



# NOTICE OF BOARD OF ADJUSTMENTS AND APPEALS MEETING

December 20, 2022

Members of the public are invited to attend remotely or in person through the options listed below. Public comment is welcome for items appearing on the agenda or on any matter of BOA concern. Each speaker is allotted a maximum of five minutes to speak.

Individuals wishing to comment on an agenda item must register in advance by contacting Rachid Rabbaa at [rrabbaa@auroragov.org](mailto:rrabbaa@auroragov.org) or 303.739.7541. Registration ends at noon on Monday, December 19, 2022.

## View or Listen Live

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<https://auroragov.webex.com/auroragov/onstage/g.php?MTID=e021434bc79587a824abd7ab2699c2733>

Event Password Aurora2020

## Call-in Participation

Call 720.650.7664

Access Code 2497 298 5819

## In-person Participation

Aurora Municipal Center  
Aspen Room, 2<sup>nd</sup> Floor  
15151 E Alameda Parkway  
Aurora, CO 80012

### **Translation/Accessibility**

If you are in need of an interpreter, please contact the Office of International and Immigrant Affairs at 303-739-7521. Si necesita un intérprete, comuníquese con la oficina de asuntos internacionales e inmigrantes al número 303.739.7521.

For more information regarding Board of Adjustments & Appeals meetings, please contact Planning & Development Services at [rrabbaa@auroragov.org](mailto:rrabbaa@auroragov.org) or 303.739.7541.



## AGENDA

Board of Adjustment and Appeals

Hybrid Meeting

December 20, 2022

6:00 p.m.

Aspen Room

Aurora Municipal Center

15151 E Alameda Pkwy, 2nd Floor

Aurora, CO 80012

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Pages

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES

3.a. Draft BOA Meeting Minutes 10.18.2022

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4. ADOPTION OF AGENDA

5. GENERAL BUSINESS

5.a. Case Number 10-22 - 2682 S Sable Way.docx

A request by the property owner, Sonia Jarosz, for the following Single-Family Dwelling Variance(s): To allow 6-foot tall privacy fencing in the front yard that exceeds code requirements in height (42-inches in the front yard).

6. OTHER BUSINESS

7. ADJOURNMENT

Planning Department  
City of Aurora, Colorado

## **SUMMARY OF BOARD OF ADJUSTMENT AND APPEALS ACTIONS**

BOA Hearing Date: October 18, 2022  
Hearing Location: Hybrid meeting, held via Microsoft TEAMS with in-person at Aspen Room,  
Aurora Municipal Center, 15151 E Alameda Pkwy, Aurora CO, 80012, 2<sup>nd</sup> Floor  
Case Manager(s): Rachid Rabbaa and Erik Gates

Board Members Present: Andris Berzins  
Kari Gallo  
Lynn Bittel  
Ron Swope  
Richard Palestro  
Marty Seldin

Board Members Absent Gary Raisio

**Case Number: 06-22 – 1141 Dayton Street**

### **Description:**

Request by the property owner, Iris Salguero, for the following Single-Family Dwelling Variance:

- An adjustment to the requirement of Section 146-2.4.4.1.2.e and 146-4.6.5.C.2.a.

Recommendation from staff to deny the variance as requested.

### **Case Presentation Given at the Hearing:**

Staff gave a presentation describing the applicant's request, the context of the neighborhood and the subject property, and an analysis of the request with respect to the Code Criteria of Approval. The applicant's request would allow a 1,540 square-foot parking pad in excess of code requirements in the front yard as opposed to the required alley access with a variance from Code Section(s) 146-2.4.4.1.2.e. and 146-4.6.5.C.2.a.

Mr. Berzins requested clarification from staff on pictures submitted of the property, noting Google Maps Street View captures a before image of the site that differs slightly. Mr. Gates responded that the Google Maps image likely captures a curb cut.

Iris Salguero, the applicant, gave a presentation on the item. Ms. Salguero reviewed the condition of the property at purchase and the steps taken to renovate. She noted neighbors have been supportive of the changes made. Ms. Salguero disagreed with staff assessments that the driveway covers more than 40% of the yard.

Mr. Berzins noted that both requests for variances being considered in this meeting are similar and that each property appears to have had an existing front yard driveway. Mr. Berzins asked staff why the commission is being asked to request variances for front yard driveways.

