

**..Explanation**

**BACKGROUND:** This ordinance amends the provisions regarding variances in Chapter 3307 of the Columbus Zoning Code, Title 33, in order to bring the Code’s provisions into alignment with the Ohio Supreme Court’s stated standards for the granting of a variance. This change will not affect or alter the requirements for the granting of a special permit.

This change is being sought to eliminate confusion to the public over the legal standard required for granting a variance and to provide the appropriate direction to the Board of Zoning Adjustment as to when the granting of a variance is appropriate.

The Columbus Board of Zoning Adjustment voted to recommend approval of this code revision at its monthly public meeting on July 26, 2016.

The Columbus Development Commission voted to recommend approval of this code revision at its monthly public meeting on Month XX, 2016.

**FISCAL IMPACT:** None

**..Title**

To amend Section 3307.09 of the Columbus City Code, Title 33, in order to clarify the appropriate standard for the granting of a variance.

**..Body**

**WHEREAS,** this ordinance amends section 3307.09 in Chapter 3307 of the Columbus City Code, Title 33, in order to clarify the appropriate standard for the granting of a variance; and

**WHEREAS,** this amendment will not affect the standards for the granting of a special permit by the Board of Zoning Adjustment; and

**WHEREAS,** it has become necessary to amend section 3307.09 of the Columbus City Code in order to align the code’s provisions with the Ohio Supreme Court’s holdings regarding the granting of variances; and

**WHEREAS,** the Columbus Board of Zoning Adjustment reviewed and recommended approval of this amendment at its monthly public meeting held on July 26, 2016; and

**WHEREAS,** the Columbus Development Commission reviewed and recommended approval of this amendment at its monthly public meeting held on Month XX, 2016; now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That the existing Section 3307.09 of the Columbus City Codes, 2001, is hereby amended to read as follows:

**3307.09 - Variances by Board of Zoning Adjustment board.**

A. The board of zoning adjustment shall have the power, upon application, to grant variances from the provisions and requirements of this Zoning Code (except for those under the jurisdiction of the graphics commission and except for use variances under the jurisdiction of the council). No variance shall be

granted unless the board finds that all of the following facts and conditions exist: the applicant has demonstrated practical difficulties that unreasonably deprive the applicant of the permitted use of the property. The board shall weigh the following factors in determining whether the applicant has encountered practical difficulties in the use of the property.

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. That special circumstances or conditions apply to the subject property that do not apply generally to other properties in the same zoning district.
2. That the special circumstances or conditions are not the result of the actions of the property owner or applicant. Whether the variance is substantial.
3. That the special circumstances or conditions make it necessary that a variance be granted to preserve a substantial property right of the applicant which is possessed by owners of other property in the same zoning district. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
4. That the grant of a variance will not be injurious to neighboring properties and will not be contrary to the public interest or the intent and purpose of this Zoning Code. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, refuse service).
5. Whether the proper owner purchased the property with knowledge of the zoning restriction.
6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

B. In granting a variance, the board may impose such requirements and conditions regarding the location, character, and other features of the proposed uses or structures as the board deems necessary to carry out the intent and purpose of this Zoning Code and to otherwise safeguard the public safety and welfare.

C. Nothing in this section shall be construed as authorizing the board to affect changes in the zoning map or to add to the uses permitted in any district.

**SECTION 2.** That prior existing section 3307.09 of the Columbus City Codes, 1959, is hereby repealed.

**SECTION 3.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.