

4.02.02. - Standards for buildings and building placement (Setbacks).

A. *Standards for setbacks:*

1. The minimum yards required in this section for each and every building existing at the time of the adoption of this LDC, or for any building hereafter erected or altered, shall not be encroached upon or reduced, except as specifically set forth in this section. Shrubbery, mailboxes, driveways, retaining walls, fences, curbs, and planted buffer strips shall not be construed to be encroachments of yards.
2. No part of any yard created by the setback standards and required in connection with any building, structure, or use by this LDC shall be considered to be part of a required yard for any other building, structure, or use.
3. The clear visibility requirements set forth in section 6.04.04 shall be maintained for all corner lots.

B. *Exceptions to the required minimum setback.*

1. When the property is located within the CRA Overlay district and unobstructed access by emergency vehicles is available to one (1) building entrance, the side and front yard setback may be less than set forth in Table 4.02.02(C).
2. A side yard setback as set forth in Table 4.02.02(C) shall not be required for commercial buildings when all adjacent buildings have a four-hour fireproof wall between units. If the adjacent property is vacant, the owner of the property on which development approval is requested shall grant an attachment easement to the adjacent property owner(s). The attachment easement shall be acceptable to the city and shall be recorded upon approval by the city. An attachment easement is an easement granted to allow an adjacent property owner to erect or construct a building attached to a building on the grantor's property line where such building has one (1) wall at the common property line.
3. One (1) side yard setback may be varied, resulting in a side yard less than that shown in Table 4.02.02(C). The following standards are required for approval of a variation in the side yard setback (See Figure 4A.):

Where the sidewall of a building is not parallel with the lot line, is broken or otherwise irregular, the side yard setback may be varied.

- a. In such case, the average width of the side yard shall not be less than ten (10) feet. Calculation of average width is based on measurement of the width at the required front yard setback line, the required rear yard setback line, and the midpoint between the front yard and rear yard setback lines.
- b. The resulting side yard shall not be narrower at any one (1) point than five (5) feet.
4. All setbacks shall be measured at the shortest distance from the exterior building wall to the property line. Roof overhangs shall not be included in the measurement of a required setback, provided that the maximum roof overhang into the setback shall be limited to two (2) feet.

C. *Standards for building height:*

1. Building height shall be measured from the natural (pre-construction) grade, or where minimum flood elevation is established, from the required minimum flood elevation, to the highest point on the roof.

