

A Use Variance is a condition where an applicant is seeking relief from the strict conformance of the zoning regulations. See N.J.S.A. 40:55D-70(d). An example of a request for a **Use Variance** may include requests to expand a use that is existing, but not permitted under current zoning regulations, a request to build a business use in a residential zone, or a request to build a residential use in a commercial zone. To receive approval for a use variance, an applicant must receive five (5) affirmative votes. Other variances that require a "super majority vote" include variances for significant deviations from the Borough ordinance requirements for height, density and floor area ratio.

A Bulk Variance is a condition where an applicant is seeking relief from the strict conformance of the bulk requirements in the zoning ordinances. See N.J.S.A. 40:55D-70(c). An example of a **Bulk Variance** may include a request to build an addition to a house that will exceed the bulk requirement for building coverage in a particular zone or a request to build a deck, pool, fence or shed that will encroach upon building setback requirements in a particular zone. To receive approval for bulk variances, an applicant must receive a majority vote of the Board members present at the hearing.

By law, the Zoning Board of Adjustment is not permitted to accept letters or petitions from residents. All testimony must be given in person.

The Zoning Board of Adjustment is comprised of citizens of the Borough of New Providence appointed by the Township Council.

The Zoning Board of Adjustment receives its powers through the Municipal Land Use Law, N.J.S.A. 40:55D-69 et. seq. This law allows Municipal Zoning Boards of Adjustment to hear applications for **use and bulk variances, subdivisions and site plans**.

The Municipal Law Use law and state case law establish specific standards and proofs which must be met by the Applicant before the Board may consider approving any variance.

The Zoning Board of Adjustment meetings begin promptly at 8:00 p.m.

Citizens may review application materials between the hours of 9 am-4 pm at the municipal building.

Definitions

The following are some of the terms you may hear at the Planning Board meeting. (Consult the Borough Code §310-6 and the M.L.U.L. for complete definitions.)

Floor Area, Gross: the total floor area of a building computed by measuring the horizontal dimensions of the outside walls of all enclosed portions of the building, including halls, enclosed porches, and garages, but not including attic or basement.

Floor Area Ratio (FAR): the sum of the area of all floors of buildings or structures compared to the total area of the site. The ratio between the gross floor area of all structures on a lot and the total area of the lot.

Ordinance: a law adopted by a municipal body.

Master Plan: a document discussing plans for the current and the future of the development of a municipality. This plan is reexamined every six years by the Planning Board and Borough Council.

Resolution: an official document, authorized by a public vote, specifying approval or denial of a development proposal.

Site Plan, Major: all other development plans.

Site Plan, Minor: a development plan of one or more lots, which has minimal impact on the community, and does not include any new street or extension of any off-tract improvement.

Subdivision, Major: a subdivision of land of four (4) or more lots.

Subdivision, Minor: a subdivision of land for the creation of less than four (4) lots.

Variance: permission to depart from the literal requirements of a zoning ordinance.

Waiver: (exception) a relaxation of a development standard.

Zoning: a set of regulations and requirements that govern the use, placement, spacing and size of building and lots within a specific area.

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This booklet was
last updated on
1/15/10

A Citizen's Guide to:

Zoning Board of Adjustment Meetings



This guide was written to familiarize citizens with Zoning Board of Adjustment meeting procedures. Many levels of review and examination go into a development proposal. This guide is not intended to be construed as or relied upon as legal advice. We hope you will support us as we attempt to make the best decisions possible for the Borough of New Providence.

The Application Process

When an application for development is received by the Borough of New Providence Zoning Board of Adjustment, many procedural tasks must be completed. First, the Board secretary and Land Use staff check the application packet for completeness. Once the application is deemed complete, it is forwarded to the Board professionals and applicable Borough officials for review.

Application is scheduled for public hearing.

The Public Hearing

Application Review

The application process includes reviews by the Board Planner, Board Engineer, Fire Department, Borough of New Providence Traffic Safety Officer, Traffic Engineer, and where applicable, the Downtown Improvement District.

Professionals review application and prepare reports.

To run the meeting in the most efficient manner and to provide the Zoning Board of Adjustment and the public with as much information as possible, a specific agenda is followed for each application.

1. The applicant explains the proposal, the variances requested and addresses the issues raised by the Board professionals in their reports.
2. The Board members and its professionals ask questions of the applicant.
3. The hearing is then opened to the public for any member of the public to ask questions of testimony presented.
4. Lastly, the public may make comments on the application, including statements for or against the application.

Any citizen may speak for him/herself after being sworn in by the court stenographer. Any citizen may also be represented by an attorney.

After all public comment is taken, the public hearing may be closed or continued to a future date. If the public hearing is closed, no further testimony by the public or the applicant may be provided. The Zoning Board of Adjustment members then state their findings and decision of the application before them through a

statement called a "factual finding." At the end of their "factual finding" statement, they make their decision to approve or deny the application.

- The Board may consider *only* the Master Plan, local Zoning Ordinances, state statutes and caselaw, professional reports, application materials, and testimony taken at the public hearing.
- Each case is considered based upon its individual merits and special reasons presented to deviate from the zoning ordinance requirements.
- If after factual finding statements it is determined that there is sufficient information to make a decision, the Board will direct its attorney to prepare a resolution of approval or denial to be adopted at the next public meeting.

For Your Information

- The Zoning Board of Adjustment only accepts applications dealing with **BULK & USE** variances. (Development applications which substantially comply with local ordinances are reviewed by the Planning Board.) Use variances are sought when the proposed use is not permitted under the zoning ordinance. Such applications are heard *only* by the Zoning Board of Adjustment. The Zoning Board also hears applications for bulk variance applications dealing with such things as decks, fences, pools, sheds and additions that do not comply with bulk requirements in that particular zone.

Zoning Board of Adjustment Secretary and Borough Land Use Staff review application for completeness.