

See Ben

Summary of Changes to Chapter 40A

FY27 State Budget Bill

Category	Old	New
Variances	“substantial hardship”	“practical difficulty”
Variances	“literal enforcement of by-law”	“strict enforcement of by-law”
Variances	Relief may be granted without substantial detriment to public good.	Weigh benefits of public interest vs. detriments to public health, safety, and welfare of neighborhood.
Variances	Hardship, financial or otherwise <i>Must</i> be related to soil, shape, or topography.	Practical difficulty <i>Can</i> be related to soil conditions, shape, or topography. Financial hardship can be considered and does not have to be related to soil conditions, shape or topography.
Variances	No special consideration for housing.	Special consideration for housing.
Variances	Only good for one year, with 6-month extension.	Good for two years, with two-year extension.
Variances	Use variances <i>are not</i> allowed unless local zoning allows them.	Use variances <i>are</i> allowed for housing, even if local zoning does not allow them.
Notice	Notice must be by mail.	Notice can be by email.
Zoning Freeze	Protection from zoning changes secured once <i>permit is issued.</i>	Protection from zoning changes secured once <i>application is filed.</i>
Nonconformities	Extension or alteration of structure on a preexisting nonconforming lot required finding from ZBA.	Extension or alteration of structure on a preexisting nonconforming lot <i>does not require finding</i> , if staying within dimensional limits.
Nonconformities	Protection from Town combining adjacent lots in common ownership applies <i>single-family and two-family residential uses only.</i>	Protection from Town combining adjacent lots in common ownership applies to <i>all uses.</i>

Example Scenarios

Variances:

The housing shortage in Zootopia has resulted in inflated prices, and elderly residents struggling to remain in their community. Judy Hopps wants to divide her house lot into two in order to build a modest home for her aging parents. The new configuration results in one lot being short on minimum lot area, while the other is a “pork chop” shape – meets the minimum lot size but is short on frontage. City water and sewer are available to service the new home. The ZBA may weigh the public benefits of additional housing against any possible detriment to public safety, without requiring a substantial hardship to be proven.

Flash Slothmore purchased a former school building in a commercially-zoned district. He applied to the ZBA for a use variance to do multifamily housing, citing the demand for housing as well as the practical difficulty with other types of adaptive reuse in the existing building. The ZBA granted his variance. Flash has two years to begin construction, and if things are slow getting off the ground he can request an additional two year extension.

Zoning Freeze:

The Lynxley Family submitted an application to the Zootopia Planning Board to build a data center on April 1, 2026. In an effort to protect the City from draining its water and power resources, Mayor Brian Winddancer’s administration enacted zoning changes which prohibited data centers in all zones. The changes took effect on July 1, 2026. Because the application was submitted prior to the zoning change, it has vested rights as a preexisting nonconforming use and may proceed.

Nonconformities:

Gary De’Snake lives in a house built in 1940 on a lot that is 6,000 square feet with 80 feet of frontage. The current minimums in his zone are 10,000 square feet of lot area and 125 feet of frontage. Gary wants to build an addition to his home to have more space for his ten children. The addition will be within the required setbacks and height limit. Gary does not need to get a finding from the ZBA and can build as-of-right.