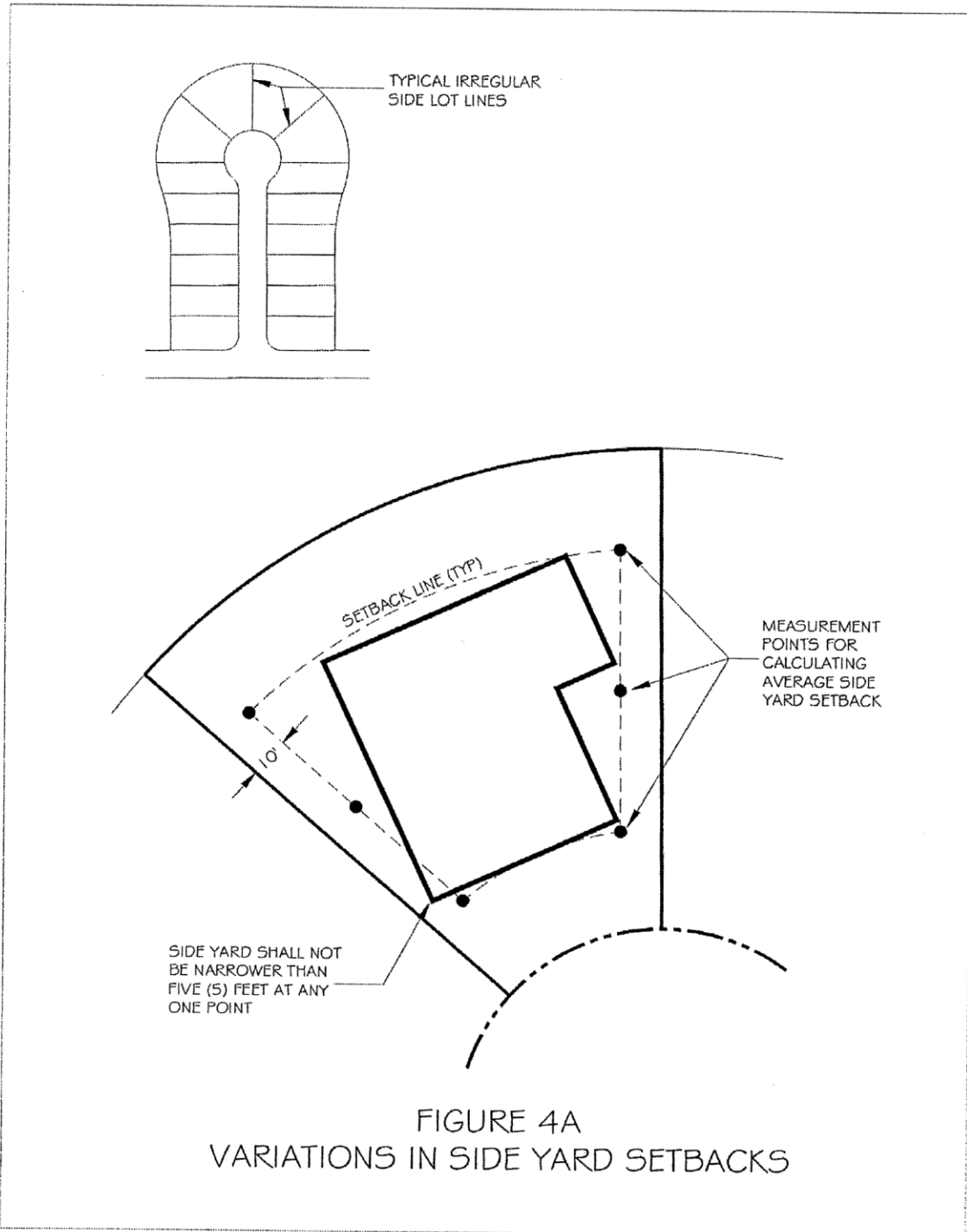
2. Calculation of maximum height shall not include appurtenances or attachments such as chimneys, elevator shafts, antennas, decorative architectural features, steeples, air conditioning equipment enclosures, cupolas, weather vanes, and other similar minor building features.
3. The following structures shall not be subject to height limits: telecommunications towers and city-owned water towers.

Table 4.02.02.C. Standards for Building Heights and Setbacks.

Zoning District	Maximum Building Height (ft.)	Minimum Setback (ft.)				
		Front	Side	Side, Adjacent to a Street	Rear	Waterfront
R-C	35	25	10	15	25	25
R-W	35	25	10	15	25	25
R-1	35	25	10	15	25	25
R-2	35	25	10	15	25	25
R-3	35	25	10	15	25	25
NBR	35	25	10	15	25	25
CG	50	25	10	15	25	25
CW	50	25	10	15	25	25
CH	50	25	10	15	25	35
IND	35	25	10	15	25	25
CON	25	25	10	15	25	150 ¹
PI	35	25	10	15	25	25
PUD	Per approved master plan					25
MXD	50	Per approved master plan				25

¹ Buildings within conservation districts adjacent to the Crystal River shall be set back a minimum of one thousand (1,000) feet as required by the comprehensive plan.

(Ord. No. 05-0-08, §§ 1, 2, 5-17-2005; Ord. No. 11-0-17, § 3c, 1-9-2012)



9.02.00. - Variances.

9.02.01. - Generally.

The planning commission may authorize a variance from the design and improvement standards of the LDC where the planning commission determines that the requirements of section 9.02.00 are met.

(Ord. No. 05-0-08, §§ 1, 2, 5-17-2005)

9.02.02. - Required findings for a grant of a variance.

