

# Zoning Board of Appeals

## Area Variance

Area variance may be considered where setback, frontage, lot size, density or yard requirements of this local law cannot be reasonably met. The board of Appeals shall take into consideration the benefit of the applicant if the variance is granted as weighted against the detriment of the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall also consider the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance.
2. Whether the benefits sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
3. Whether the requested area variance is substantial.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.
5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision to the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

## Use Variance

Before the Zoning Board of Appeals may grant a Use variance, the applicant must demonstrate that:

1. For each and every permitted use under the zoning regulations for the particular district where the property is located:
  - a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - b) The alleged hardship relating to the property is unique and does not apply to a substantial portion of the district or neighborhood;
  - c) The request will not alter the essential character of the neighborhood;
  - d) The alleged hardship has not been self-created.
2. ZBA must grant minimum variance necessary while at the same time preserve and protect the character of the neighborhood, and the health, safety and welfare of the community.
3. ZBA must insure that spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.