

ORDINANCE NO. 4711

AN ORDINANCE to amend Section 11-1103 (STANDARDS FOR VARIANCES) to Division C (BOARD OF ZONING APPEALS), Article XI (DEVELOPMENT APPROVALS AND PROCEDURES) of the City of Alexandria Zoning Ordinance, to revise the standard for granting a variance in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2011-0001.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2011-0001, the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on February 1, 2011 of a text amendment to the Zoning Ordinance to revise the standard for granting a variance, which recommendation was approved by the City Council at public hearing on February 12, 2011;
2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;
3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 11-1103 of the Zoning Ordinance be, and the same hereby is, amended by deleting and inserting new language, as shown:

**11-1103 Standards for variances.** The board of zoning appeals shall not vary the regulations of this ordinance as authorized above unless it finds that:

- (A) The particular physical surroundings, shape, topographical condition or other extraordinary situation or condition of the specific property involved would effectively prohibit or unreasonably restrict the utilization of the property or would constitute a clearly demonstrable hardship ~~approaching confiscation~~, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- (B) The conditions upon which the petition for a variance is based are not applicable generally to other property within the same zoning classification;
- (C) The property was acquired in good faith and any hardship produced by the ordinance was not created by the owner of such property;
- (D) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located, or diminish or impair the values thereof;

(E) The proposed variance will not impair an adequate supply of light and air to adjacent property, or cause or substantially increase congestion in the public streets, or increase the danger of fire or the spread of fire, or endanger the public safety-;

(F) The variance, if granted, will not alter the essential character of the area or be a substantial detriment to adjacent property-;

(G) The strict application of this ordinance would produce undue hardship-;

(H) Such undue hardship is not shared generally by other properties in the same zone and vicinity-; and

(I) No other remedy exists whereby the same relief was, is or may be available from another approval body of the city as part of its review of a site plan or other development application.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 3. That Section 11-1103, as amended pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

WILLIAM D. EUILLE  
Mayor

Final Passage: March 12, 2011