

VARIANCES: NON-CONFORMING USES 59-54(2)b.

To authorize, upon appeal in specific cases and subject to terms and conditions fixed by the Board, a variance permitting an increase of the floor area occupied by a nonconforming use in an existing structure. No variance shall be authorized hereunder unless the Board shall find that all of the following conditions exist:

1. That the use is a nonconforming use as defined by this chapter, is in full compliance with all requirements of this chapter applicable to nonconforming uses and is authorized to continue in operation and to exist;
2. That the structure in which an increase in floor area is sought was in existence on the date on which the nonconforming use became nonconforming and is in existence at the time of the hearing;
3. That on the date on which the use became a nonconforming use, it (the use) was in occupancy and in operation on a portion of the floor area of the structure in which an increase in floor area is sought;
4. That the applicant for the variance does not propose or intend to enlarge the existing structure, does not propose or intend to increase the floor area of such structure and that any authorized increase in occupancy of floor area will not involve remodeling or altering any load-bearing member of said structure;
5. That, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this chapter will result in unnecessary hardship;
6. That the circumstance aforesaid were not created by any owner or operator of the use; or by the applicant for the variance;
7. That the circumstances aforesaid are unique to the applicant for the variance and are not applicable generally to all nonconforming uses;
8. That the variance will not further injure the appropriate use of adjacent conforming property in the same zoning district;
9. That the variance will not alter the essential character of the zoning district in which is located the nonconforming use for which the variance is sought;
10. That the variance will not weaken the general purposes of this chapter or the regulations herein established for the specific district;
11. That the variance will be in harmony with the spirit and purposes of this chapter;
12. That the variance will not adversely effect the public health, safety or welfare.