yard, bulk, lot area, and fence height provisions of this ordinance that are less than twenty percent (20%) of the required standard. Specific standards for Form Districts, CN & CG.

All of the following criteria must be met for approval:

- A. That granting the administrative deviation will not have an adverse impact on land use compatibility;
- B. That granting the administrative deviation will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed;
- C. In the Form Districts, that granting the administrative deviation will not have an adverse impact on the urban form and/or the street-space;
- D. That granting the administrative deviation is consistent with the purpose and intent of this development code (see 1.4 and 1.5); and
- E. That granting the administrative deviation is consistent with the purposes and intent of the adopted plans (see 1.6).

2) Variations

Deviations from height, yard, bulk, lot area, and fence height provisions of this ordinance that are 20% or more of the required standard or anything that is not an administrative deviation.

All of the following criteria must be met for approval:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zoning district; and
2. The plight of the owner is due to unique circumstances; and
3. The variation, if granted, will not alter the essential character of the locality or be injurious to the public or other property or properties.

These regulations have been in place since 2015, after discussion with the Zoning Board of Appeals (ZBA) on the need to improve the criteria and more closely align with the Illinois Municipal Code. Prior to 2015, there were three types of variations: Administrative Deviations (largely unchanged), and Minor Variances and Major Variances. Minor and major variances had nine criteria of which only one was required to be met in order to approve. This created some uncertainty of the regulations for both applicants and ZBA commissioners.

Staff has continued to monitor variance cases to ensure that regulations are effective with the appropriate outcomes. This has prompted a recent discussion with the ZBA on the current regulations and whether the three criteria are appropriate for all variance applications. Some variances are minor in nature with little to no impact but are denied due to the inability to meet all three criteria, especially criterion 1.

After review and discussion, the ZBA voted to approve and forward a recommendation to the Planning & Zoning Commission to revise the variation regulations to better address all situations which prompt an application for a variance. The types of variations has expanded from two to three with the requirement to meet criteria specific to each type.

The following table outlines the changes:

	ADMINISTRATIVE DEVIATION	MINOR VARIANCE	MAJOR VARIANCE
Defined	Deviations from height, yard, bulk, lot area, and fence height provisions of this ordinance that are less than twenty percent (20%) of the required standard. Specific standards for Form Districts, CN & CG.	Deviations from height, yard, bulk, lot area, and fence height provisions of this ordinance that are 20% to 50% of the required standard.	Deviations from height, yard, bulk, lot area, and fence height provisions of this ordinance that are greater than 50% of the required standard.
Criteria	<p>A. That granting the administrative deviation will not have an adverse impact on land use compatibility;</p> <p>B. That granting the administrative deviation will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed;</p> <p>C. In the Form Districts, that granting the administrative deviation will not have an adverse impact on the urban form and/or the street-space;</p> <p>D. That granting the administrative deviation is consistent with the purpose and intent of this development code (see <u>1.4</u> and <u>1.5</u>); and</p> <p>E. That granting the administrative deviation is consistent with the purposes and intent of the adopted plans (see <u>1.6</u>).</p>	<ol style="list-style-type: none"> 1. The plight of the owner is due to unique circumstances 2. The variation, if granted, will not alter the essential character of the locality or be injurious to the public or other property or properties. 3. The proposed variance represents the minimum deviation from the standards necessary to accomplish the desired improvement. 4. The conditions of the variances requested are not self-created 5. The granting of the variation will result in a public benefit to the surrounding neighborhood and the City as a whole. The public benefit may include, but is not limited to, preservation or enhancement of desirable site characteristics or natural features or historic resources, design that enhances the surrounding area, economic development which may enhance the local economy, or efficient use of land as it relates to surrounding structures and services. 	<ol style="list-style-type: none"> 1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zoning district; and 2. The plight of the owner is due to unique circumstances; and 3. The variation, if granted, will not alter the essential character of the locality or be injurious to the public or other property or properties.
Change	No Change	New	Added "Major" to the title and revised definition to greater than 50%.

DEVELOPMENT REVIEW BOARD RECOMMENDATION

The Development Review Board recommends approval of the proposed text amendment.

