

§242. Permits and variances

1. Permits. Where advisable to facilitate the enforcement of zoning regulations adopted pursuant to this chapter, a system may be established by any political subdivision for the granting of permits to establish or construct new structures and other uses and to replace existing structures and other uses or make substantial changes therein or substantial repairs thereof. In any event, before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement, change or repair. No such permit shall be granted that would allow the structure or tree in question to be made higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted. Whenever the administrative agency determines that a nonconforming structure or tree has been abandoned or more than 80% torn down, destroyed, deteriorated or decayed:

A. No permit shall be granted that would allow said structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations; and

B. Whether application is made for a permit under this subsection or not, the said agency may by appropriate action compel the owner of the nonconforming structure or tree, at its own expense, to lower, remove, reconstruct or equip such object as may be necessary to conform to the regulations or, if the owner of the nonconforming structure or tree shall neglect or refuse to comply with such order for 10 days after notice, the said agency may proceed to have the object so lowered, removed, reconstructed or equipped and assess the cost and expense upon the object or the land whereon it is or was located. Unless such an assessment is paid within 90 days from the service of notice on the agent or owner of such object or land, the sum shall bear interest at the rate of 10% per year until paid, and shall be collected in the same manner as are general taxes. Except as indicated, all applications for permits for replacement, change or repair of nonconforming uses shall be granted.

2. Variances. Any person desiring to erect any structures, increase the height of any structure, permit the growth of any tree or otherwise use the person's property in violation of airport zoning regulations adopted under this chapter may apply to the board of appeals, as provided in section 243, subsection 3, for a variance from the zoning regulations in question. Such variances must be allowed when a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations and of this chapter. [RR 2023, c. 1, Pt. C, §37 (COR).]

3. Obstruction marking and lighting. In granting any permit or variance under this section, the administrative agency or board of appeals may, if it deems such action advisable to effectuate the purposes of this chapter and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate and maintain suitable obstruction markers and obstruction lights thereon.

SECTION HISTORY

RR 2023, c. 1, Pt. C, §37 (COR).

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