

## **BURDEN OF PROOF REQUIREMENTS**

### **IMPORTANT: PLEASE READ AND UNDERSTAND**

As the applicant you are required to show your application meets the legal criteria for granting a variance. The Zoning Board **cannot** legally grant a variance if your application does not meet one of the two criteria listed below. It is YOUR obligation to make the case at the Zoning Board Meeting. You must show the board your project can meet either **Condition 1** or **Conditions 2(A)** and **2(B)**

**Condition 1.** If the provisions of the Zoning Ordinance were strictly enforced, something about the **property itself** would result in (a) PECULIAR AND EXCEPTIONAL PRACTICAL DIFFICULTIES, or (b) EXCEPTIONAL AND UNDUE HARDSHIP;

This would mean the **property lot, the land**, is nonconforming by being, too small, too narrow, irregularly shaped, etc or the features of the existing lot are the hardship, such as nonconforming location of existing structures, unusual slopes or grading, etc.

Undue hardship **DOES NOT** include needing more room for a growing family, existing kitchen is too small, house has no family room, this design fits our needs, or other similar issues.

**Condition 2. (A)** The purposes of Zoning Ordinance would be **ADVANCED** by a deviation from the Ordinance, and (b) the **BENEFITS** of such a deviation would **OUTWEIGH** the **DETRIMENTS**; **AND**,

If presenting a case based on this section you must state the benefits and detriments of the proposed construction. These must be related to the zoning regulations and the impact to the neighborhood. You must explain how the benefits of the project clearly further the purposes of the Zoning Ordinances of the Borough and the specific issues of your neighborhood and how those benefits clearly outweigh the detriments.

Benefits and detriments include factors like; Size, Scale, Location, Distance to other Structures, Green space, Stormwater, Consistency, and other similar issues. The nonconforming nature and issues of the project that require the variances being requested are a detriment.

**Condition 2. (B)** Granting the application will cause **NO SUBSTANTIAL IMPAIRMENT OF THE INTENT AND PURPOSE OF THE ZONE PLAN AND ZONING ORDINANCE**

You must show how this project is consistent with the local zoning requirements, is consistent with the neighborhood and will not otherwise create a situation that is clearly not the intent of the regulations.