§ 310. Board of appeals. 1. As used in this section "board" shall mean the agency of a city constituted as a board and authorized by law both to grant variances of the zoning resolution and to make rules supplemental to laws regulating construction, maintenance, use and area of buildings; provided, however, that where, in a city to which this chapter applies, there is no board as so described, then a board may be created by local law or ordinance to possess the powers, perform the functions and grant the variances as hereinafter in this section provided; and any board so created shall be deemed to be a "board" within the meaning of such term as hereinbefore in this subdivision described.

2. Where the compliance with the strict letter of this chapter causes any practical difficulties or any unnecessary hardships the board shall have the power, on satisfactory proof at a public hearing, provided the spirit and intent of this chapter are maintained and public health, safety and welfare preserved and substantial justice done, to vary or modify any provision or requirement of this chapter, or of any rule, regulation, supplementary regulation, ruling or order of the department with respect to the provisions of this chapter, as follows:

a. For multiple dwellings and buildings existing on July first, nineteen hundred forty-eight, in cities with a population of one million or more, and for multiple dwellings and buildings existing on November first, nineteen hundred forty-nine, in cities with a population of five hundred thousand or more but less than one million, provisions relating to:

(1) Height and bulk;
(2) Required open spaces;
(3) Minimum dimensions of yards or courts;
(4) Means of egress;
(5) Basements and cellars in tenements and converted dwellings.

The population restrictions contained in this paragraph shall not apply to any multiple dwelling otherwise entitled to the variances herein pursuant to the provisions of subdivision seven of section fifty-six of this chapter.

b. For multiple dwellings and buildings erected or to be erected or altered after July first, nineteen hundred forty-eight pursuant to plans filed prior to December fifteenth, nineteen hundred sixty-one, provisions relating to:

(1) Required open spaces; or

(2) Minimum dimensions of yards or courts.

c. For multiple dwellings and buildings erected or to be erected or altered pursuant to plans filed on or after December fifteenth, nineteen hundred sixty-one, or before such date provided such plans comply with the provisions of paragraph d of subdivision one of section twenty-six, provisions relating to:

(1) Height and bulk;

(2) Required open spaces; or

(3) Minimum dimensions of yards and courts.

Variations or modifications may be granted pursuant to Paragraphs b and c only on condition that open areas for light and air are provided which are at least equivalent in area to those required by the applicable provisions of this chapter and pursuant to sub-paragraph one of paragraph c only on the further conditions that there are unique physical or topographical features, peculiar to and inherent in the particular premises, including irregularity, narrowness or shallowness of the lot size or shape and such variance would be permitted under any provision applicable thereto of the local zoning ordinance.

d. In the city of Buffalo, until July first, nineteen hundred and sixty-four for frame multiple dwellings, existing on November first, nineteen hundred forty-nine, and for buildings on the same lot existing on such date or altered after such date, applicable provisions relating to sections nine, eleven, fifty-six, two hundred sixty-four and article six.

e. In the city of Buffalo, until July first, nineteen hundred and sixty-four for dwellings three stories or less in height converted prior to November first, nineteen hundred forty-nine, applicable provisions of

section one hundred eighty-five provided that (1) where such dwelling is occupied by three families, all the provisions of article six must be complied with and the cellar stairs enclosed with fire retarded materials with a one hour fire door; (2) where such dwelling is occupied by more than three families and there are two independent means of egress accessible on each story to each apartment, the cellar stairs must be enclosed with fire retarded materials with a one hour fire door and there must be automatic sprinklers in the public halls and stairways; (3) where such dwelling is occupied by more than three families and there are not two independent means of egress accessible from each story to each apartment, the cellar stairs must be enclosed with fire retarded materials with a one hour fire door, there must be automatic sprinklers in the public halls and stairways and there must be two independent means of egress accessible to each apartment on the third story.

f. The variance authorized by paragraphs d or e of this subdivision may be granted only upon the prior approval of the fire, health and building departments of such city and certification by the heads of such departments that the variance sought is not against the public interest.

g. The board may, as a condition of granting the variance authorized by paragraphs d or e of this subdivision, impose such additional requirements of health and safety as it may deem necessary or advisable for the proper protection of the occupants of the dwelling.

* h. Notwithstanding any other provision of law, the city of Buffalo may grant variances regarding subdivision twenty-five of section four and subdivision five of section one hundred one of this chapter only where such variances comply with the minimum standards set forth in the New York state building construction code which is applicable to multiple dwellings, and have been approved by the state division of housing and community renewal.

* NB Expired January 1, 1984

3. An application for such a variance or modification may be made by any person aggrieved or by the head of any public agency, within such time and under such procedure, conditions and rules as may be precribed

by the board. The board shall fix a reasonable time for the hearing of an application and shall require that due notice be given of the time and place of such hearing to the applicant and to the department. Any person or a duly authorized representative of any public agency may appear at any such hearing and be heard on any such application.

4. In every case the board shall state the reason or reasons for its decision. All decisions of the board shall be subject to review in the same manner as is provided by law for review of decisions of such board respecting variances of the zoning resolution.

5. A record of all decisions of the board, indexed according to the section or sections of this chapter affected thereby, shall be kept in the office of the board. Such record shall be open to public inspection at all times during business hours.

6. The board shall have power to charge and collect reasonable fees and to make rules governing such charges. All moneys so collected shall be deposited in the general fund of the city.