- A. In order for an application for a variance to be approved or approved with conditions, the planning commission shall make a positive finding, based on the evidence submitted, with regard to each of the following provisions:
1. There is a specific hardship affecting the development of the lot resulting from the strict application of the provisions of the LDC;
 2. The hardship is not a result of actions of the owner and is not based solely on a desire to reduce development costs;
 3. The need for the proposed variance is due to the physical shape, configuration, or topographical condition of the lot in such a manner as to distinguish it from other adjacent or nearby lots or from other lots in the district;
 4. The proposed variance is necessary to preserve a substantial property right where such property right is generally available to other property owners of adjacent or nearby lots or other lots in the zoning district;
 5. The grant of the proposed variance does not confer on the applicant any special privilege that is prohibited by this LDC to other lands, buildings, or structures in the same zoning district;
 6. The proposed variance does not substantially increase congestion on surrounding streets, does not increase the danger of fire or other hazard, and is not otherwise detrimental to the health, safety, or general welfare of the public;
 7. The development following the proposed variance is compatible with adjacent and nearby development and does not alter the essential character of the district;
 8. The variance granted is the minimum variance that results in reasonable use of the land, building, or structure;
 9. The effect of the proposed variance is consistent with the general intent of the LDC and the specific intent of the relevant standards and criteria; and
 10. The effect of the proposed variance is consistent with the comprehensive plan.
- B. The applicant for a variance has the burden of proof of demonstrating that the application for a variance complies with each of the requirements of subsection 9.02.02(A).

(Ord. No. 05-0-08, §§ 1, 2, 5-17-2005)

Sec. 3.10. - Variances.

EXAMPLE 1 - INVERNESS LAND DEVELOPMENT CODE

- A. *Application for Variance.* An owner or his authorized agent seeking a variance as permitted by this section incident to application for a site development permit shall make application to the Zoning Board of Adjustment in accordance with the following procedures:
1. *Application.* All applications for variances shall be in the form required and provided by the designated Administrative Official. Such application shall be submitted to the designated Administrative Official together with the fee as established by ordinance and all supplemental data or information necessary to permit the determinations required incident to application for variance, such application form, supplemental data and fee being collectively the "completed application".
 2. *Zoning Board of Adjustment action on application.* Upon receipt of an application for variance the Zoning Board of Adjustment shall hold a public hearing upon the application in accordance with the procedures in section 3.11 and enter its order granting or denying such application. In granting such application the Zoning Board of Adjustment must make specific affirmative findings respecting each of the matters specified in subsection B below, and may prescribe appropriate conditions and safeguards, including requirements in excess of those otherwise required by this Code, which shall become a part of the terms under which a site development permit shall be issued.
- B. *Standards for Consideration of Variances.* Before any variance may be granted, the Zoning Board of Adjustment shall find all of the following:
1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district.
 2. That the special conditions and circumstances did not result from the action or negligence of the applicant.
 3. That granting the variance requested will not confer upon the applicant any special privileges denied by this Code to other lands, buildings or structures in the same zoning district.
 4. That literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this Code and would work unnecessary and undue hardship on the applicant.
 5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- C. *Order Granting Variance.* After considering an applicant for variance and the matters presented at the hearing upon the application, the Zoning Board of Adjustment shall enter its order denying such application, specifying the reasons therefore, or granting such

application, in whole or in part, under such terms and conditions as the Board shall determine appropriate. An order permitting a variance may be valid for one (1) year. Upon entry of an order granting a variance, the designated Administrative Official shall have the authority to issue a site development permit and/or building permit in conformity with such order and shall thereafter issue such permit only upon determining that all of the conditions and requirements of such order granting the variance were met and observed.

- D. *Order Granting Variances, Effect and Limitation.* An order granting a variance or variances and a site development permit or building permit issued pursuant thereto shall be deemed applicable to the parcel for which it is granted and not to the individual applicant, provided that no order granting a variance be issued pursuant thereto shall be deemed valid with respect to any use of the premises other than that specified in the application for variance issued pursuant to the order granting such application.