ATTACHMENTS

1. Proposed Ordinance

**AN ORDINANCE AMENDING APPENDIX A THE UNIFIED DEVELOPMENT CODE
OF THE CITY OF PEORIA RELATING TO VARIATIONS**

WHEREAS, the City of Peoria is a home rule municipality pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, as a home rule municipality, the City may exercise any power and perform any function pertaining to its government and affairs including zoning regulations and uses; and

WHEREAS, the City of Peoria desires to amend Appendix A, the Unified Development Code;

NOW, AND THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS AS FOLLOWS:

Section 1: Appendix A of the Peoria City Code, being Ordinance No. 17,403 as adopted on October 11, 2016, is hereby amended by deleting the following stricken words and adding the following underlined words:

2.1 - REVIEW BODIES

2.1.1 Summary of Review Authority

The following table summarizes the required review and approval authority provided under this development code.

	2.1.2	2.1.3	2.1.4	2.1.5	2.1.6	
Procedure	Zoning Administrator	Site Plan Review Board	Planning and Zoning Commission	Zoning Board of Appeals	City Council	Reference
Certificate of Occupancy/Completion	D					2.3
Administrative Deviation	D	R				2.4 <u>6</u>
Uses Permitted with Administrative Approval	D					2.5
Variations	R	R		<D>		2.6
Appeals				<D>		2.7
Amendments	R	R	<R>		<D>	2.8
Special Use	R	R	<R>		<D>	2.9
Official Development Plan	R	R	<R>		<D>	2.10

Critical Traffic Management Areas	R	R			<D>	2.11
Traffic Impact Analysis	R	R			R	2.12
Subdivisions	R		<R>		<D>	2.13
Survey Plat	D					2.13
Annexations	R		<R>		<D>	2.1.4

KEY: R = Review or Recommendation D = Final Decision < > = Public Hearing

2.4 ADMINISTRATIVE DEVIATIONS RESERVED

2.4.1 ~~Authority~~

~~The Development Review Board is authorized to approve administrative deviations to certain requirements. This optional process shall occur only where the applicant requests an administrative deviation to a district standard as specified below.~~

2.4.2 ~~Applications~~

~~The applicant shall provide to the Zoning Administrator all of the information required for making a decision, including a site plan or plot plan, elevations, photographs, and other materials as necessary. The Zoning Administrator shall then forward the application to the Development Review Board for review and approval.~~

2.4.3 ~~Administrative Deviation Review~~

~~The Development Review Board shall review the application in light of the specific intent and purpose of this development code. The Development Review Board shall have the authority to approve an administrative deviation for the following standards:~~

A. ~~General Standards~~

~~Deviations from height, yard, bulk, lot area, and fence height provisions of this ordinance that are less than twenty percent (20%) of the required standard. For this type of deviation, the Zoning Administrator shall mail notices, per department procedures, of the subject property and all property which adjoins or would adjoin the subject property except for the presence of a street or alley adjacent to the subject property for which a preliminary approval of a deviation has been granted by the Development Review Board. The notice shall state that the preliminary approval granted shall become final if no interested party files a written objection to the requested variance within ten (10) days of the date of the notice. All written objections must state the basis for the objection to the requested administrative deviation.~~

~~In the event the owner or occupant of any property located within 250' of the subject property files a written objection to the proposed deviation with the Zoning Administrator within the allowed time, the deviation request shall not receive final approval.~~

Applicants for deviations that have not received final approval or that have been denied shall be heard by the Zoning Board of Appeals as a variance.

B. ~~Specific Standards for Form Districts, CN & CG~~

1. ~~Building Envelope Standards~~

a. ~~Height~~

- ~~1) Minimum and maximum story heights – up to 10% for any one story, limit of 5% for any cumulative increase or decrease in building height. Street wall/fence requirements – up to 10%.~~
- ~~2) Finished floor elevation – up to 5%.~~

b. ~~Siting~~

- ~~1) Required building line – increase of up to 6 inches (from specified 18 inches to 24 inches)~~
- ~~2) Required building line (minimum percentage build-to) – reduction of up to 5% of required length.~~
- ~~3) Mezzanine floor area – up to 10% additional area.~~
- ~~4) Street wall requirements – up to 10%.~~
- ~~5) Entrances (maximum average spacing) – up to 5% increase in spacing.~~

c. ~~Elements~~

- ~~1) Windows and Doors (minimum and maximum percent) – up to 5%~~
- ~~2) Elements (minimum and maximum projections) – up to 5%~~

