

ZONING BOARD OF ADJUSTMENT MAIN
RESPONSIBILITIES AND POWERS
PURSUANT TO MLUL, N.J.S.A. 40:55D-70'

Members of the Zoning Board of Adjustment cannot hold another office within the municipality. The Zoning Board sits as a quasi-judicial board. Its purpose is to provide relief from zoning requirements which cannot be satisfied. The requests for relief are not based on policy, but rather upon the ability of an applicant to prove his or her case. The Zoning Board members must make decisions much as a judge does in court.

A. Appeals

- MLUL, N.J.S.A. 40:55D-70a provides that Zoning Boards have the power to "herein decide appeals where it is alleged by the appellant that if there is an error in any order, requirement, decision or refusal made by administrative officer based on or made in the enforcement of the zoning ordinance."

B. Interpretations

- MLUL, N.J.S.A. 40:55D-70b grants zoning boards the power to "hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance in accordance with this act."

C. Use Variances and Proofs under "d"

- MLUL, N.J.S.A. 40:55D-70d provides zoning boards with the power to in particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to Article 8 of this Act.
- Any application seeking approval of a use variance requires two sets of proofs; the first being the positive criterion, the second, the negative criteria.

D. "C" Variances and Proofs under "c"

- MLUL, N.J.S.A. 40:55D-70c provides zoning boards with the power to grant bulk variances.
- Generally "c" variances can be granted on two bases, the first dealing with hardship arising from the particular piece of property and the second, with an applicant seeking a deviation from ordinance requirements and resulting in a benefit versus detriment test.

E. Conditions of Approval

- When the Zoning Board of Adjustment determines to grant approval for a variance, it may impose such conditions as are reasonable to ensure that the impact of development is minimized.