



VARIANCE REQUEST – BASIC INFORMATION

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the State Enabling Act, the Board is required to reach logical conclusions as a prerequisite to issuance of a variance. Specifically, five findings are required as follows:

1. That the alleged hardships or practical difficulties are unique and singular as regards the property of the person requesting the variance and are not those suffered in common with other property similarly located.
2. That the alleged hardships and practical difficulties, which will result from failure to grant the variance, extend to the inability to use the land in question for any use in conformity with the provision of this Ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return.
3. That the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.
4. That the variance is in harmony with and serves the general intent and purpose of this Ordinance and the adopted Land Development Plan.
5. That allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by this Ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance.

All of these findings of fact shall be made in the indicated order by the Board of Adjustment, which is not empowered to grant a variance without an affirmative finding of fact on all five categories above. Each finding of fact shall be supported by substantial evidence in the record of proceedings before the Board.

The Board may impose reasonable conditions upon the granting of any variance to insure that the public health, safety, and general welfare shall be protected and substantial justice done. Violation of such conditions shall be a violation of this Ordinance.