

ZONING BOARD OF ADJUSTMENT VARIANCES

“C” or BULK VARIANCES Not involving a subdivision, site Plan or conditional use, which satisfies the conditions pertaining solely to the use.		“D” or USE VARIANCES (5 Affirmative Votes are Required)						
c(1) Hardship	c(2) Flexible “c” (Kaufman Case)	d(1) Medici Standard	d(2) Expansion of a Nonconforming Use (Kaufman Case)	d(3)* Conditional Use Variance (Coventry Square Court Case)	d(4)* FAR (Floor Area Ratio) (Randolph Township Case)	d(5)* Involves an Increase in the Permitted Density	d(6)* Pertains to Height of Principal Structure on the Lot (10 Feet or 10%) (Grasso Case)	Inherently Beneficial Uses (SICA Case) (Churches, Schools, Hospitals, Radio Antennae, etc.)
Hardship relates to the property, not the applicant. Hardship could result from: 1.) Narrowness, irregularity or shape of lot 2.) Topography 3.) Unique conditions affecting property	Special Reasons Benefiting the Community. See the Purposes of Zoning N.J.S.A. 40:55D-2(a)-(o)	“Enhanced quality of proofs” must show site suitability. Must also reconcile the deviation from the Master Plan.	A valid, pre-existing use has a right to continue indefinitely. When seeking a minor expansion of the pre-existing nonconforming use, a lesser showing of special reasons will suffice for a (d)2 variance.	Conditional uses that meet all conditions are considered permitted uses and are heard by the Planning Board. Where any condition is not met, the Zoning Board hears it, and 5 affirmative votes are required. Must show appropriateness of location, notwithstanding deviation. It is automatically reconciled with the Master Plan.	Must be able to argue that the lot can accommodate the increase in FAR. Generally, this refers to the massing of the building and the impact on the street scape.	Generally, this is defined as a number of dwelling units per acre. No guidance is provided from the courts. Must meet the Medici Standard.	This only relates to the principal structure on the lot. Can the site accommodate the deviation from the height requirement?	Deemed to have satisfied special reason. But must satisfy the SICA Density Test: 1.) Positive criteria satisfied. 2.) Consider negative impact. 3.) Fashion reasonable conditions. 4.) If negatives, even with conditions, are too great, deny the application.

When applying for “C” and/or “D” variances, the applicant must prove that the variance can be granted “without substantial detriment to the public good and will not substantially impair the intent and the [375 N.J. Super. 49] purpose of the zone plan and zoning ordinance.”

**A lower standard than for the d(1) variance*

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