

ARTICLE XV
PROCEDURE AND REQUIREMENTS FOR APPEALS AND VARIANCES

1501 General

Appeals and variances shall conform to the procedures and requirements of Sections 1502-1509, inclusive of this ordinance. As specified in Section 1607, the Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances.

1502 Appeals

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer of the legislative authority of the Village affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing, with the Zoning Inspector and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

1503 Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Inspector from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that by reason of facts stated in the application, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court or record on application, on notice to the Zoning Inspector from whom the appeal is taken on due cause shown.

1504 Variances

The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. No non conforming use of neighboring lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this ordinance would result in unnecessary hardship.

1504.01 Application and Standards for Variances

The Zoning Board of Appeals shall not vary the regulations of this ordinance, as authorized in Section 1504 unless and until a written application for a variance is submitted to the Zoning Inspector and the Board of Zoning Appeals containing:

- A. Name, address, and phone number of applicants;
- B. Legal description of property;
- C. Description of nature or variance requested;
- D. Narrative statements which demonstrate to the satisfaction of the Board of Zoning Appeals that the variance conforms to the following standards:
 1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;
 2. The conditions upon which an application for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification;
 3. The purpose of the variance is not based exclusively upon a desire to increase financial gain;
 4. The alleged difficulty or hardship is caused by this ordinance and has not been created by any persons presently having an interest in the property;
 5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and

6. The proposed variance will not impair on adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
7. The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section and the objectives of this ordinance.

1504.02 Authorized Variances

Variances from the regulations of this ordinance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which supports conclusions that the standards and conditions imposed in Section 1504.01, above have been met by the applicant. Variances may be granted as guided by the following:

- A. To permit any yard or setback less than a yard or a setback required by the applicable regulations;
- B. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but generally the respective area and width of the lot or lots should not be less than 80 percent of the required area and width;
- C. To permit the same off-street parking facility to quality as required facilities for two or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;
- D. To reduce the applicable off-street parking or loading facilities required by generally not more than one parking space or loading space, or 25 percent of the required facilities, whichever is greater;
- E. To allow for the deferment of required parking facilities for a reasonable period of time, such period of time to be specified in the variance;

- F. To increase the maximum distance that required parking spaces are permitted to be located from the use served but generally not more than 40 percent;
- G. To increase the maximum allowable size or area of signs on a lot but generally by no more and 25 percent;
- H. To increase the maximum gross floor area of any use so limited by the applicable regulations but generally not more than 25 percent;
- I. To modify the supplemental yard and height regulations found in Section 911.

No order of the Zoning Board of Appeals granting a variance shall be valid for a period longer than 12 months from the date of such order unless the building permit or zoning approval is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period.

1505 Supplementary Conditions and Safeguards

Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this ordinance and punishable under Section 612 of this ordinance.

1506 Public Hearing by the Board of Zoning Appeals

The Board of Zoning Appeals shall hold a public hearing within twenty (20) days after the receipt of an application for an appeal or variance from the Zoning Inspector or an applicant.

1507 Notice of Public Hearing in Newspaper

Before holding the public hearing required in Section 1506, notice of such hearing shall be given in one or more newspapers of general circulation of the Village at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed appeal or variance.

1508 Notice to Parties in Interest

Before holding the public hearing required in Section 1506, written notice of such hearing shall be mailed by the Chairman of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the day of the hearing to all parties of interest. The notice shall contain the same information as required of notices published in newspapers as specified in Section 1507.

1509 Action by Board of Zoning Appeals

Within thirty (30) days after the public hearing required in Section 1506, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 1505, or disapprove the request for appeal or variance. The Board of Zoning Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure. Appeals from Board decisions shall be made in the manner specified in Section 1608.