Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

72-21 - Findings Required for Variances

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LAST AMENDED
2/2/2011

When in the course of enforcement of this Resolution, any officer from whom an appeal may be taken under the provisions of Section 72-11 (General Provisions) has applied or interpreted a provision of this Resolution, and there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such provision, the Board of Standards and Appeals may, in accordance with the requirements set forth in this Section, vary or modify the provision so that the spirit of the law shall be observed, public safety secured and substantial justice done.

Where it is alleged that there are practical difficulties or unnecessary hardship, the Board may grant a variance in the application of the provisions of this Resolution in the specific case, provided that as a condition to the grant of any such variance, the Board shall make each and every one of the following findings:

(a) that there are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular #zoning lot#; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardship arise in complying strictly with the #use# or #bulk# provisions of the Resolution; and that the alleged practical difficulties or unnecessary hardship are not due to circumstances created generally by the strict application of such provisions in the neighborhood or district in which the #zoning lot# is located;

(b) that because of such physical conditions there is no reasonable possibility that a #development#, #enlargement#, extension, alteration or change of #use# on the #zoning lot# in strict conformity with the provisions of this Resolution will bring a reasonable return, and that the grant of a variance is therefore necessary to enable the owner to realize a reasonable

return from such #zoning lot#; this finding shall not be required for the granting of a variance to a non-profit organization;

(c) that the variance, if granted, will not alter the essential character of the neighborhood or district in which the #zoning lot# is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare;

(d) that the practical difficulties or unnecessary hardship claimed as a ground for a variance have not been created by the owner or by a predecessor in title; however, where all other required findings are made, the purchase of a #zoning lot# subject to the restrictions sought to be varied shall not itself constitute a self-created hardship; and

(e) that within the intent and purposes of this Resolution, the variance, if granted, is the minimum variance necessary to afford relief; and to this end, the Board may permit a lesser variance than that applied for.

It shall be a further requirement that the decision or determination of the Board shall set forth each required finding in each specific grant of a variance, and in each denial thereof which of the required findings have not been satisfied. In any such case, each finding shall be supported by substantial evidence or other data considered by the Board in reaching its decision, including the personal knowledge of, or inspection by, the members of the Board. Reports of other City agencies made as a result of inquiry by the Board shall not be considered hearsay, but may be considered by the Board as if the data therein contained were secured by personal inspection.