

Application for a Dimensional Variance from the Zoning Code

Rhode Island General Law §45-24-41 states that “An application for relief from the literal requirements of a zoning ordinance because of hardship may be made by any person, group, agency, or corporation by filing with the zoning enforcement officer or agency an application describing the request and supported by any data and evidence as may be required by the zoning board of review or by the terms of the ordinance.”

There are four criteria that the Zoning Board of Review will take into consideration when reviewing an application for a Dimensional Variance. Please note that all four criteria must be answered. Failure to do so may result in an application being deemed incomplete.

§45-24-41(d)(1): “That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in § 45-24-30(a)(16)”:

The hardship is due to the nature of the owner’s business and need for this style building proposed. The proposed building has several overhead doors for truck and equipment access, and a small office area. The proposed business is an allowed use in the zoning code, and the building and site improvements will be consistent with comprehensive plan and surrounding uses. The proposed building is similar to buildings adjacent to the site, and provides color and textural improvements (concrete base wall) to the building

The hardship is not due to physical or economic disability of the applicant.

§45-24-41(d)(2): “That the hardship is not the result of any prior action of the applicant”:

The Applicant did not take any prior action to create the hardship. The applicants intended use of the proposed building is for his current business.

§45-24-41(d)(3): “That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.”:

The requested variance will not alter the general character of the surrounding areas. The existing use to the south is a similar use. This proposed building will provide upgrades to the color and textured concrete façade

The proposed building use is consistent with the allowed uses for this district and consistent with the comprehensive plan

§45-24-41(e)(2): “In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief.”

The requested relief is the minimum necessary to allow the owner to use the property for this specific use, which is to relocate his current business to this location. The proposed use is allowed in the zoning ordinance. If the variance is not granted, the hardship will amount to more than a mere inconvenience, and would not allow the owner to use the site for his current business to this location. The relief sought is minimal for this allowed use.