

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 from which the applicant seeks relief is due to the small size (26,500 SF) of the subject property. This lot is 248' deep by 85' wide. There is an existing shed in the front yard that will be expanded and converted into the ADU (16'x44').

The need for a variance is not the result of any 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 need for this dimensional variance is not the result of any prior action taken by the applicant. The small size of the lot and the existing home built in 1978 have dictated the location and shape of the New ADU.

§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.":

Granting this 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. The proposed ADU will remain consistent with the residential nature of the area and similar in placement and character to nearby homes.

§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 for reasonable use of the property. Existing site constraints prevent the ADU from being pushed farther back on the lot. Without this variance, construction of a functional residence would not be feasible, and the hardship would amount to more than a mere inconvenience.