

Section 2-5-3, Part B, Subsection 2 of East Moline City Code

2. Variances: To authorize on appeal in specific cases such variance from the terms of the zoning title as will not be contrary to the public interest, where owing to a special condition, a literal enforcement of the provisions of the zoning title will result in unnecessary hardship, and so that the spirit of the zoning title shall be observed and substantial justice done, as follows:

(a) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of the zoning title, or by reason of exceptional topographic conditions, or other extraordinary and exceptional situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the provisions of the zoning title would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of such property, unnecessary to carry out the spirit and purpose of the zoning title, the Board shall have the power to authorize, upon appeal, a variance from such strict application, so as to relieve such difficulties or hardships, and so that the spirit and purpose of the zoning title shall be observed and substantial justice done. In authorizing a variance the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in the interest of the furtherance of the purposes of the zoning title.

(b) No such variance in the provisions or requirements of the zoning title shall be authorized by the Board unless the Board finds beyond reasonable doubt that all of the following conditions exist:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district.

(2) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.

(3) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of the zoning title or the public interest.

(c) No grant or variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which the variance is sought is not of so typical or recurrent a nature as to make reasonably practicable the formulation of a general regulation, under an amendment of the zoning title, for such conditions or situations.

(d) The Board shall have no power to authorize a variance for the establishment of a nonconforming use where none previously existed.