

875—5.20(88) Hearings.

5.20(1) *Order of proceeding.* Except as may be ordered otherwise by the hearing examiner, the party applicant for relief proceeds first at a hearing.

5.20(2) *Burden of proof.* The party applicant has the burden of proof.

5.20(3) *Evidence.*

a. Proof for a special variance. Before a special variance may be granted, there must be proof that an actual conflict does exist. The proof required to establish such conflict is information in writing or oral testimony from a representative of the involved federal regulatory agency or agencies, substantiated by evidence, that there is a conflict between the standards, rules or regulations of the federal agency and those of the division of labor services. Also, the applicant must prove that compliance with the standard, rule or regulation of the division of labor services would subject the applicant to probable citation, penalty, or prosecution for violating such federal agency standard, rule or regulation.

b. Reserved.

5.20(4) *Transcript.* Hearings are stenographically reported or audio-recorded. Copies of the transcript may be obtained by the parties upon written application filed with the reporter and upon the payment of fees at the rate provided in the agreement with the reporter.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]