Daniel Money, City Attorney, responded that within Original Aurora driveways were once allowed in

the front yard. However, they are no longer allowed due to a code amendment made. These preexisting front yard driveways are considered legacy or nonconforming uses. A variance would need to be granted if the driveway in the front yard is changed from its original condition.

Mr. Gates agreed and noted that preexisting legal, nonconforming, uses cannot be expanded.

Mr. Palestro noted that aesthetic changes to the property with the expansion of the driveway are an improvement.

Mr. Bittel asked the applicant how many cars are parked in the driveway at maximum.

Ms. Salguero responded five.

Mr. Gates noted that parking is not directly capped.

Mr. Bittel noted this is a rental property, with two families.

Mr. Palestro disagreed with the staff assessment regarding the safety of alley versus front yard parking due to comparable impacts on traffic as residents back out.

Mr. Berzins noted that it appears the water meter is encased in the driveway and asked the staff if there are any concerns with this. Mr. Gates responded no, not to his knowledge.

Mr. Berzins asked the staff if the measurements of the surface lot included the walkway.

Mr. Gates responded, yes, it was included, and further noted that removing the dimensions of the walkway will unlikely make the area below 40%.

Mr. Berzins commented that the variances being requested in this case are to allow parking in the front yard and to allow an expansion of the surface parking lot in the front yard.

**Public Comment Given at the Hearing:**

No members of the public were present at the virtual hearing.

**Board of Adjustment and Appeals Results**

A motion was made by Mr. Berzins and seconded by Ms. Gallo

Move to approve the variance request for front yard parking because:

- Improves design for the property;
- It is compatible with adjacent development;
- It reduces on-street parking; and
- It results in an efficient design.

**Action Taken: Approved, with a condition**

Votes for the Waiver: 6

Votes against the Waiver: 0

Absent: 1

Abstaining: 0

Condition: A building permit and any required inspections must be received for the driveway.



Ms. Gallo commented that the design is efficient. Mr. Berzins and Mr. Bittel agreed.

### **Board of Adjustment and Appeals Results**

A motion was made by Mr. Berzins and seconded by Mr. Seldin

Move to approve the variance request for the current size of the front yard parking with a condition that a permit and inspection be obtained pertaining to the encasement of the water meter because:

- Improves design for the property;
- It is compatible with adjacent development;
- It reduces on-street parking; and
- It results in an efficient design.

#### **Action Taken: Approved**

Votes for the Waiver: 6

Votes against the Waiver: 0

Absent: 1

Abstaining: 0

#### **Case Number: 09-22 – 1031 Elmira Street**

#### **Description:**

Request by the property owner, Edna Chavira, for the following Single-Family Dwelling Variance:

- An adjustment to the requirement of Section 146-2.4.4.1.2.e.i and 146-4.6.5.C.2.a.

Recommendation from staff to deny the variance as requested.

#### **Case Presentation Given at the Hearing:**

Staff gave a presentation describing the applicant's request, the context of the neighborhood and the subject property, and an analysis of the request with respect to the Code Criteria of Approval. The applicant's request would allow an expansion of the driveway in the front yard that exceeds code requirements with a variance from Code Section(s) 146-2.4.4.1.2.e.i and 146-4.6.5.C.2.a.

Mr. Berzins requested clarification from staff on access to the garage when front yard driveways are not allowed.

Mr. Rabbaa reviewed driveway access to the garage on the site.

Edna Chavira, the applicant, gave a presentation on the item. Ms. Chavira reviewed the reasoning for expanding the paved driveway including accommodating each vehicle for homeowners and improving safety.

Mr. Bittel commented that for safety and general improvement of the area, the proposed expansion of the driveway is optimal.

Mr. Swope asked why the existing driveway would not be paved as a one-car driveway.

Mr. Bittel and Mr. Seldin questioned the use of a one-lane driveway for four cars.

## **Board of Adjustment and Appeals Results**

A motion was made by Mr. Berzins and seconded by Mr. Seldin

Move to approve the variance request for a driveway in the front yard because:

- Improves design for the property;
- It is compatible with adjacent development;
- It reduces on-street parking; and
- It results in an efficient design.

### **Action Taken: Approved**

Votes for the Waiver: 6

Votes against the Waiver: 0

Absent: 1

Abstaining: 0

Mr. Seldin questioned from images provided in the staff presentation how close the proposed driveway would be to the tree in the front yard.

