

# Memo



**To:** Chair and Board of Appeals Members

**From:** Elizabeth Marrinan, Village Planner

**Date:** April 15, 2015

**Re:** Board of Appeals Area Variance Test

---

As you all know, New York State Law provides specific criteria for Zoning Boards of Appeals to use when considering applications for area variances. For your convenience, these criteria are included below for reference during deliberations:

“In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the variance;
2. Whether the benefit sought can be achieved by some method, feasible for the applicant to pursue, other than the variance;
3. Whether the requested variance is substantial;
4. Whether the requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. Whether the alleged difficulty is self-created; which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community”

(From NYS Village Law §7-712-b-3)