2. ~~Architectural Standards~~

~~a. Primary and accent materials – up to 10%.~~

~~b. Shopfront entry geometry – up to 10%.~~

~~c. Materials – acceptable equivalent or better material.~~

~~d. Wall Signs - façade placement for one story structures constructed prior to the establishment of Unified Development Code in any form district. The wall sign must align with or be framed by the building's major architectural elements such as doors, windows, moldings, pilasters, arches, roof eaves, and/or cornice lines. The deviation will not be allowed if the property meets the Applicability Standards per Section 2.16 of Commercial, Office, Industrial Expansion of Building Area 51% or greater or Commercial, Office, Industrial Façade Changes.~~

~~e. Awnings and Overhangs – minimum height location for one story structures constructed prior to the establishment of Unified Development Code in any form district. The awning/overhang must align with or be framed by the building's major architectural elements such as doors, windows, moldings, pilasters, arches, roof eaves, and/or cornice lines. The deviation will not be allowed if the property meets the Applicability Standards per Section 2.16 of Commercial, Office, Industrial Expansion of Building Area 51% or greater or Commercial, Office, Industrial Façade Changes.~~

2.4.4 ~~Criteria for Administrative Deviations~~

To approve an administrative deviation, the Development Review Board shall make an affirmative finding that all of the following criteria are met:

- ~~A. That granting the administrative deviation will not have an adverse impact on land use compatibility;~~
- ~~B. That granting the administrative deviation will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed;~~

- ~~C. In the Form Districts, that granting the administrative deviation will not have an adverse impact on the urban form and/or the street space;~~
- ~~D. That granting the administrative deviation is consistent with the purpose and intent of this development code (see 1.4 and 1.5); and~~
- ~~E. That granting the administrative deviation is consistent with the purposes and intent of the adopted plans (see 1.6).~~

~~2.4.5 Right to Impose Conditions~~

~~The person or entity granting any variance may impose such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards established in this section and the objectives of this development code.~~

~~2.4.6 Action for Unlisted Standards~~

~~Any request for deviation from the provisions of this development code not listed above shall be reviewed by the Zoning Board of Appeals in accordance with 2.6, Variations. All variations in a Form District shall be considered special uses.~~

2.6 – VARIATIONS

2.6.1 Purpose

The purpose of providing for variations is to enable the City to grant relief from the strict interpretation of the standards of this development code where they impose a particular hardship or difficulty because of unique or peculiar circumstances for land or use. Variations shall only be granted which are, in the judgment of the Zoning Administrator, Development Review Board, Zoning Board of Appeals or City Council, as applicable, in harmony with the general purposes and intent of this development code and which meet the requirements as set forth below.

A. Types of Variations

- ~~1. All variations authorized by this development code which are not administrative deviations shall be considered variations. Administrative Deviations. Deviations from height, yard, bulk, lot area, and fence height provisions of this ordinance that are less than twenty percent (20%) of the required standard.~~

a. Specific Administrative Deviations for Form Districts, CN & CG

1) Building Envelope Standards

(i) Height

- a) Minimum and maximum story heights - up to 10% for any one story, limit of 5% for any cumulative increase or decrease in building height. Street wall/fence requirements - up to 10%.
- b) Finished floor elevation - up to 5%.

(ii) Siting

- a) Required building line - increase of up to 6 inches (from specified 18 inches to 24 inches)
- b) Required building line (minimum percentage build-to) - reduction of up to 5% of required length.
- c) Mezzanine floor area - up to 10% additional area.
- d) Street wall requirements - up to 10%.
- e) Entrances (maximum average spacing) - up to 5% increase in spacing.

(iii) Elements

- a) Windows and Doors (minimum and maximum percent) - up to 5%
- b) Elements (minimum and maximum projections) - up to 5%

