

**17.76.160 Variance.**

The director shall have the authority to grant a variance from the requirements of this chapter in accordance with the following procedures and considerations:

A. The person seeking a variance shall prepare and submit an application on forms provided by the director accompanied by a fee specified by Chapter 20.09 PTMC.

~~B. Variances from the requirements of this chapter shall be considered a Type II permit and shall be processed in accordance with the procedures for Type II land use decisions in Chapter 20.01 PTMC, Land Development Administrative Procedures. Upon receipt of an application, the director shall first review the application for completeness. If the application is incomplete, the director shall promptly return it to the applicant and indicate the additional information needed to make the application complete.~~

~~C. Within The director may grant a sign variance if it is shown that the proposal is consistent with the criteria in subsections 1 through 6 of this subsection. 15 days of receipt of a complete application, the director shall make a preliminary determination of whether to grant the application, grant the same under specified conditions, or deny the variance. In making his/her determination, the director may grant a variance only upon specific, written findings of fact setting forth and showing that the following conditions exist:~~

1. Literal interpretation and strict application of the provisions and requirements of this chapter would cause either:
  - a. Undue hardship on the applicant because of unique or unusual conditions pertaining to the subject property; or
  - b. Loss or substantial modification of a sign which has been found by the historic preservation committee to contribute significantly to the National Historic Landmark District;
2. The unique or unusual conditions do not result from actions of the applicant or owner of the subject property;
3. Granting the variance would not confer a special privilege to the subject property that is denied to other similarly situated properties;
4. Granting the variance would not be materially detrimental to the property owners in the vicinity or to the traveling public;
5. Granting the variance would not be contrary to the objects of this chapter relating to the placement of signs and the reduction of clutter; and
6. Granting the variance would be in harmony with the purpose and intent of this chapter and would not establish a precedent for subsequent variance requests which could diminish the effect of this chapter in furthering these purposes.

D. In granting any variance, the director may attach thereto such conditions regarding the location, character and other features of the proposed sign as he/she may deem necessary to carry out the spirit and purpose of this chapter in the public interest.

~~E. Within five days of making his/her preliminary determination, the director shall cause to be mailed a notice of the determination to the owner or reputed owner of the properties within 200 feet of the subject property, as shown by the property tax records of the Jefferson County assessor, and by posting notice in a conspicuous place on the subject property and at the Port Townsend City Hall. The applicant shall provide the list, prepared by a licensed title company, of tax parcels and their owners, with said owners' names and addresses placed on labels suitable for mailing. The notice shall identify the applicant, the street address or legal description of the subject property, the variance requested, the director's preliminary determination and where the application and director's findings may be inspected, and shall indicate that written comments or objections will be received and considered by the director for a period of 10 days following the date of mailing.~~

~~F. Within five days of expiration of the comment period, the director shall consider any comments or objections made and render a final decision. The director shall cause to be mailed notice of his/her final decision to the applicant and to each person from whom written comments or objections to the preliminary determination have been received. Such decision shall be final and binding unless appealed in writing to the hearing examiner within 15 days of the date of mailing of the director's final decision. Any person may file such an appeal by completing an appeals application accompanied by an appeal filing fee specified by Chapter 20.09 PTMC.~~

**GE.** In the event of an appeal, the hearing examiner will review the reasons and information set forth in the letter of appeal, the findings, conclusions, and decision of the director, together with any written material submitted by the director, and may take public comment. The hearing examiner shall affirm the decision of the director unless s/he finds the decision to be clearly erroneous, or arbitrary and capricious, or contrary to law, in which case the hearing examiner may modify the decision or any conditions in connection therewith, or remand the same to the director.

~~H. No action to set aside or modify the decision of the hearing examiner may be brought in any court or other tribunal unless the action shall be filed within 30 days of the effective date of the decision.~~ (Ord. 3012 § 1 (Exh. A), 2010; Ord. 2571 § 2, 1997. Formerly 17.76.150).