

MIDDLETOWN TOWNSHIP **ZONING HEARING BOARD**

The Zoning Hearing Board may grant a Variance, provided that all of the following findings are made, where relevant, in a given case. It shall be the responsibility of the applicant to present such evidence as is necessary to demonstrate that the proposed use or modification complies with the pertinent criteria and standards set forth in Section 275-243 of the Zoning Ordinance, which has been summarized below.

Standards for Variances

In any instance where the Zoning Hearing Board is requested to consider an application for a variance from a requirement of the Zoning Ordinance the Board shall, among other things, consider the following standards:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located;
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
3. That such unnecessary hardship has not been created by the appellant;
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare, and
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

Recently, the PA Supreme Court has authorized a Zoning Hearing Board to distinguish between use and dimensional variances. “When seeking a dimensional variance within a permitted use,” an applicant is not required to prove that the property has no value for any purpose permitted by the Zoning Ordinance, “but only that the zoning requirements work an unreasonable hardship in the owner’s pursuit of a permitted use.” The Board, in determining whether “unnecessary hardship” has been established may consider (1) the economic detriment to the applicant if the variance is denied; (2) the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements; and (3) the characteristics of the surrounding neighborhood.