Mr. Bittel noted the driveway appears that it would reach the paved walkway stones in the front yard.

Mr. Berzins commented that this case is similar to prior cases considered in that there are questions pertaining to the proposed size of the new front yard driveway expansion and walkway access to the front door of the home.

General discussion pertaining to the proposed driveway expansion ensued.

Mr. Berzins asked if the staff completed the measurements for the expansion.

Mr. Rabbaa responded no; the applicant completed the measurements.

Ms. Chavira stated her husband completed the measurements based on their needs to accommodate four-car parking and a walking path between cars to the home.

Mr. Raisio asked the applicant if the mailman will be walking between cars to the front door to deliver mail.

Ms. Chavira responded that the mail carrier uses the pathway between cars to reach the home to deliver mail.

Mr. Bittel commented that a three-foot walkway would be more efficient for access to the front door.

General discussion ensued regarding the dimensions of the proposed driveway expansion.

Brandon Cammarata, Planning Division Manager, cautioned the commission that measurements are an estimate without requiring surveying, which is not cost-effective. Mr. Cammarata advised that should the commission wish to approve the concept; they may do so without adding conditions of approval.

**Public Comment Given at the Hearing:**

No members of the public were present at the virtual hearing.

**Board of Adjustment and Appeals Results**

A motion was made by Mr. Seldin and seconded by Ms. Gallo

Move to approve the variance request with one condition that it meets the building code to permit because the proposal:

- Improves design for the property;
- Is consistent with the neighborhood character;
- Using the alley for access to surface parking in the backyard is a less feasible option
- Reduces on-street parking

**Action Taken: Approved, with a condition**

Votes for the Waiver: 6

Votes against the Waiver: 0

Absent: 1

Abstaining: 0

Condition: Must meet building code to permit.

**Other Topics Discussed at the Hearing:**

Minutes were presented for adoption from the August 16, 2022 hearing. Mr. Berzins noted a typo in the minutes with to misspelling of a name. The minutes were adopted as amended to correct the error in name spelling.

**SUMMARY OF PROCEEDINGS PREPARED AND SUBMITTED BY: Rachid Rabbaa**

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Lynn Bittel, Chairman

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Rachid Rabbaa, City of Aurora

Planning Division  
15151 E. Alameda Parkway, Ste. 2300  
Aurora, Colorado 80012  
303.739.7250



## MEMORANDUM

**To:** Lynn Bittel, Board of Adjustment Chairman  
Board members: Andris Berzins, Kari Gallo, Ron Swope, Gary Raisio, Richard Palestro, Marty Seldin

**From:** Rachid Rabbaa, Planner, Board of Adjustment staff liaison

**Date:** December 14, 2022

**Hearing Date:** December 20, 2022

**Subject:** BOAA Case No. 10-22 – 2682 S. Sable Way

**Notification:** The Notice of Variance Request was mailed to abutting property owners on December 07, 2022, and a notice of virtual public hearing sign was posted on the property on the same day in accordance with Code.

**Summary:** Request by the property owner, Sonia Jarosz, for the following Single-Family Dwelling Variance:

- An adjustment to the requirement of Section 146-4.7.9.L.1 Table 4.7-4, which requires that fences in the front yard of residential properties be limited to 42-inches in height.

**Background Information:** The subject property is located at 2682 South Sable Way in the Chaddsford neighborhood. The property is approximately 0.30 acres and the primary residence on the property was built in 1977 according to the Arapahoe County Assessor's Office. The property and surrounding neighborhood are zoned R-1 (Low-Density Single-Family Residential District). The surrounding area is primarily residential, with a very low-density pattern of development around the subject property. Areas to the south are zoned R-2 (Medium-Density Residential District). **See Exhibit A – Vicinity Map.**

The applicant has constructed a wooden 6-foot privacy fence along the side of her front yard. The applicant's stated reason for constructing this fence is to provide more privacy for her family, but also to provide safety for her and her family. **(See Exhibits B and D).** The fence extends approximately 22ft into the front yard along the side property line. The applicant was directed by Code Enforcement on July 1, 2022, to either take the fence down, replace it with a lower-height fence, or apply for a variance with the City of Aurora.

