

TESTS FOR GRANTING AREA VARIANCES

BE VERY SPECIFIC WHEN ANSWERING THESE QUESTIONS

"Area variance" shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.
(Town Law Section 267, subsection 1.(b)).

In deciding whether to grant an area variance, the Zoning Board of Appeals takes into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community. (Town Law Section 267-b, subsection 3.(b)).

To enable the Zoning Board of Appeals to grant an area variance, the applicant must present substantial evidence concerning the following topics by providing supporting evidence for each. Attach additional sheets if necessary.

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

No undesirable change will be created. The variance will allow access to a parcel that would otherwise be based on current options for accessing the site.

- (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Based on the layout of the parcel this is the only access point to the site from Middle Cheshire Rd.

- (3) Whether the requested area variance is substantial.

This variance is not substantial as it is for a structure that has little impact on the site and adjacent properties

- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

No adverse effect or impact will be created in regards to the physical or environmental conditions in the neighborhood. The retaining walls will help stabilize a slope that is currently being eroded by the existing stream and will help prevent sedimentation further downstream.

- (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.

The difficulty was not self created. The parcel was purchased with limited access to the rear portion of the property. This is the only option to gain vehicular access to the rest of the property.