

Board of Zoning Appeals (BZA)

Bedford Township

Applicant/Agent/Representative Information

BACKGROUND-A municipality that has enacted a zoning ordinance must also establish a Board of Zoning Appeals (BZA). The Board of Zoning Appeals (BZA) is a quasi-judicial body that may provide residents a variance from specific aspects of the Zoning Ordinance in order to relieve a demonstrated hardship and/or practical difficulty associated with peculiarities associated with the applicant's property. Most often, such hardship/practical difficulty must be associated with the physical characteristics of the property. The criteria for considering such a variance are outlined in the attached "BEDFORD TOWNSHIP BZA DECISION PROCESS". Also, the BZA interprets the zoning ordinance(s) to ensure that adopted ordinances will be evenly, properly, and effectively applied. The Board of Zoning Appeals (BZA) exercises four (4) basic functions:

1. Ordinance(s) Interpretation(s)-Text and Map.
2. Appeals of Administrative Decision(s).
3. Temporary Use Variance(s) to the Ordinance-The BZA does not have the authority to hear or grant "permanent use variances". On the other hand, the BZA does have authority to hear and grant certain "temporary use variances".
4. Appeals of Nonconforming Situations (uses, structure, and property parcels).

BASIS FOR A DECISION-Every decision must be decided on the basis of factual evidence presented to the Board. Furthermore, decisions by the BZA will be based upon the standards and intent of the ordinance. This means that the "factual data and information" presented to the Board will always be judged by the standards and intent of the ordinance. Normally, decisions of the BZA (and factors considered in such decisions) are as outlined in the attached "BEDFORD TOWNSHIP BZA DECISION PROCESS". In making its decisions, the BZA endeavors to support the spirit and general intent of the ordinance, while potentially providing relief from certain specifics thereof in order to relieve the aforementioned hardship/practical difficulty. In granting an appeal, the BZA may approve certain elements of the appeal while denying other of its elements. Furthermore, the BZA is authorized to attach reasonable conditions to its granting of an appeal. The BZA has the authority to impose miscellaneous "conditions" on their decision(s). Any "condition" must be based upon the standards detailed within the text of the Zoning Ordinance(s). Upon the granting of a variance, the Building Department becomes responsible to monitor the applicant's adherence to all aspects and conditions of the variance granted, in order to assure that the BZA's decisions are carried out in whole.

BZA Responsibility-The responsibility of the Board of Zoning Appeals (BZA) is two (2) fold:

1. To maintain the highest integrity of the ordinance.
2. To exercise the authority to vary the ordinance in each individual circumstance(s) while rigidly adhering to and taking into consideration the applicant's/petitioner's cause and demonstrated "hardship or practical difficulty".

BOARD OF ZONING APPEALS (BZA) MEMBERSHIP AND VOTING-The Board of Zoning Appeals (BZA) is comprised of five (5) members with the term of office being three (3) years. The appointed five (5)-member Board of Zoning Appeals (BZA) makeup are: one (1) Bedford Township Board member, one (1) Bedford Township Planning Commission member, and three (3) other appointed members of the community at large. Voting requirements are based on total Board membership (five members), not those who are present at the hearing. Thus, a minimum of three (3) affirmative votes is always needed to approve a variance.

UNDERSTANDING HARDSHIP OR PRACTICAL DIFFICULTY-To successfully obtain a "non-use variance", the applicant/petitioner must clearly show/demonstrate that a "practical difficulty or hardship" exists. The principle simply stated is "that the variance needed will relieve a practical difficulty or hardship caused by the conditions on the land/property parcel". Note, a financial difficulty or gain does not constitute a "hardship". The applicant/petitioner must unmistakably show a practical difficulty or hardship by plainly demonstrating:

- A. Special/unique conditions or circumstances that are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same district/location. Consideration is given to the property, "not" the personal situation of the applicant/petitioner. A granted variance shall not materially alter the character of the area or neighborhood. Considerations the Board of Zoning Appeals (BZA) weigh in their variance deliberation may include, but not limited to:
 1. Shallowness of property (front or rear yard setbacks).
 2. Narrowness of property (side yard setback or required parcel size-area in square feet).
 3. Shape of the specific property.
 4. Exceptional or unusual topographical conditions.

5. Extraordinary situation on the land, building or structure.
6. Development of the property immediately adjoining subject parcel.
7. Landscaping or buffering requirements.

B. The literal interpretation of the ordinance would deprive the applicant/petitioner of rights commonly enjoyed by other properties in the same district under the terms of the ordinance. However, the Board is not required to provide for maximum relief, if any.

C. The special conditions and circumstances shall not result from “self-created” actions or decisions made by the applicant/petitioner. There are cases in which the applicant has obviously taken specific action that resulted in the need for a variance.

D. The variance sought is the “minimum variance” that will make possible the reasonable use of the land, building or structure. This permits the BZA to modify the request of the applicant to accommodate the granting “only” the degree of variance that is necessary. Further, as noted above, the BZA may attach reasonable conditions to any appeal granted.

E. The granting of a variance will be in harmony with the general purpose and intent of the ordinance. The BZA must not impair the purpose of the ordinance. Whether the BZA agrees or disagrees with the ordinance is irrelevant. The BZA responsibility is to support the Zoning Ordinance except those specific aspects that create the hardship/practical difficulty upon which the appeal is based.

F. The variance will not be materially injurious to the surrounding properties or otherwise detrimental to the welfare or safety of the general public. Some examples of potential harm include, but are not limited to:

1. Restricted access,
2. Noise,
3. Lighting,
4. Restricted view, and
5. Environmental.

Neighbor’s opposition (or lack thereof) during the public hearing shall be given consideration, but is not the absolute determinate for the BZA’s decision. Note, granted variances runs/remains with the land/parcel. If a variance is approved, the variance is valid for six (6) months from the date the BZA meeting minutes are approved. All necessary actions to perfect the variance must be taken within the six (6) month time frame.

G. The spirit of the ordinance shall be observed, public safety secured, and substantial justice done. Public safety secured means that the variance will not create a condition, which threatens the health, safety, or welfare of the public. Substantial justice means that all residents have a right to expect the BZA to support and protect the requirements of the ordinance(s) to the extent reasonable and proper, given the nature and details of the requested variance, and its impact on the Township. Finally, if the applicant wishes to contest the BZA’s decision (noted in official and approved minutes), they may petition Circuit Court within thirty (30) days.

REQUESTS PRESENTED BY OTHER THAN THE PROPERTY OWNER – Any applicant may designate an authorized representative to present its request to the BZA. However, to do so, the applicant must make such designation in writing, on the form available from the Building Department. Appeals presented by an authorized representative will not be heard by the BZA if this form is not completely and properly filled out and presented to the Building Department in advance of the BZA meeting.