**Analysis:** Across residential districts, the height of fences in the front yard is limited to 42-inches with an open-style design. The primary reason for this requirement is to ensure that residential areas maintain an open and attractive street presence and public realm. This intent is met throughout Aurora's low, medium and higher-density residential areas by enforcing this code requirement. One of the many reasons for this restriction is to provide consistent options for fence designs which allows residents and property owners to ensure the privacy and usability of their private open space and have eyes on the street. g.

**Required Findings:** According to Section 146-5.4.4.B.3 (Exhibit E), the Board of Adjustments and Appeals can grant variances based on the following criteria:

**1. *Effect on adjacent properties.* The proposed variances will not adversely affect adjacent properties or the surrounding neighborhoods.**

*Staff Analysis:* The proposed variance does not present an adverse effect on adjacent properties or the surrounding neighborhood.

**2. The proposed variance is consistent with the *majority* of the criteria as follows:**

**a. Improved Design**

*Staff Analysis:* The proposed variance will allow the design to include an increased height that achieves the stated goals of the applicant.

**b. Consistency with Neighborhood Character**

*Staff Analysis:* Taller fences are not consistent with the neighborhood's character.

**c. Compatibility with Adjacent Development**

*Staff Analysis:* Not many of the surrounding properties in the neighborhood have existing 6-foot-tall front yard fences. The applicant's fence is not compatible with this pattern.

**d. Impact on existing city infrastructure and public improvements**

*Staff Analysis:* The fence does not encroach into the right of way or any easements, nor does it impede traffic sight triangles or provide any other imposition on the public realm. Therefore, this is no negative impact to city infrastructure or public improvements.

**e. Internal efficiency of design**

*Staff Analysis:* The variance would allow the applicant to have safe and private use of her property and would thus achieve an internal efficiency of design.

**f. Control of external effects**

*Staff Analysis:* The proposal controls for all external effects.

**Staff Recommendation:**

Staff recommends **approval** of the proposed variance.

**Conclusion:**

Based on the required findings of Code Section 146-5.4.4.B.3, staff finds the Single-Family Dwelling Variance to Section 146-4.7.9.L.1 Table 4.7-4 to allow up to a 6-foot privacy fence to extend 22 feet from the existing gate into the front yard on the adjacent side lot line, as requested:

- Does not have an adverse impact on adjacent properties.
- Will not have a negative impact on existing city infrastructure or public improvements.
- Controls for any external effects.

**ATTACHMENTS:**

Exhibit A – Vicinity Map

Exhibit B – Application and Justification

Exhibit C – Aerial Photo

Exhibit D – Site Photos

Exhibit E – City Code Section 146-5.4.4.B.3



**PLANNING DEPARTMENT**

15151 E. Alameda Pkwy., 2<sup>nd</sup> Floor  
Aurora, Colorado 80012  
303-739-7250  
FAX: 303-739-7268

CASE # 10-22

BOARD OF ADJUSTMENT & APPEALS  
CITY OF AURORA  
APPLICATION FOR VARIANCE

1. Please type or print clearly when filling out the application. After completing the application, schedule an appointment by emailing **boaplanning@auroragov.org**.
2. An appointment needs to be made prior to the closing date noted at the bottom of this page.
3. When meeting with the applicant, staff will review the application for completeness and will provide instruction on the procedures of the hearing.
4. At the time of application submittal, a check for \$150.00, payable to the City of Aurora, will be required.
5. The Planning Department will prepare a public hearing sign for the applicant to post the property a minimum of ten days prior to the hearing. **(Do not remove the sign prior to the hearing.)** The sign must be posted through the entire hearing process.

HEARING DATE: 12/20/2022

CLOSING DATE: \_\_\_\_\_



PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

15151 E. Alameda Pkwy, Suite 2300  
Aurora, Colorado 80012  
303-739-7250  
FAX: 303-739-7268

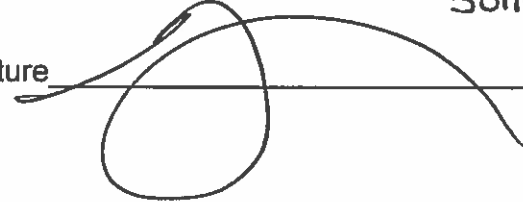
CASE # \_\_\_\_\_

APPLICATION TO THE BOARD OF ADJUSTMENT & APPEALS  
VARIANCE

ADDRESS OF PROPERTY AFFECTED: 2682 S. Sable Way  
Zone District \_\_\_\_\_

Applicant Name: Sonia Jarosz  
Address: 2682 S. Sable Way, Aurora CO 80014  
Phone #: 719-431-2521 email: SONIAJAROSZSD@gmail.com

