

# Could Zoning Issues Stop Your New York or New Jersey Business Cold?

by Victor Kinon on March 2, 2012

When selecting a business operation location for your New York or New Jersey business, there are a number of important factors to consider.

While issues like cost, visibility, and convenience often make it to the top of the list, many business owners often neglect one area that could make or break the business—zoning.

Since securing zoning changes and/or variances are often costly and time-consuming, it is important to fully understand the zoning uses and any restrictions affecting a property *before* you sign any binding document, whether it is a commercial lease or a purchase and sale agreement. You do not want to discover after the fact that your proposed use of the property is restricted or prohibited altogether.

It is important to do your own zoning investigation and due diligence and not to rely on what the landlord or seller tells you. The previous business may have been unknowingly violating local zoning laws, may have obtained a variance, or may have received a “grandfather” exception when a new zoning law was passed which makes the continuing use non-conforming. These issues are important because certain activities on the property, including but not limited to the intensity of a non-conforming use may result in a loss of a previously permitted use.

In these cases, you may be required to comply with a zoning law that did not impact your predecessor. Therefore, it’s important to speak with the local zoning authority directly. If it is often possible to secure a “zoning compliance” letter or related document from the local zoning official at little or no cost. In addition, because of various redevelopment and specialized areas with overlay zoning, it may not be sufficient to rely on the basic zoning map.

Parking, signage and access are also zoning considerations. Many local ordinances require businesses to provide a certain number of parking spots for their customers. Restrictions with regard to these matters may be particularly onerous if the property is located in or near a historic district or residential area.

As we mentioned above, while it is possible to obtain a variance, the process is rarely straightforward. Therefore, it’s important to verify that you will be permitted to operate your business in the location before signing on the dotted line. If you have any questions, we strongly suggest that you consult with an experienced commercial real estate attorney.