



PLANNING DEPARTMENT
VILLAGE OF JOHNSON CITY

MUNICIPAL BUILDING
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VARIANCES

A variance is an exception made by the Zoning Board of Appeals to permit land to be used for a purpose or in a way that is not permitted by the Zoning Ordinance. There are two types of variances, use and area. The granting of each type is subject to a different set of conditions. A **use variance** is needed if the purpose to which a building or land is put is not permitted in that district. An **area variance** is needed when the building or land does not meet the bulk requirements governing that district. Bulk requirements are such as lot size, front, side, and rear minimum setbacks, building height, area coverage and so on.

The Zoning Board of Appeals (ZBA), on appeal from the decision or determination of any administrative official charged with enforcement of the Zoning Code, shall have the power to grant use and area variances, subject to the standards and procedures articulated in the NYS Village Law. The variance procedures **may not be used to:**

1. Waive, modify or otherwise vary any of the review and approval procedures of this article; or
2. Waive, vary, modify or otherwise override a condition of approval or requirement imposed by another authorized board or commission.

Applications for zoning variances may be initiated only by the owner of the subject property or by the owner's authorized agent.

Complete applications for a zoning variance must be filed with appropriate personnel in the Johnson City Planning Department, 243 Main St., Johnson City, NY.

Notice of required public hearings on zoning variances must be provided as required by the local and by state law. (See 60.3C for additional information on public hearing notices) The applicant is responsible for posting a public hearing notice (provided by the Planning Department) on the property in question for eleven (11) days before the public hearing.

The petitioner seeking the variance shall have the burden of presenting sufficient evidence to allow the ZBA to reach a conclusion as set forth below as well as the burden of persuasion on those items.

1. Once the application has been determined to be complete, the ZBA must hold at least one public hearing on a proposed zoning variance.
2. The ZBA shall decide upon the appeal within 62 days after the closing of the public hearing. The time within which the ZBA may render its decision may be extended by mutual consent of the petitioner and the Board.
3. The ZBA may reverse, modify or affirm, in whole or in part, any such appealed order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as in its opinion ought to be made in strictly applying and interpreting the provisions of this Chapter and for such purposes shall have all the powers of the officer from whom the appeal is taken.
4. Appeals for interpretation shall be decided by the concurring vote of a majority of the members of the ZBA in compliance with NYS Village Law.

5. The decision the ZBA shall be filed in the Office of the Village Clerk within five business days after the decision is rendered, and a copy mailed to the petitioner.

Zoning variances may be approved by the zoning board of appeals only when they find substantial evidence in the official record that:

1. Strict application of one or more standards or requirements of this zoning ordinance would result in unnecessary hardships or practical difficulties that are not the result of the deliberate actions of the property owner or their agent, employee, or contractor;
2. The zoning variance is the minimum zoning variance necessary to provide relief from the unnecessary hardships or practical difficulties;
3. The zoning variance is generally consistent with the overall purpose of this Chapter; and
4. The zoning variance will result in substantial justice being done, considering both the public benefits intended to be secured by this zoning ordinance and the individual hardships that will be suffered if the zoning variance request is denied.

Zoning variance approval runs with the land and is not affected by changes of tenancy, ownership, or management.

A request for changes in conditions of approval of a zoning variance must be processed as a new variance application, including the requirements for fees, notices and hearings.

The application fee is \$100.00 for an area variance and \$200.00 for a use variance, payable upon submission of the application to the Planning Board who then makes a recommendation to the Zoning Board of Appeals. The decision on whether to grant the variance is made by the Zoning Board of Appeals after it holds a public hearing.