Property Owner: Name: Sonia Jarosz  
Address: 2682 S. Sable Way, Aurora CO 80014  
Phone #: 719-431-2521 email: SONIAJAROSZSD@gmail.com

Signature 

Variance requested:  
Please see attached letter  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above request does not conform to Section(s) \_\_\_\_\_ of the Aurora City Code, which requires \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CASE # \_\_\_\_\_

Type, or print clearly, the name and complete address (including zip code) of each abutting property owner:

ABUTTING PROPERTY ADDRESS:

NAME & ADDRESS OF PROPERTY OWNER

2672 S. Sable Way

Jacob Skumate, Maya Usry  
2672 S. Sable Way  
Aurora, CO 80014

2684 S. Sable Way

Kelly Irvine  
2684 S. Sable Way  
Aurora CO 80014

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Jacob Shumate  
2672 S Sable Way  
Aurora, CO 80014

Nicholas Jones  
2692 S Sable Way  
Aurora, CO 80014

Southeast Aurora Church of Christ  
14601 E Yale Ave  
Aurora, CO 80014

Eugene & Kathleen Schouten  
2660 S Dillon St  
Aurora, CO 80014

Kelly Irvine  
2684 S Sable Way  
AURORA, CO 80014

Daniela & Jerome Henn  
4732 S Biscay Ct  
Aurora, CO 80015

Van Dorpe Family Trust  
702 Scranton Ct  
Aurora, CO 80011

Gina Lucero  
William Schwartz  
2652 S Sable Way  
Aurora, CO 80014

Erin Flannery  
2662 S Sable Way  
Aurora, CO 80014

Shawn Richard &  
Tammie Ann O'Brien Trust  
11947 E Louisiana Ave  
Aurora, CO 80012

September 5, 2022

To whom it may concern:

This letter is to request a variance to the city code for the portion of the fence that divides my yard at 2682 S. Sable Way, from my neighbor's property at 2684 S. Sable Way.

The fence surrounding my home has been in very poor repair since I moved into the property in November 2020. There were panels missing from the fence in areas, and other sections had fallen over and were propped up with support beams in an attempt to keep them in place. I've attached photos of the fence showing its state of disrepair. As I have my granddaughter living with me and two dogs, it was important to me that the fence be in good condition to ensure the safety of my family and pets.

I've been working diligently since November 2020 to make repairs to the home and get back to a level where it can be an asset to the neighborhood. To that end, in April 2022 I decided that it was time to replace the fence around the property. I discussed the fence replacement with my neighbors on each side of my home and informed them that I was willing to pay to replace the fence myself, rather than asking them to cover half the cost. All I asked was that they cooperate with the contractors when the work began. All of the neighbors stated that they approved of the fence replacement.

On May 6, 2022 the contractors started to replace the fence. My neighbor at 2684 S. Sable Way changed his mind and told the contractor to not touch the fence dividing my property from his. The contractor complied with this request and did not replace that section of fence.

On June 23, 2022 after exploring our options for the fence, we decided to go ahead and erect a second fence on my side of the yard. The contractors finished that section of fence and found that we had some extra panels left over from the project. When discussing what to do with the contractor, he informed me that we could use the extra panels in the front yard, so long as the 6 ft tall sections were at least 50 feet from the street.

We used three extra panels in the front yard between our two houses, taking care to make sure the six foot tall sections did not extend into the 50 foot boundary from the street. As our house sits on a cul-de-sac, the fence panels do not impede anyone's view, except for between my house and my neighbors.

On July 1, 2022, Eugene Johnson, Senior Code Enforcement officer for Aurora, stopped by and informed me that the fence panels in the front yard were not to code and I would either need to take them down and replace them with lower height panels, or apply for a variance with the city.

To that end, I formally request a variance for the three six foot tall fence panels currently standing between my property and the neighbors property at 2684 S. Sable Way. My reasons for the requested variance are the following -

- My neighbor has a history of code violations and his property is not maintained properly. This results in an eyesore for the neighborhood and I would prefer not to see it when I look out the window.
- My neighbor has driven over my yard several times to park his vehicles on the side of his house.
- My neighbor has a criminal record and has threatened to kill my family. On June 24, 2022, my son in law asked the neighbor to refrain from spraying water on our newly constructed fence and the neighbor verbally told him that he would kill him and our family. The Aurora police responded and a report has been filed on this incident.
- As my home is on a cul-de-sac, the fence panels do not obstruct any view in the neighborhood, except for my view of his home.