Sec. 8-2.8. - Variances.

EXAMPLE 2 - BROOKSVILLE CODE OF ORDINANCES

The Planning and Zoning Commission shall have the authority to grant variances from strict compliance with the requirements of this Code. If the standards in this Section are met, a variance to the requirements of this Code—other than to land use, prospective floor area ratio (FAR), density, or required review process—shall be granted to the applicant pursuant to the procedures prescribed below.

- (a) *All applications for variances shall be in the form required and provided by the Chief Administrative Officer.* Such application shall be submitted together with the fee established in the manner prescribed herein and all supplemental data or information necessary to permit the determinations required incident to application for a variance. A brief narrative describing the requested variance and a site plan, survey or plot plan of the subject property shall be submitted.
- (1) Upon submittal of an application for a variance, the Community Development Department shall assign a public hearing date and notice for said hearing as prescribed in Section 8-2.7(b). The Planning and Zoning Commission shall enter its order granting or denying such application. In granting such application the Planning and Zoning Commission must make specific affirmative findings respecting each of the matters specified in subsection (b), and may prescribe such conditions and requirements in excess of those otherwise required by this Code. These shall become a part of the terms under which a site development permit, building permit and/or certificate of use shall be issued.
 - (2) Before any variance may be granted, the Planning and Zoning Commission shall find:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district,
 - b. That such special conditions and circumstances did not result from the action or negligence of the applicant,
 - c. That granting the variance requested will not confer upon the applicant any special privileges denied by this Code to other lands, buildings or structures in the same zoning district,
 - d. That literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this Code and would work unnecessary and undue hardship on the applicant,
 - e. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure, and
 - f. That the granting of the variance will be in harmony with the general intent and purpose of this Code and that such variance will not interfere with the rights of or be injurious to others or otherwise detrimental to the public interest or welfare.
 - (3) After considering an application for variance and hearing presentations the Planning and Zoning Commission shall grant, grant with reasons or conditions attached thereto or deny such application. Upon granting a variance, a development permit may be issued in conformity with such order. Thereafter a certificate of use may be issued only upon determining that all of the conditions and requirements of such order granting the variance are satisfied.
 - (4) An order granting a variance or variances shall be deemed applicable to the parcel for which such is granted and not to the individual applicant. No order granting a dimensional variance shall be deemed valid for any other premises other than that so specified in the order.
- (b) *Planning and Zoning Commission hearing procedures.* In considering and acting upon applications for variances, the following procedures shall be observed:
- (1) A public hearing shall be held by the Planning and Zoning Commission as required in Section 8-2.7(b)(1) of this Part.
 - (2) Notice of the public hearing shall be as provided in Section 8-2.7(b)(2) and Section 8-2.7(b)(3) of this Part.
 - (3) The public hearing shall be conducted as described in Section 8-2.7(b)(4) of this Part.

- (4) Action by the Planning and Zoning Commission upon any matter subject to the provisions of this Section shall be Section 8-2.7(b)(5) of this Part.

ORDINANCE 19-O-001

AN ORDINANCE OF THE CITY OF CRYSTAL RIVER, FLORIDA, AMENDING THE CITY OF CRYSTAL RIVER LAND DEVELOPMENT CODE, APPENDIX A, CHAPTER 9 - VARIATIONS FROM CODE REQUIREMENTS, SECTIONS 9.02.02(A) AND (B) REQUIRED FINDINGS FOR A GRANT OF A VARIANCE; SECTION 9.02.03 PROCEDURES FOR VARIANCES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Crystal River Land Development Code, specifically Chapter 9 - Variations from Code Requirements, specifically Sections 9.02.02 Required findings for a grant of a variance states that “In order for an application for a variance to be approved or approved with conditions, the planning commission shall make a positive finding, based on the evidence submitted. . .” and (B) “The applicant for a variance has the burden of proof of demonstrating that the application for a variance complies with each of the requirements of subsection 9.02.02(A)” and Section 9.02.03 Review of applications requires review by the city manager; and

WHEREAS, the City of Crystal River Planning Commission has found the need to amend the requirements for a Variance in order to achieve a reasonable development of property.

