

TESTS FOR GRANTING AREA VARIANCES

BE VERY SPECIFIC WHEN ANSWERING THESE QUESTIONS

RECEIVED
TOWN OF CANANDAIGUA
DEVELOPMENT OFFICE
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FOR REVIEW

"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.

There will not be any undesirable change produced in the character of the neighborhood or detriment to nearby properties due to the fact that there will be a 6' white vinyl privacy fence surrounding property.

- (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.

Unknowing to us the pool company dug the pool closer to the allotted measurements once concrete sidewalk is added. The pool itself is 15' 2" from property line and a minimum requirement of 3' of concrete is needed.

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

The variance is substantial to meet the minimum requirements to protect the structural integrity of the pool. This is also the minimum requirement by pool company. It will not affect any other homeowners.

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

There will be no additional run off, and no visible affects for neighbors due to 6' vinyl privacy fence. At the end of the project it will look much like many of the neighboring properties.

- (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 alleged difficulty was not self-created. The pool company dug pool without knowing code requirements. Unfortunately, concrete has been poured and the pool cannot be moved without causing structural damage. Therefore, we are seeking to obtain a variance from the town to meet proper code requirements.