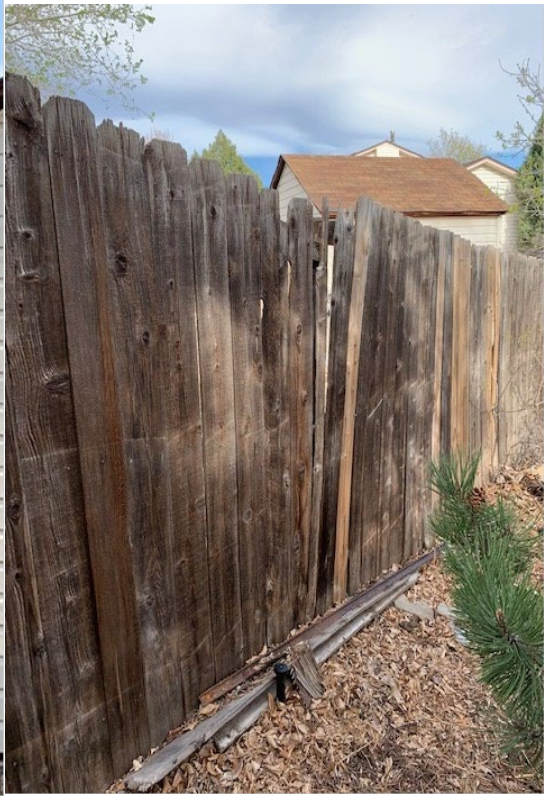
As part of this request, I've attached before and after photos of the fence so that you can see that the fence has been constructed properly and is now in good repair.

The poet Robert Frost once noted - "good fences make good neighbors". I respectfully request that this committee recognize that I've constructed a good fence that is an asset to the neighborhood, and that you grant me a variance to keep the panels in place.

Respectfully,

A handwritten signature in black ink, appearing to read 'Sonia Jarosz', written in a cursive style.

Sonia Jarosz











2682

6ft

22ft

27ft





2682





2682















**B. Single-Family Dwelling Variance**

All applicable provisions of Section 146-5.3 (Common Procedures) apply unless specifically modified by the provisions of this Section 146-5.4.4.B.

**1. Applicability**

This Section 146-5.4.4.B applies to all applications for a variance from the standards and of provisions of this UDO or to the provisions of Chapter 90 as they relate to the modification of an existing single-family dwelling or the lot on which it is located that do not qualify for approval as a Minor Amendment under Section 146-5.3.15.A. This section may not be used to vary the standards or provisions of this UDO for single-family homes that have not yet obtained a certificate of occupancy or Manufactured Homes that have not yet been installed in accordance with Chapter 90.

**1. Procedure**

- a. Planning Director shall review the application and forward a recommendation to the Board of Adjustment and Appeals pursuant to all applicable provisions of Section 146-5.3 (Common Procedures).
- b. The Board of Adjustment and Appeals shall conduct a public hearing on the application and shall make a decision on the application pursuant to all applicable provisions of Section 146-5.3.

**2. Criteria for Approval**

An application for a Single-family Dwelling Variance shall be approved if the Board finds that the proposed variance will not adversely affect adjacent properties or the surrounding neighborhoods and a majority of the following criteria have been met.

- a. The proposed variance results in improved design.
- b. The proposed variance does not adversely affect the character of lower density residential areas.
- c. The proposed variance will result in development that is compatibility with adjacent land development.
- d. The proposed variance will not result in undue or unnecessary burdens on existing infrastructure and public improvements, or arrangements have been made to mitigate those impacts.
- e. The proposed variance results in development that achieves internal efficiency for its residents and does not endanger public health or convenience.
- f. The proposed variance results in development that controls external effects on nearby land uses, movement and congestion of traffic, noise generated, arrangement of signs and lighting to prevent nuisances, landscaping, and features to prevent detrimental impacts on public health, welfare, safety or convenience.

**Historic  
Landmark/District  
Adjustment**



**(P)** Indicates Public Hearing Required