2) Architectural Standards

- (i) Primary and accent materials - up to 10%.
 - (ii) Shopfront entry geometry - up to 10%.
 - (iii) Materials - acceptable equivalent or better material.
 - (iv) Wall Signs - façade placement for one story structures constructed prior to the establishment of Unified Development Code in any form district. The wall sign must align with or be framed by the building's major architectural elements such as doors, windows, moldings, pilasters, arches, roof eaves, and/or cornice lines. The deviation will not be allowed if the property meets the Applicability Standards per Section 2.16 of Commercial, Office, Industrial Expansion of Building Area 51% or greater or Commercial, Office, Industrial Façade Changes.
 - (v) Awnings and Overhangs - minimum height location for one story structures constructed prior to the establishment of Unified Development Code in any form district. The awning/overhang must align with or be framed by the building's major architectural elements such as doors, windows, moldings, pilasters, arches, roof eaves, and/or cornice lines. The deviation will not be allowed if the property meets the Applicability Standards per Section 2.16 of Commercial, Office, Industrial Expansion of Building Area 51% or greater or Commercial, Office, Industrial Façade Changes.
2. Minor Variations. Minor variations are variations from height, yard, bulk, lot area, and fence height provisions of this ordinance that are 20% to 50% of the required standard.
3. Major Variations. Major variations are variations from height, yard, bulk, lot area, and fence height provisions of this ordinance that are greater than 50% of the required standard and all variations which are not administrative deviations and minor variations.

All minor and major variations in a Form District shall be considered special uses.

2.6.2 Authority

Authority to grant or deny minor and major variations is to be exercised by the Zoning Board of Appeals. The Development Review Board is authorized to approve administrative deviations to certain requirements. This optional process shall occur only where the applicant requests an administrative deviation to a district standard as specified below.

2.6.3 Procedure

A. Filing of Application

Any person, firm, corporation, office, department, or other legal entity having an interest in land, or a possessory interest, option to purchase or a contractual interest which may become a freehold interest or any exclusive possessory interest, and which is specifically enforceable, may file an application for a variance with the consent of the property owner.

B. Decision by Zoning Administrator

An application for a variation shall be filed with the Zoning Administrator, who shall process the application, analyze the request and make a determination as to whether the request is an allowable variation.

C. Procedure for Variations

1. For an administrative deviation, the applicant shall provide to the Zoning Administrator all of the information required for making a decision, including a site plan or plot plan, elevations, photographs, and other materials as necessary. The Zoning Administrator shall then forward the application to the Development Review Board for review and approval.

For this type of deviation, the Zoning Administrator shall mail notices, per department procedures, of the subject property and all property which adjoins or would adjoin the subject property except for the presence of a street or alley adjacent to the subject property for which a preliminary approval of a deviation has been granted by the Development Review Board. The notice shall state that the preliminary approval granted shall become final if no interested party files a written objection to the requested variance within ten (10) days of the date of the notice. All written objections must state the basis for the objection to the requested administrative deviation.

In the event the owner or occupant of any property located within 250' of the subject property files a written objection to the proposed deviation with the Zoning Administrator within the allowed time, the deviation request shall not receive final approval.

Applicants for administrative deviations that have not received final approval or that have been denied shall be heard by the Zoning Board of Appeals as a minor variance.

2. Upon receipt of an application for a minor or major variation, the Zoning Administrator shall cause the proposal to be reviewed by the appropriate members of City staff, and recommendations and proposed findings of fact to be forwarded to the Zoning Board of Appeals. In the event the proposed variation is for property subject to site plan review, the recommendations and findings of fact shall be made by the Development Review Board. However, if the proposed variation is for property which is not subject to site plan review, the recommendations and proposed findings of fact shall be made by the Zoning Administrator.

D. Notice Requirements for Public Hearing for Minor or Major Variation

Not less than 15 days nor more than thirty 30 days prior to a public hearing for Minor or Major Variation, notice of the time and place of such public hearing shall be advertised by:

1. Publication at least once in a newspaper of general circulation;
2. Mailing of notices of the hearing by the City of Peoria to assesses, per department procedures, of the subject property and all property within 250 feet of the property line of the subject property; and
3. The posting of the Official Notice of Public Hearing Sign, by the petitioner, per department procedures, on the subject property. The unauthorized removal of the Official Notice of Public Hearing Sign shall be deemed a violation of this development code.

E. Standards for Administrative Deviations

To approve an administrative deviation, the Development Review Board shall make an affirmative finding that all of the following criteria are met:

- A. That granting the administrative deviation will not have an adverse impact on land use compatibility;
- B. That granting the administrative deviation will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed;
- C. In the Form Districts, that granting the administrative deviation will not have an adverse impact on the urban form and/or the street-space;
- D. That granting the administrative deviation is consistent with the purpose and intent of this development code (see 1.4 and 1.5); and
- E. That granting the administrative deviation is consistent with the purposes and intent of the adopted plans (see 1.6).

