

Chapter 360 ENVIRONMENTAL REGULATION

Part 1. Public Policy; General Provisions

Sec. 360.111. Variances.

(a) The Board shall have the authority to grant variances for just cause from any of the requirements or standards in the rules adopted pursuant to Chapter 362, Chapter 368 or Chapter 376. Variance requests may be made only in hardship or special cases on the basis of sound technical, economic and environmental data. They are not to be used as substitutes for amending Chapter 362, Chapter 368 or Chapter 376. When a request is for a variance from a state or federal rule, the Board may give evidence for or against the variance request. Copies of requests for variances will be submitted to the Director.

(b) Upon reviewing a request within a reasonable time after receipt, the Board shall, after due notice, schedule a public hearing and shall address at least the following factors, which shall also be addressed specifically by the person requesting the variance, at the hearing:

(1) The law or rule, and sections thereof, from which a variance is sought.

(2) The facts which show that a variance should be granted because of one of the following reasons:

(i) There is no practicable means known or available for the adequate control of the pollution involved. A variance granted under the authority of this subparagraph shall be limited to a period of sixty months.

(ii) Compliance with the particular requirement or requirements from which a variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time. A variance granted for this reason shall prescribe a timetable for the taking of the measures required. A variance granted under the authority of this subparagraph shall be limited to a period of sixty months.

(iii) It is necessary to relieve or prevent hardship of a kind other than those provided in subparagraphs (i) and (ii). A variance granted under the authority of this subparagraph shall be limited to a period of twenty-four months.

(3) The period of time for which the variance is sought, including the reasons and facts in support thereof.

(4) The damage or harm resulting or which may result to the person requesting the variance from a compliance with the law or rule.

(5) The requirements which the person requesting the variance can meet and the date when the person can comply with these requirements.

(6) The steps the person requesting the variance is taking to meet the requirements from which the variance is sought and when compliance will be achieved.

(7) Any beneficial or adverse impact to residents and the environment in the affected area resulting from the Board's requiring compliance or granting a variance.

(8) The economic or social impacts of granting or denying the variance.

(c) A renewal of a variance shall be applied for in the same manner as for the initial variance, except that no variance granted under subsection (b)(2)(iii) of this section shall be renewed.

(d) A variance will not be granted in a case where the health of the citizens would be in imminent danger if the variance were approved. No person shall be charged with a violation of the standard with respect to which the variance is being requested that occurs after the application for the variance is filed.

(Ord. 84-674-684, § 1; Ord. 85-1295-690, § 1)