

Application for a Dimensional 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 Dimensional 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 hardship from which relief is sought is due to the unique characteristics of the subject property and existing structure. The property contains an existing commercial garage building constructed in 1963, prior to the adoption of current zoning regulations, and is a lawful preexisting nonconforming use within the R-20 Single-Family Residential zoning district. Because the existing building footprint and placement on the lot are so close to the rear setbacks, site constraints limit the ability to construct additions while complying with current setback requirements.

These conditions are unique to the subject property and are not representative of surrounding residential properties. The hardship is not related to any physical or economic disability of the applicant.

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

The hardship is not the result of any prior action by the applicant. The commercial garage use and the existing building configuration were established decades before the applicant purchased the property on January 3, 2003. The applicant did not create the nonconforming conditions and is seeking relief solely to allow reasonable improvements to an existing lawful use.

§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.”:

Granting the requested dimensional variance will not alter the general character of the surrounding area nor impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan.

The proposed additions are designed to match the existing garage building in scale, massing, and architectural character. The use of the property will remain unchanged as a commercial garage, consistent with its long-standing operation. The requested relief represents a modest and appropriate expansion of an established use and will not introduce new or adverse impacts to the surrounding neighborhood, as the owner plans on using the new bays to house his expanded commercial truck storage.

§45-24-41(e)(2): “In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief.”

Because the existing structure is already nonconforming and located within an R-20 residential zone, strict compliance with current setbacks and use regulations would prevent the reasonable use of the property as a commercial garage. Aesthetically, this addition will allow new storage of commercial vehicles to be enclosed rather than being parked outside on the property. The proposed addition is essential to allow continued use of the existing business, and without the variance, the property could not yield a beneficial use consistent with its long-standing operation.