

Town of North Greenbush Zoning Board of Appeals

Use Variance

No such use variance shall be granted by the ZBA without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located,

1. the applicant cannot realize a reasonable return, provided that the lack of return is substantial as demonstrated by competent financial evidence;
2. that the alleged hardship relating to the property is unique, and does not apply to a substantial portion of the district or neighborhood;
3. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. that the alleged hardship has not been self-created.

Area Variance

The ZBA must consider two basic things: the benefit to the applicant if the variance is granted and the detriment to the health, safety, and general welfare of the neighborhood or community that would occur if the variance were to be granted. The ZBA must consider the following five facts:

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 the area variance;
2. whether the benefit 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 in the neighborhood or district; and
5. whether the alleged difficulty is self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.

Special Permits

Certain uses are allowed in given zones only upon the granting of a special permit by the ZBA upon a finding that such permitted use is consistent with the public health, safety and general welfare and subject to appropriate conditions and safeguards, to include the public or commercial inconvenience of the applicant.