

**Application for a Use Variance from the Zoning Code**

Rhode Island General Law §45-24-41 states that "An application for relief from the literal requirements of a zoning ordinance because of hardship may be made by any person, group, agency, or corporation by filing with the zoning enforcement officer or agency an application describing the request and supported by any data and evidence as may be required by the zoning board of review or by the terms of the ordinance."

There are four criteria that the Zoning Board of Review will take into consideration when reviewing an application for a Use Variance. Please note that all four criteria must be answered. Failure to do so may result in an application being deemed incomplete.

§45-24-41(d)(1): "That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in § 45-24-30(a)(16)":

The repair of the structure affords the applicant to reconstruct the existing damage and fashion the addition to systemetricly balance the structure.

§45-24-41(d)(2): "That the hardship is not the result of any prior action of the applicant":

The applicant purchased the lot and building as is with all damages occuring beforehand.

§45-24-41(d)(3): "That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.":

The use and structure have existed for at least 40 years on that location, being there has had nolimpact on the public health, safety or general welfare. The essential character of the neighborhood has not been affected.

§45-24-41(e)(1): "In granting a use variance, the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance;"

The applicant has the right to reconstruct that area of the building destroyed by fire without seeking a use variance. The area to be expanded is supplemental to the existing structure.