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Do You Need a Zoning Variance?

New York State's Constitution grants the state legislature the broad authority to regulate land use if it is in the public interest. Although the state retains some authority, much of the power to plan communities and provide for and enforce zoning regulations has been delegated to local municipalities. This means that the reason your house is a certain height and a certain distance from the road, or the reason that it is a house at all and not a retail store or warehouse has to do with your city or town's zoning code.

Let's start with the basic premise that every city, town and village is divided into districts. Cities, towns and villages have zoning ordinances (laws) in place which dictate what type of uses are permitted for properties in each district. The zoning ordinances also dictate how large buildings can be in each district, how far from the road and neighboring property lines the buildings or other structures must be setback, what percentage of the lots may be covered with buildings, the use of the properties and much more.

Are you seeking to develop a piece of property and the local zoning code does not permit the use or size of your planned structure? Do your plans to expand your house or other structure violate setback requirements necessitating one or more area variances? Would you like to convert a retail store or other space that has not been leased for some time to a better use such as an apartment or vice-versa? Have you been served with a notice from the local municipality advising that your property is in violation of the local zoning code (i.e. improper use or illegal basement apartment)? In many cases, our office can help you to get a variance, which is essentially an exception from the strict application of the zoning ordinances which affect your property. We have extensive experience in real estate matters, filing applications for variances, arguing cases before the zoning board of appeals and prevailing on obtaining the relief our clients seek.

Additionally, is your neighbor seeking a variance from the local zoning board that will negatively affect your property (i.e. changing the use of the property resulting in more traffic or noise to the neighborhood or other harm to the local environment)? Our office can also help protect your rights as a property owner to prevent a reduction in the value of your property resulting from a zoning board's approval of a neighbor's variance.

If you think you may have a zoning issue, please contact the Law Offices of James G. Dibbini today for a free consultation. Once we know the specific facts and circumstances of your case, we can help you to identify your zoning issue(s), prepare a plan of action, and get you results.

Disclaimer: The information provided is not intended to be legal advice, but merely conveys general information related to legal issues commonly encountered.

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