

KSA 12-765: BZA shall have the power to modify or vary restrictions in specific cases so that unwarranted hardship (complete deprivation of use) may be avoided.

KSA 12-759: Any person aggrieved by a decision of Zoning Administrator may file an appeal to the BZA. Variance may be granted if appellant can show:

- 1) Unnecessary hardship that:
 - a) is unique to property
 - b) is not created by owner or applicant
 - c) will not adversely affect neighboring properties
 - d) will not compromise the public health, morals, welfare, order, convenience, safety or prosperity
 - e) will not be opposed to general spirit & intent
- 2) The specific request is authorized by regulations

Zoning Article **25-103 Variances**: The Board of Zoning Appeals shall have the power to grant the following variances:

1. A variation in the yard requirements in any district so as to relieve practical difficulties or particular hardships in cases, when and where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, at the time of the enactment of such regulations or restrictions, or by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of such piece of property, the strict application of each regulation or restriction would result in peculiar and exceptional practical difficulties to, or exceptional hardship upon the owner of such property. Such grant or variance shall comply, as nearly as possible, in every respect with the spirit, intent and purpose of these Regulations, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice. Such variance shall be granted only when public safety and welfare are secured, and substantial justice done.
2. A request for a variance may be granted in such case, upon a finding by the board that **ALL** of the following conditions have been met:
 - A. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner(s) or of the applicant;
 - B. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
 - C. The strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

D. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, and;

Granting the variance desired will not be opposed to the general spirit and intent of these Regulations.