CHAPTER 17.17

VARIANCE OF DEVELOPMENT STANDARDS

Sections:
17.17.010 APPLICABILITY
17.17.020 REVIEW AND APPROVAL PROCESS
17.17.030 PUBLIC NOTICE REQUIRED
17.17.040 STANDARDS AND CRITERIA FOR GRANTING A VARIANCE
17.17.050 DECISION.

17.17.010 Applicability

The provisions of this chapter apply to variances from the requirements of the following chapters of the Lynden Municipal Code and standards otherwise adopted by the City, but not codified within the Lynden Municipal Code (collectively referred to in this chapter as “development standards”):

1. Engineering Design and Development Standards
2. Title 18 – Subdivisions
3. Title 13 – Public Utilities, except where prohibited by law

17.17.020 Review and Approval Process

1. When a request for a variance from development standards listed in Section 17.17.010 above is consolidated with a development application, the variance request shall be considered concurrently with the development application. Such a variance application shall be heard in accordance with the provisions of Section 17.09.040 and Section 17.09.050 of the Lynden Municipal Code.

2. When a request for a variance to any provisions, standards or requirements listed in Section 17.17.010 above does not include an application for additional development permits, or the proposed action does not require an open record public hearing, the application will be reviewed in accordance with the provisions of Chapter 17.05 of the Lynden Municipal Code. Said variance request will be heard by the City Council in an open record public hearing consistent with the provisions of Section 17.09.060 of the Lynden Municipal Code.

17.17.030 Public Notice required

All variance applications considered under this chapter are subject to the public notice provisions of Chapter 17.07 of the Lynden Municipal Code; provided however, that the public notices may be combined when a variance request is accompanied by another development application.
17.17.040 Standards and Criteria for Granting a Variance

Where there are unnecessary hardships and practical difficulties which render it difficult to carry out the provisions of the development standards of the City of Lynden as listed in Section 17.17.010, the City Council shall have power to grant a variance in harmony with the general purpose and intent of the provisions contained therein. Such variances may vary the rules, regulations or provisions of the development standards so that the spirit of those standards will be observed; public safety secured; and substantial justice done. However, the City Council shall not vary any of the rules, regulations or provisions of those development standards unless it shall approve findings that all of the following conditions exist in each case:

A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity in which the property on behalf of which the application was filed is located;

B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with rights and privileges permitted to other properties in the vicinity in which the subject property is located;

C. That the granting of such a variance will not be materially detrimental to the public health, safety and general welfare; and

D. That the granting of such a variance will not be injurious to the property or improvements in the vicinity and zone in which the subject property is located.

E. That the variance request is based on sound engineering judgement and includes additional mitigation sufficient to offset adverse impacts to the public interest likely to result from granting the variance.

Findings shall include a report which may contain pertinent information regarding any existing conditions relating to topography, geology, utilization of property, and such conditions set forth by the official plans, development plans, and the comprehensive plans.

17.17.050 Decision.
The City Council shall make a decision on the request for a variance from the development standards within 120 days from the time an application is determined to be complete as required by Section 17.09.100. In making its decision, the City Council shall act as described in Section 17.09.050.