

BILL ANALYSIS

Senate Research Center
87R3055 DRS-F

H.B. 1475
By: Cyrier (Buckingham)
Local Government
5/20/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1475 seeks to provide necessary consistency across a board of adjustment (BOA), the municipal board that grants zoning variances. Last session, the legislature took action to make necessary reforms to help clarify the process of appealing a land development decision to a BOA. Right now, municipalities have a list of items that are considered hardships for purposes of appealing to the BOA for a zoning variance. However, interested parties contend there is no consistency across cities. Moreover, these hardships are not spelled out in code, resulting in arbitrary and nonsensical requirements. For example, in some cities, economic and financial reasons are not considered a hardship, which is one of the major reasons a person would apply for a variance.

To address this issue, the bill sets out a number of terms that a BOA may consider as an unnecessary hardship, including the financial cost of compliance with a certain ordinance and whether complying with a specific ordinance would result in the structure being out of compliance with another required ordinance. H.B. 1475 would provide property owners with more certainty and consistency when applying for a zoning variance from a municipal BOA.

H.B. 1475 amends current law relating to municipal board of adjustment zoning variances based on unnecessary hardship.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 211.009, Local Government Code, by adding Subsection (b-1), as follows:

(b-1) Authorizes the municipal board of adjustment (board), in exercising its authority under Subsection (a)(3) (relating to authorizing the board to authorize in specific cases a variance from the terms of a zoning ordinance under certain conditions), to consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

(1) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;

(2) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;

(3) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;

(4) compliance would result in the unreasonable encroachment on an adjacent property or easement; or

(5) the municipality considers the structure to be a nonconforming structure.

SECTION 2. Makes application of Section 211.009(b-1), Local Government Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2021.