

Board of Adjustment Variance Questions Worksheet

The underlined questions below represent the required statutory criteria which, pursuant to Minn. Stat. § 462.357, subd. 6, must be answered affirmatively in order for the BOA to grant a variance application. For purposes of establishing a record, a majority of BOA members must agree upon the answers given to each question. To help with developing findings, guidance to assist the BOA in answering each criterion is provided.

1) Is the variance in harmony with the purpose and intent of the ordinance?

According to Section 43.03, the purpose and intent of the zoning ordinance is the following:

- a. To promote the public health, safety, morals, comfort and general welfare;
- b. To conserve and protect property and property values;
- c. To secure the most appropriate use of land; or
- d. To facilitate adequate and economical provisions for public improvements.

BOA members should address why the application either meets these provisions or why it does not.

2) Is the variance consistent with the Comprehensive Plan?

What is the future land use category for the subject property?

Does the request align with this category and other provisions of the Comprehensive plan?

3) Does the proposal put property to use in a reasonable manner?

Would the request put the property to use in a reasonable way? For example, is it reasonable to put a building in the proposed location?

4) Are there unique circumstances to the property not created by the landowner?

Are there unique physical characteristics of the property not related to the preferences of the landowner? The uniqueness typically relates to the physical characteristics of the property (i.e. size of the lot, shape of the lot, layout of the building, topography, trees, wetlands, etc.).

5) Will the variance, if granted, retain the essential character of the locality?

If granted, will the use of the land or the structure be of appropriate scale, in a suitable location, or otherwise be consistent with the surrounding area?

6) Are there other considerations for the variance request besides economics?

If there are affirmative answers to questions 3, 4, and 5, the application satisfies the practical difficulties test and the answer is yes.

If there are not affirmative answers to questions 3, 4, and 5, the practical difficulties test is not satisfied and the answer is no.