
Owensboro Metropolitan Board of Adjustment**Variance: Definition and Board's Powers** [KRS 100.111(24), 100.241, 100.247]

"Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247. The board [of adjustment] shall have the power to hear and decide on applications for variances. The board may impose any reasonable conditions or restrictions on any variance it decides to grant. The board shall not possess the power to grant a variance to permit a use of any land, building, or structure that is not permitted by the zoning regulation in the zone in question, or to alter the density requirements in the zone in question.

Considerations [KRS 100.243]

In deciding whether to grant a variance, the board shall consider the following questions:

- A. Are there special circumstances that do not generally apply to land in the general vicinity, or in the same zone?
- B. Would strict application of the regulations deprive the applicant of the reasonable use of the land, or create an unnecessary hardship on the applicant?
- C. Are the circumstances from which relief is sought a result of the applicant's actions taken after adoption of the zoning regulation? If "YES:" Did the applicant take WILLFUL actions in violation of the zoning regulation?

If willful actions were taken in violation of the zoning ordinance, then the board SHALL DENY the variance.

Findings necessary for granting variances [KRS 100.243]

Before granting any variance, the board MUST be able to make these four findings:

The variance...

- 1. Will NOT adversely affect the public health, safety or welfare,
- 2. Will NOT alter the essential character of the general vicinity,
- 3. Will NOT cause a hazard or a nuisance to the public, and
- 4. Will NOT allow an unreasonable circumvention of the requirements of the zoning regulations.