

VARIATIONS AND EXCEPTIONS

5:23-2.9 Variations and exceptions

- (a) No variations or exceptions from the requirements of any subcode of these regulations may be made, except upon the following findings:
 - 1. That strict compliance with any specific subcode provision, if required, would result in practical difficulty to such owner; and
 - 2. That the exception, if granted, will not jeopardize the health, safety and welfare of intended occupants and the public generally.
- (b) Except as may be otherwise specified in this chapter, no variations shall be granted from any of the requirements of N.J.A.C. 5:23-2, 4 or 5.

APPLICATIONS FOR VARIATIONS

5:23-2.10 Application for variations

- (a) An application for a variation pursuant to this section shall be filed in writing with the construction official and shall state specifically:
 - 1. A statement of the requirements of the subcode from which a variation is sought;
 - 2. A statement of the manner by which strict compliance with said provisions would result in practical difficulties;
 - 3. A statement of the nature and extent of such practical difficulties; and
 - 4. A statement of feasible alternatives to the requirements of the subcode which would adequately protect the health, safety and welfare of the occupants or intended occupants and the public generally

REVIEW OF VARIATION APPLICATIONS

5:23-2.11 Review of variation applications

Within 20 business days next succeeding the receipt by the construction official of the application, it shall be denied or granted by written order stating the reasons therefor. The application shall be deemed denied for purposes of appeal if no decision is forthcoming within such 20-day period. Records of all applications for variation, and actions taken thereon shall be available for public inspection at the enforcing agency during normal business hours.

FINAL DECISION ON VARIATIONS

5:23-2.12 Final decision on variations

The appropriate subcode official(s) shall make the final determination with respect to matters within their jurisdiction. The construction official shall notify the applicant of that determination. Whenever an application for a variation shall result in contradictory or inconsistent determinations by different subcode officials having jurisdiction pursuant to N.J.A.C. 5:23-3, the construction official shall rule as to which subcode official's determination shall be final, and shall notify the applicant of that ruling. Whenever the construction official shall be certified in a particular subcode, he may modify the determination of the subcode official.

AUTHORITY TO GRANT VARIATIONS

5:23-2.13 Authority to grant variations

The enforcing agency with plan review responsibility shall have the sole authority to grant variations.