F. Standards for Minor Variations

No minor variations from this development code shall be granted unless the entity or person granting such variation shall find based upon the evidence presented to them in each specific case that the following five criteria have been met:

1. The plight of the owner is due to unique circumstances.
2. The variation, if granted, will not alter the essential character of the locality or be injurious to the public or other property or properties.
3. The proposed variance represents the minimum deviation from the standards necessary to accomplish the desired improvement.
4. The conditions of the variances requested are not self-created.
5. The granting of the variation will result in a public benefit to the surrounding neighborhood and the City as a whole. The public benefit may include, but is not limited to, preservation or enhancement of desirable site characteristics or natural features or historic resources, design that enhances the surrounding area, economic development which may enhance the local economy, or efficient use of land as it relates to surrounding structures and services.

E G. Standards for Major Variations

No major variations from this development code shall be granted unless the entity or person granting such variation shall find based upon the evidence presented to them in each specific case that the following three criteria have been met:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zoning district; and
2. The plight of the owner is due to unique circumstances; and
3. The variation, if granted, will not alter the essential character of the locality or be injurious to the public or other property or properties.

For the purpose of implementing the above three criteria for variations in making the recommendations whether there are practical difficulties or particular hardships, the following facts, favorable to the applicant and established by evidence, shall be taken into consideration:

1. The purpose of the variation is not based primarily upon a desire to increase financial gain. This fact can be considered for criterion 1.
2. The particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out. This fact can be considered for criterion 2.
3. The conditions upon which an application for a variation is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification. This fact can be considered for criterion 2.
4. The practical difficulty or hardship is caused by this ordinance and has not been created by any persons presently having an interest in the property. This fact can be considered for criterion 2.
5. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. This fact can be considered for criterion 3.
6. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially

diminish or impair property values within the neighborhood. This fact can be considered for criterion 3.

FH. Right to Impose Conditions

The person or entity granting any variance may impose such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards established in this section and the objectives of this development code.

GI. Allowable Variations

Except as otherwise provided, variations that meet the standards established in paragraphs E, F, and G above, may be granted from the standards set forth in this development code including but not limited to time requirements, bulk requirements and yard requirements. However, in no instance shall a variance for a use change be granted. A use change shall be obtained with a map amendment (see 2.8) or pursuant to Chapter 9.0, Nonconformities.

HJ. Revocation

Where a variation has been granted pursuant to the provisions of this development code, such approval shall become null and void unless work is complete within 24 months of the date of issuance, unless a more restrictive time period is made a condition of the granting the variance.

IK. Effect of Denial of a Proposed Variance

No application for a variance which has been denied by the Zoning Board of Appeals shall be submitted for a period of one year from the date of the order of denial, except on the grounds of new evidence or proof of change of condition found to be valid by the Zoning Administrator.

2.8 – AMENDMENTS

2.8.10 Planned Form District

A. Purpose

The following additional requirements allow for the creation of a new form district or new building envelope standards within an existing form district. A new form district or new building envelope standards shall be granted only in accordance with the procedures as set forth below.

B. Applicability

1. The minimum gross area required for a new form district is ten contiguous acres. Land may be under common or multiple ownership. The City Council may reduce this minimum acreage requirement where a project clearly meets the purpose of this district.
2. No new form district or new set of building envelope standards shall be approved that would permit the erection or development of structures that could be authorized under the requirements that apply to **variations** (see [2.6](#)) or ~~administrative deviations (see [2.4](#)).~~

10.0 - DEFINITIONS

Variation, Major: ~~All variations authorized by this ordinance which are not minor variations shall be considered major variations.~~ Major variations are variations from height, yard, bulk, lot

area, and fence height provisions of this ordinance that are greater than 50% of the required standard and all variations which are not administrative deviations and minor variations.

Variation, Minor: Minor variations are variations from height, yard ~~(with the exception of transitional buffer yard requirements)~~, bulk, lot area, and fence height provisions of this ordinance that are ~~less than twenty percent (20%) to 50%~~ of the required standard. ~~(For example, a variation from a required 20 foot yard setback in an amount of less than 4 feet is a minor variation, while a variation from a required 20 foot setback in an amount of 4 feet or more is not a minor variation.)~~ No minor variations shall be allowed in the Form Districts.

Section 2. This Ordinance shall be in full force immediately and upon passage and approval according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, THIS
_____ DAY OF _____, 2018

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel