
PART SEVENTEEN — BUILDING, LAND USE AND SUBDIVISION CODE

ARTICLE 1727 Variations and Exceptions

- 1727.01 Variations and exceptions.**
- 1727.02 Partial exception for Minor Subdivision.**
- 1727.03 Final Plat; Town Council action.**
- 1727.04 Final Plat; recording.**

CROSS REFERENCES

1727.01 Variations and exceptions.

Whenever the Tract to be subdivided is of such unusual size, or shape or it is surrounded by such development or unusual conditions that the strict application of the requirements contained in this article would result in Unnecessary Hardship or inequity, the Planning Commission with the approval of the Town Council may modify or vary requirements of design, but not procedure or Off-site Improvements, so that the Subdivider may develop the property in a reasonable manner, provided that the public welfare and interests of the Town are protected and the purpose and intent of these Regulations are preserved. Provided, however, that no Variance shall be allowed for prohibited land uses and a variation based upon unique conditions shall not be granted when any unique condition was created or contributed to by the Subdivider.

1727.02 Partial exception for Minor Subdivision.

Whenever a Tract or Parcel of land under a single ownership is to be subdivided into three or fewer Lots, where all required Off-site Improvements are in place and accepted by the Town, the proposed Subdivision may be exempted from the procedural requirements of this article, but this shall not constitute an exemption from any of the design or Off-site Improvements requirements contained herein. Exemptions may be permitted for minor Subdivisions under the following procedures:

- (a) The adjustment of Lot lines for one or more Lots or record shall not result in an increase of housing density greater than one residential Structure per original Lot as shown on the S. Howell Brown sale map of 1869. Relief from this provision may be granted by the Town Council when the results of the minor subdivision do not create any lots that are smaller than the most common lot size on the S. Howell Brown sale map of 1869 (i.e., not smaller than 60 feet by 130 feet), and provided that nonconforming lots are not created, and the result is otherwise fully consistent with the Comprehensive Plan and the zoning ordinances.
- (b) The proposed Subdivision is located along an existing public road, and involves no opening, widening or extension of a public roadway.
- (c) An accurate survey of the Tract, prepared by a registered land surveyor, has been submitted to the Mayor or his or her appointed designee.
- (d) The Mayor or the appointed designee shall review the proposed minor Subdivision to insure compliance with all design and Off-site Improvement requirements of these Regulations and submit a written report to the Planning Commission for consideration at the next regular Planning Commission meeting.
- (e) The applicant shall provide "Certified Mail /Restricted Delivery/ with return receipt"

HISTORY:

Ord. 2015-02 (passed 01-29-2015, effective 02-16-2015) superseded all previous zoning and related ordinances to bring the Town into compliance with current WV Code. Ord. 2015-02 was further refined by Ord. 2015-07 (passed 07-13-2015).

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notice to all Abutting landowners, as per current tax records, at least seven days before the hearing. The applicant will provide a copy of the certified mail deliveries to the Town.

1727.03 Final Plat; Town Council action.

- (a) Before recording the final plat, it shall be submitted to the Town Council for approval or disapproval.
- (b) Approval of the Town Council shall be shown over the signature of the Mayor and attested by the Town Recorder.
- (c) The disapproval of any such plat shall be deemed a refusal of the proposed dedications shown thereon, and the reasons for any disapproval shall be submitted in writing to the Subdivider.

1727.04 Final Plat; recording.

The owner or the owner's engineer shall submit the original mylar of any plat and the recording fee for filing of the plat to the Ordinance Compliance Officer or the Mayor's designee at the time approval of the Town Council is requested. All required signatures shall be properly affixed. The Town will retain possession of the original mylar, securing Planning Commission and Town Council signatures upon approval. The Ordinance Compliance Officer or the Mayor's designee will make sepias and prints for record keeping purposes, and will record the plat at the owner's expense within ten days after approval of the final plat, or in the instance where off-site improvements are constructed before the official filing of the final plat, within ten days after acceptance of the said improvements by the Town Council.

On approval of the final plat, the developer shall file the signed plat with Clerk of Jefferson County within 90 days of such approval, or within the mutually agreed upon extension of time, but no more than 180 days from the date of approval. In the event that confirmation of filing is not received by the Town Clerk of Harpers Ferry within the appropriate time, the application shall be considered withdrawn and any previous approval or modification shall be considered lapsed.