

Powers and Duties-Variances

- A. Upon appeal from a decision by the Zoning Administrator and accompanied by a request for a variance, the Board shall have the power to vary or adapt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions whereby such strict application would result in practical difficulty and unnecessary hardship depriving the owner of the reasonable use of the land or building involved, but in no other case.
- B. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances.
- C. No variance in the strict application of the provisions of this Ordinance shall be granted by the Board unless the Board finds that the following requirements and standards are satisfied.

The appellant must show that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if is not granted. In particular, the appellant shall establish and substantiate his appeal to show that the variance is in conformance with the requirements and standards listed below:

1. That the granting of the variance shall be in harmony with the general purpose and intent of this Ordinance, and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
2. That the granting of the variance will not permit the establishment within a District of any use which is not permitted in that District.
3. That special circumstances or conditions, fully described in the findings, apply to the land or buildings for which the variance is sought, which circumstances or conditions are such that strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building or create unnecessary hardship. If the hardship is general, that is, shared generally by land or buildings in the neighborhood, relief shall be properly obtained only by legislative action or by court review of any attack on the validity of the Ordinance.

4. That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose. It is not sufficient proof of hardship to show that greater profit would result if the variance were awarded. Furthermore, hardship complained of cannot be self-created; it cannot be claimed by one who purchases with or without the knowledge of restrictions; it must result from the application of the Ordinance, it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.
- D. The Board may prescribe any safeguard that it deems appropriate or necessary to secure substantially the objectives of the regulations or provisions to which the variance applies. Any conditions set by the Board under the provisions hereof, shall be conditions precedent, and the variance granted by this Section shall not become effective until such conditions are carried out in full. In the event that the conditions are not fully carried out, and/or kept and maintained as required, no action can be taken on the property based on the variance granted, and the nonconforming status of the property, if any, shall be forfeited, and thereafter the property shall be treated as any other property.
- E. Persons with Disabilities After having received a complete written application, the Board may grant a variance allowing modifications to specific requirements of this Ordinance that the applicant proves to the satisfaction of the Board are necessary to provide a "reasonable accommodation" under the Americans With Disabilities Act and/or the Federal Fair Housing Act and/or applicable State law, as amended, to serve persons whom the applicant proves have "disabilities" as defined in and protected by such laws.