

Variance Request Additional Information

Purpose

The issuance of a variance to permit exceptions to and variance deviation from the strict interpretation of the applicable regulations contained in this Zoning Ordinance shall be under the authority of the Board of Zoning and Building Appeals. In no case shall the granting of a variance allow a use not permitted under the subject district regulations.

Required Materials

- A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor;
- The nature of the variance required to include what provisions of the Zoning Ordinance are affected;
- A statement pertaining to and explaining the relation of the variance(s) requested to the criteria for approval as listed under § 80.17.03
- A list of all property owners within, contiguous to, and directly across the street from the property (s) in question. The list of addresses may correspond to the County Auditor's current tax list; and
- A plot plan to show
 - o Boundaries and dimensions of the property and the size and location of all proposed and existing structures;
 - o The nature of the special conditions or circumstances;
 - o The proposed use of all parts of the lot and structures;
 - o The use of land and location of structures on adjacent properties;
 - o Such additional information as may be required by this Zoning Ordinance and/or requested by the Board and/or Director of Inspection and Engineering to review the application.
- For variance requests relative to signage or off street parking, see additional requirements on the Variance Request Information Sheet.

Criteria for Approval

All relevant factors including, but not limited to, the following considerations shall be examined in the review, public hearing, and approval of an application for a variance:

- That special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district
- That a literal interpretation of the provisions of this Zoning Ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Ordinance.
- That the special conditions and circumstances do not result from the actions of the Applicant.
- That the granting of the variance will not confer on the Applicant any undue privilege that is denied by this Ordinance to other lands or structures in the same zoning district.
- That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
- That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations (See Garber v. Joseph Silken & Co.)
- That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.

Review Procedure

- Filing of Application – Fifteen (15) copies of a completed application shall be filed with the Director of Inspection and Engineering at least forty-five (45) days prior to a regularly scheduled meeting of the Board of Zoning and Building Appeals. Prior to accepting such application, the Director of Inspection and Engineering shall review the submittal and determine whether such application is complete and meets all submittal requirements. Failure to submit a complete application, as determined by the Director of Inspecting and Engineering, shall result in a refusal of acceptance.
- Public Hearing – A public hearing of the Board of Zoning and Building Appeals shall be held within sixty (60) days from the date of the acceptance of a resolution, motion, or complete application to amend this Ordinance and/or official zoning map. Nothing in this section shall prevent the Board from granting a continuance of the public hearing.
- Public Notice for Hearing – At least one (1) notice shall be given at least ten (10) days prior to a scheduled public hearing in one or more newspapers of general circulation in the Village. Such notice shall include the time and place of the public hearing and the nature of the proposed variance(s).
- Notice to Property Owners – Written notice of the hearing shall be mailed by the Village, certified mail, at least ten (10) days prior to the date of a scheduled public hearing to all property owners as listed under division (B)(3)(e) of Chapter 153.043 of the codified ordinances of the Village. The notice shall correspond to division (D)(3) of that Chapter in content
- Procedure at Hearing – Within thirty-five (35) days of the public hearing, the Board of Appeals shall review the application and render one of the following decisions:
 - o Approval of variance(s) as requested
 - o Approval of variance(s) with modifications
 - o Disapproval of variance(s)

The Board of Appeals shall apply criteria in section Chapter 153.043 (C) in reaching its determination. In approving a variance(s), the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is approved, shall be deemed a violation of this Ordinance and punishable as described by Ordinance.

The Board of Appeals determination in taking action on a requested variance shall be accompanied by findings of facts and a statement of the reasons for the decision reached.

Appeals Relative to Signage and Off-Street Parking

An appeal may be filed with the Board of Appeals for relief from the strict enforcement of the Zoning Code requirements relative to nonconforming signs and nonconforming surface treatment of off-street parking areas, provided the Applicant shows:

- That the unlawful nonconforming situation has existed a minimum of five (5) years prior to the effective date of this Ordinance
- That special circumstances or conditions exists which are peculiar to the structure(s) involved and which prevent the Applicant from meeting the requirements of this Zoning Code
- That the special circumstances or conditions do not result from the actions of the Applicant.
- That the granting of an appeal will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

Issuance of Certificate of Zoning Compliance

Upon approval of the Board of Appeals or upon appeal and approval by Council, and with such conditions attached by either body as may be necessary to secure the objectives of this Zoning Ordinance, the Director of Inspection and Engineering shall issue a Certificate of Zoning Compliance for all approved

variances to the Applicant within ten (10) days of approval. The requirements relative to expiration of subsection 80.05.05 shall apply.

Appeals

Whoever is aggrieved or affected by the decision of the Board of Zoning and Building Appeals involving an application for a variance(s) shall have the right to file an appeal with the Village Council. The appeal shall be filed with the Clerk of Council no later than ten (10) days after the decision of the Board of Appeals. Council shall have a maximum of sixty (60) days for consideration, public hearing, and a decision on the appeal. In reaching a determination on a requested variance appeal by Council, the applicable portions of § 80.17.04 (e) shall apply.

Date(s) of Advertisement of Notice: _____ Date(s) Notice Mailed to Property Owners: _____

Action of the Board

Hearing Date: _____
- attach copy of meeting minutes
- other attachments as necessary.

Variance Approved: _____ Approved with Conditions: _____ Denied: _____
Comments:

