

HARDSHIP FOR GRANTING OF VARIANCES

A variance is permission granted by the Board to build or develop in a way that is not consistent with the standards of the Zoning Ordinance. Variances are not intended to be granted frequently. The applicant must clearly show the Board that his or her request is due to very unusual characteristics of their property and that it satisfies the variance standards.

The burden of proof to grant a variance is the responsibility of the applicant and must be based on a finding of facts that indicates a hardship to the land that is caused by the Ordinance(s). If there is any question or doubt of hardship, the Board may ask the applicant for justification. It would be in the best interest of the applicant to review the following conditions that create a hardship:

- A.** That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district. *It is not sufficient to grant a variance based on economic hardship, unique, personal or family hardship, or hardship suffered by the applicant in common with neighbors. Justification must relate to the property in question.*
- B.** That the literal interpretation of the provisions of the Ordinance(s) would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of said Ordinance(s). *The Board is required to limit itself to the evidence of hardship resulting from the application of the Ordinance(s) to the property. Facts and arguments need to show that the variance represents the least possible deviation from the letter of the Ordinance(s).*
- C.** That the special conditions and circumstances to be considered do not result from the actions of the applicant. *Previous knowledge or violations of the Ordinance(s) prior to an application to the Board are not conditions which the Board would consider justification to grant a variance.*
- D.** That granting the variance will not confer on the applicant any special privilege that is denied by said Ordinance(s) to other land, structures, or buildings in the same district. *State facts and arguments that the variance will be in harmony with the general purpose and intent of the Ordinance(s) and that the public safety and welfare is secured and does substantial justice by showing if the variance is granted, the benefits to the applicant will not outweigh the benefits to the public.*
- E.** It is recognized that Use Variances [variances to permitted uses] present unique problems not occurring in the case of other types of variances. The scope of the Board's powers with respect to Use Variances is clearly defined. In order to allow the granting of a Use Variance, several specific criteria must be met:
 - ◆ The Zoning regulations allow no **reasonable** use to be made of the **property in question** for reasons peculiar to the property and not applicable to the area as a whole;
 - ◆ The use proposed is the minimum variance necessary in order to allow a reasonable use of the property;
 - ◆ The use will not impair the essential character of the area or the objectives of the comprehensive plan of the City.