

# P-04-23

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**Title:** Petition for a Text Amendment, submitted by the City of Sunset Hills, to amend Section 10 of the Unified Development Ordinance, relating to Section 10, Board of Adjustment.

**Petitioner:** City of Sunset Hills  
3939 South Lindbergh Boulevard  
St Louis, Missouri 63127

**Date:** February 2023

**Summary:**

This Petition is for Text Amendments to the Section 10 of the Unified Development Ordinance, amending the duties of the Board of Adjustment, with relation to appeals and variances.

Currently, Section 10.3.2 Findings states:

Before granting a variance, there must be a finding by the Board of Adjustment that all of the following conditions exist:

- 1) That if the owner complied with the provisions of this Ordinance, the owner would not be able to make any reasonable use of the property which is permitted in the district in which the property is located.
- 2) That the difficulties or hardships are peculiar to the property in question in contrast with those of other properties in the same district.
- 3) That the hardship was not the result of the applicant's own action and is not merely financial or pecuniary.
- 4) That the issuance of a variance will not be detrimental to the public welfare or health or injurious to other property.

Section 10.3.2 would be replaced with the proposed findings as follows:

The Board of Adjustment may grant variances from the strict application of this Ordinance as are in harmony with its general purpose and intent and whenever a property owner shows that a strict application of the terms of this Ordinance will impose upon him practical difficulties. Any such variation may be granted only when the Board is satisfied that it will not merely serve as a convenience to the applicant but will alleviate some demonstrable difficulty so great as to warrant such a variation, and at the same time properly protect the surrounding property and public welfare. In considering whether applicant has met its burden to establish practical difficulties, the Board of Adjustment may consider how substantial the variation is in relation to the requirement, whether the variation will change the character of the area or be detrimental to the surrounding properties, whether there is any alternative method or options besides the variation, and whether the practical difficult is peculiar to the subject property in contrast to properties in the same district. An alleged practical difficulty inflicted by the property owner shall not be deemed a practical difficulty.

It is very difficult for a Petitioner to prove that all four of the conditions exist. The proposed language will give the Board of Adjustment the ability to evaluate each request on its own merits and not a set of arbitrary conditions.

**Staff recommendation:**

Staff recommends approval of the proposed changes to the Unified Development Ordinance.

**Update:**

At the January 4, 2023 meeting, the Planning & Zoning Commission voted to recommend approval of this Petition to the Board of Aldermen.