

ORDINANCE NO. 832

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO PUBLIC WORKS STANDARDS FOR THE CONSTRUCTION OF TRANSPORTATION, STORM DRAINAGE, WATER AND SANITARY SEWER FACILITIES, ADOPTING CRITERIA FOR THE PUBLIC WORK'S DIRECTOR'S APPROVAL OR DENIAL OF VARIANCES FROM SUCH STANDARDS, ADDING A NEW SECTION 1.160 TO THE GIG HARBOR PUBLIC WORKS STANDARDS, ADOPTED BY GIG HARBOR MUNICIPAL CODE SECTION 12.16.010.

WHEREAS, the City adopted public works standards for the construction of transportation, storm drainage, water and sanitary sewer facilities; and

WHEREAS, there are no provisions in the public works standards to allow the public works director to grant variances from strict compliance with the public works standards presenting a hardship to a property owner, such as properties involving unique topographic or site conditions; and

WHEREAS, the City Council desires to allow the public works director the flexibility to grant variances under these circumstances and others, where the granting of the variance will not amount to a special privilege and the City's standards for safety, function, appearance and economic maintenance are satisfied; now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. A new Section 1.160 is hereby added to the City of Gig Harbor Public Works Standards, as adopted in GHMC § 12.16.010:

1.160 Variances.

A. Submittal Requirements. A request for a variance from the Public Works Standards must be submitted in writing to the Director of Public Works for review. A complete application for a variance shall consist of:

1. Variance application;
2. Two (2) sets of the site plan;
3. A letter describing the variance requested, explaining the reasons for the requested variance, and addressing each of the criteria for approval.
4. A filing fee as established by the City.

B. Processing. A variance from the public works standards is a Type II application (see GHMC § 19.01.003). Because the technical nature of a variance request may require review by an outside consultant, variance requests shall not be subject to the deadline for issuance of a final decision in GHMC § 19.05.008 and RCW 36.70B.090. However, the variance is subject to the determination of application completeness in GHMC § 19.02.003, optional consolidated permit processing procedures in GHMC § 19.01.002, the notice of application procedures in GHMC § 19.02.003 and the issuance of a notice of written notice of decision in GHMC § 19.05.008. The remaining sections of Title 19 GHMC are optional for the processing of a variance under this section.

C. Criteria for Approval. Variances from the public works standards may be granted by the Public Works Director if the applicant presents substantial evidence to demonstrate that all of the following criteria for approval are satisfied:

1. Strict compliance with the public works standards is undesirable or impractical because of impracticality or undesirable conditions;
2. The proposed variation(s) are functionally equivalent to and are consistent with the intent of the Public Works Standards, and/or provide compensating benefits to the City and the public;
3. The proposed variation(s) are based on sound engineering judgment;

4. The proposed variations have not been made necessary by actions of the applicant or property owner; and

5. Safety, function, appearance and economical maintenance requirements are met with the proposed variation(s).

D. Final Decision. The Public Works Director shall issue his/her findings and conclusions on the variance in writing, and shall immediately provide a copy to the applicant as well as all persons requesting notification. If the application does not satisfy all of the above criteria, the Public Works Director shall deny the application.

A variance may be conditioned to the extent necessary to address any engineering, public health, safety or welfare concerns, and as allowed by applicable law.

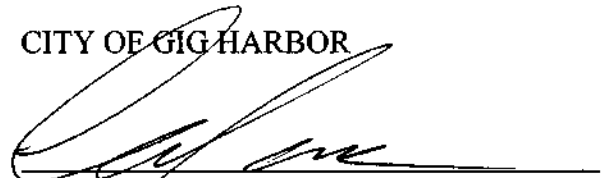
E. Appeals. Appeals of a variance shall be filed and processed as described in Title 19 GHMC for a Type II application.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of the attached approved summary thereof consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this
22nd day of November, 1999.

CITY OF GIG HARBOR

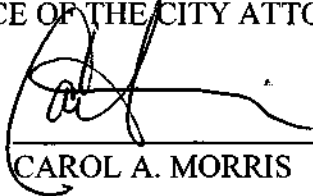


MAYOR PRO TEM

ATTEST/AUTHENTICATED:

By: Molly M Towslee
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: 
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 11/3/99
PASSED BY THE CITY COUNCIL: 11/22/99
PUBLISHED: 12/1/99
EFFECTIVE DATE: 12/5/99
ORDINANCE NO. 832

D