

# 5-11: FPO FLOOD PLAIN OVERLAY ZONE

## G. VARIANCES

The Board of Adjustment may grant a variance in the size, distance or elevation requirements of the FPO Zone, according to the standards of zoning section 7-20 and the standards stated below.

### 1. Items to Consider

In deciding whether to grant a variance and what conditions to attach to its approval, the Board shall consider:

- a. The danger that materials may be swept onto other lands causing injury to others.
- b. The danger to life and property caused by flooding and erosion.
- c. The degree of susceptibility to flood damage of the proposed use or building (including its contents), and the effect of such damage to the owners.
- d. The importance of services provided by the facility to the community.
- e. The necessity of the facility to be on a waterfront, if applicable.
- f. The availability of alternate locations for the proposed use or building, which are not subject to flooding or erosion damage.
- g. The compatibility of the proposed use with the existing and anticipated development.
- h. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- i. The safety of access to the property during flooding for ordinary and emergency vehicles.
- j. The expected flood water height, velocity, duration, rate of rise, sediment transport, and wave action effects at the site.
- k. The cost of providing governmental and public utility services during and after flood conditions, including the maintenance and repair of roads, bridges, electric lines, gas lines, and water and sewer services.
- l. Whether the lot to be built on has any buildable area outside of the FPO Zone boundary.

### 2. Presumptions Relative to Approval

- a. Generally a variance may be granted for the new construction or substantial improvement of a one-family dwelling on a lot of one-half (.5) acre or less in area which is contiguous to and surrounded by lots containing structures constructed below flood base level, after fully considering the "items to consider" of subpart 1 immediately above.

As the lot area and human usage increases over one-half acre and one family, the burden of proof becomes more difficult to show that approval can be granted safely.

b. With alternate programs to protect life and provide reasonable safety, a variance may be granted to permit the restoration or rehabilitation of structures on the National Register of Historic Places without regard to the standards contained in zoning sections 5-11-D and 5-11-E.

c. No variance shall be granted within a floodway if such will increase the flood level during the base flood discharge.

d. A variance shall be granted only upon the determination that the variance is the minimum amount necessary, in view of the flood hazard, to afford relief.

e. A variance shall be granted only if such will not result in a threat to public safety, extraordinary public expense, create a nuisance, or cause fraud or victimization of the public.

### 3. Disclosure

The Zoning Administrator shall give to any applicant receiving a variance a written disclosure statement stating that because the structure will be built below the base flood elevation the cost of flood insurance will be commensurate with the increased risk. All variances shall be reported to the Federal Emergency Management Agency.