WHEREAS, in accordance with the law, the proposed amendment was required to be reviewed by the City's Local Planning Agency at a duly advertised meeting, scheduled on _____; and

WHEREAS, the City Council of the City of Crystal River, Florida has determined that amending the City's Land Development Code is consistent with the goals, objectives and policies of the Comprehensive Plan; and

WHEREAS, the City of Crystal River has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, the City Council of the City of Crystal River, Florida, has determined that adoption of this Ordinance is in the best interest of the health, safety and welfare of the the citizens of Crystal River.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRYSTAL RIVER, FLORIDA THAT THE CITY'S LAND DEVELOPMENT CODE IS AMENDED AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this Ordinance is to amend Appendix A, Land Development Code, Chapter 9 - Variations from Code for the reasons set forth in the above "**WHEREAS**" clauses, which are incorporated herein, in haec verba.

SECTION 2. AUTHORITY.

The City of Crystal River City Council is authorized to amend the Crystal River Land Development Code pursuant to Article III of the City Charter of the City of Crystal River and Part II, Code of Ordinances, Chapter 1, General Provisions, of the Code of Ordinances of the City of Crystal River, and as otherwise authorized by applicable Florida Statutes.

The City Council of the City of Crystal River, Florida, hereby adopts and incorporates into this Ordinance the proposed amendment to:

9.02.02. - Required findings for a grant of a variance.

- A. In order for an application for a variance to be approved or approved with conditions, the planning commission shall ~~make a positive finding, based on the evidence submitted, with regard to each of the following provisions, consider all technical evaluations, all relevant factors, and all other applicable provisions of the Florida Building Code, this chapter; and, the following:~~ consider all technical evaluations, all relevant factors, and all other applicable provisions of the Florida Building Code, this chapter; and, the following:
1. There is a specific hardship affecting the development of the lot resulting from the strict application of the provisions of the LDC;
 2. The hardship is not a result of actions of the owner and is not based solely on a desire to reduce development costs;
 3. The need for the proposed variance is due to the physical shape, configuration, or topographical condition of the lot in such a manner as to distinguish it from other adjacent or nearby lots or from other lots in the district;
 4. The proposed variance is necessary to preserve a substantial property right where such property right is generally available to other property owners of adjacent or nearby lots or other lots in the zoning district;
 5. The grant of the proposed variance does not confer on the applicant any special privilege that is prohibited by this LDC to other lands, buildings, or structures in the same zoning district;
 6. The proposed variance does not substantially increase congestion on surrounding streets, does not increase the danger of fire or other hazard, and is not otherwise detrimental to the health, safety, or general welfare of the public;
 7. The development following the proposed variance is compatible with adjacent and nearby development and does not alter the essential character of the district;
 8. The variance granted is the minimum variance that results in reasonable use of the land, building, or structure;
 9. The effect of the proposed variance is consistent with the general intent of the LDC and the specific intent of the relevant standards and criteria; and
 10. The effect of the proposed variance is consistent with the comprehensive plan.

SECTION 3. REPEAL OF CONFLICTING ORDINANCES.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not be construed as to render unconstitutional or invalid the remaining provision of the Ordinance.

SECTION 5. EFFECTIVE DATE

This Ordinance shall become effective immediately upon passage.

ATTEST:

CITY OF CRYSTAL RIVER

MIA FINK, CITY CLERK

JOE MEEK, MAYOR

PASSED on First Reading _____

NOTICE Published on _____

PASSED on Second & Final Reading _____

Approved as to form for the
Reliance of the City of Crystal River
only:

VOTE OF COUNCIL:

Brown _____
Guy: _____
Holmes: _____
Farley _____
Fitzpatrick _____

Approved as to form and legality:

Jennifer C. Rey, City Attorney