

CGSA Sec. 8-6. Powers and duties of board of appeals

(a) As used in this section:

(1) “Use Variance” shall mean the authorization by the zoning board of appeals for the use of a parcel of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

(2) “Area Variance” shall mean the authorization by the zoning board of appeals for the construction of buildings, structures and other improvements upon a parcel of land in a manner which is not allowed by the area, bulk, setback or parking requirements of the applicable zoning regulations.

(b) [(a)]The zoning board of appeals shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the official charged with the enforcement of this chapter or any bylaw, ordinance or regulation adopted under the provisions of this chapter;

(2) to hear and decide all matters including special exceptions, special permits and special exemptions under section 8-2g upon which it is required to pass by the specific terms of the zoning bylaw, ordinance or regulation; and

(3) to determine and vary the application of the zoning bylaws, ordinances or regulations in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land [where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of such bylaws, ordinances or regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured, provided that the] as stated in subsection (c), (d) and (e) of this section. The zoning regulations may specify the extent to which uses shall not be permitted by variance in districts in which such uses are not otherwise allowed. No such board shall be required to hear any application for the same variance or substantially the same variance for a period of six months after a decision by the board or by a court on an earlier such application.

(c) The zoning board of appeals shall have the authority to grant a Use Variance as defined in subsection (a), where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of the regulations would result in unusual hardship so that substantial justice will be done and the public safety and welfare secured. In granting such a use variance, the zoning board of appeals shall determine:

(1) the use will not impair the essential character of the neighborhood or the objectives of the comprehensive plan of development; and

(2) the hardship has not been self-created.

(d) The zoning board of appeals shall have the authority to grant an Area Variance as defined in subsection (a) where the benefit to the applicant of granting such variance exceeds any detriment to the health, safety and welfare of the neighborhood or community by such grant. In reaching its determination, the zoning board of appeals shall consider the following factors as applicable:

- (1) whether the variance will adversely affect the character of the neighborhood or cause a detriment to nearby properties;
- (2) whether the benefit sought by the applicant can be achieved by some feasible alternative that does not require a variance;
- (3) whether the variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood;
- (4) whether granting the variance will facilitate compliance with other regulatory requirements concerning life, health or safety, including, but not limited to, regulations for flood prone areas and accessibility for disabled persons;
- (5) whether the granting of the variance will reduce impacts on a wetland, watercourse or upland review areas;
- (6) whether granting the variance would violate the standards of the National Flood Insurance Program;
- (7) whether the parcel's noncompliance with the zoning regulation(s) was self-created, which consideration shall be relevant to the decision of the zoning board of appeals but shall not necessarily preclude the granting of the variance;
- (8) whether the variance is consistent with the comprehensive plan of development.

(e) Notwithstanding the provisions of paragraphs (c) and (d) of this section, the zoning board of appeals shall have the authority to grant a Use Variance or an Area Variance where the approval of said variance will reduce the degree of nonconformity with the applicable zoning regulations.

(f) [(b)] Any variance granted by a zoning board of appeals shall run with the land and shall not be personal in nature to the person who applied for and received the variance. A variance shall not be extinguished solely because of the transfer of title to the property or the invalidity of any condition attached to the variance that would affect the transfer of the property from the person who initially applied for and received the variance, provided, however, that an Area Variance providing accessibility for disabled persons may be conditioned on the continuation of the need for access to or use by disabled persons.

(g) In granting both Use Variances and Area Variances, the zoning board of appeals shall have the authority to impose reasonable conditions and restrictions that are directly related to and incidental to the proposed use of the property. Such conditions shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

(i) The authority granted herein shall apply to municipalities which have adopted zoning regulations pursuant to Section 8-2 of the General Statutes or by Special Act of the General Assembly, as the case may apply.