

# INC. VILLAGE OF HUNTINGTON BAY ZONING BOARD OF APPEALS

## Variance Application Procedure Guidelines

There are two types of variations that the Zoning Board of Appeals (the “Board”) is empowered to grant upon an applicant’s appeal of the decision or determination of the Village Building Inspector.

A “use variance” is an authorization by the Board for use of land for a purpose not allowed by the applicable zoning regulations.

An “area variance” is an authorization by the Board for use of the land in a manner not allowed by the dimensional or physical requirements of the applicable zoning regulations.

### Criteria

**Use Variance:** Before a use variance will be granted, the applicant must show that the applicable zoning regulations and restrictions have caused unnecessary hardship. To prove such unnecessary hardship, the applicant must demonstrate that for each and every permitted use under the zoning regulations:

- 1) the applicant cannot realize a reasonable return;
- 2) the alleged hardship is unique to the property in question;
- 3) the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- 4) the alleged hardship has not been self-created.

**Area Variance:** In making its determination, the Board shall engage in a balancing test, weighing the benefit to the applicant against the detriment to the health, safety and welfare of the community. In making such a determination, the Board will consider:

- 1) the character of the neighborhood, i.e., the effect of the proposed development on the character of the neighborhood;
- 2) whether the benefit sought by the applicant can be achieved through some other means;
- 3) the magnitude of the variance requested;
- 4) whether the proposed variance will adversely impact physical and/or environmental conditions in the neighborhood; and
- 5) whether the alleged difficulty was self-created.

The Board, in granting either a use or an area variance, shall grant the minimum variance it deems necessary and adequate to address the unnecessary hardship proved by the applicant, while at the same time preserving and protecting the character of the neighborhood and the health, safety and welfare of the community.

## **Application Package**

An Application for Appeal Form shall be completed. It is available at the Village Hall, 244 Vineyard Road, Huntington Bay. Complete the application form with as much detail as possible. Answer all relevant questions; and mark N/A where not applicable. Have application form signed and notarized, where required.

The application package shall include:

- The original application form plus eight (8) copies
- Eight (8) copies of a recent survey of the property (attached to application)
- Stamped or postage paid envelopes addressed to neighbors that reside within 200' of subject property (metered envelopes are not be acceptable)
- Filing fee of \$500.00. Make check or money order payable to: Village of Huntington Bay
- Eight (8) copies of the building plans (construction drawings). In addition, the applicant, at his or her discretion, may provide diagrams, pictures or any other supporting documents. (Such additional information may be included in the application package or brought to the public hearing). These documents will not be returned to the applicant.

Deliver complete application package to the Village Hall, or by mail (PO Box 2184, Huntington, NY 11743-0873). The application package shall be filed at the Village Hall ONE MONTH prior to a Zoning Board of Appeals Hearing. Applications are scheduled for hearings on a “first come /first serve” basis.

\* Using similar procedures, these applications are reviewed by the Planning Board rather than the Zoning Board.

\*\* For subdivisions, instead of a survey, a subdivision map is required.

## **Notification**

Upon review of the of the application package, the Applicant will be notified of the scheduled hearing date. (This is usually done at the time the package is filed).

The Village Administrator will then publish a notice in “The Long Islander” at least five (5) days before the date of such hearing.

The Village Administrator will also send a notice to all neighbors (using stamped envelopes provided by the Applicant) within 200' of the subject property.)

## **Hearing**

At the Hearing, the Applicant and/or his or her representative(s) present the proposed plan to the Board. The Applicant and/or his or her representative(s) also explain why a variance is being requested, its impact (if any) on surrounding properties and what alternatives (if any) were considered.

The Hearing is open to the public. Residents in support or opposed to the application may attend the hearing or may call/write the Village Administrator to provide their opinions.

## **Decision**

Unless an extraordinary circumstance exists, no decision is made at the Hearing. A transcript of the Hearing is prepared within approximately four weeks. The transcript is reviewed and then at the next monthly meeting a vote is taken to render a decision. (Occasionally it is determined at a hearing that additional information is needed to render a decision. In those cases, the hearing is adjourned until the necessary information is received and reviewed at a subsequent Hearing and/or the next scheduled meeting.) The Board consists of five (5) members. In most cases, a majority vote (i.e. at least 3 to 2) is necessary to approve a variance.

When a variance request is **approved** \*\*, a copy of the signed decision is made available to the Applicant and Building Inspector. The Applicant then supplies four (4) additional complete sets of construction drawings. The Building Inspector reviews the construction plans, determines the building permit fee,\* issues a building permit, and notifies the Applicant that the permit is available at the Village Hall for pick up. (Usually the permit is available within two weeks after a decision is made). Upon payment of the fee, the Applicant receives a building permit that must be displayed at the construction site and construction may commence.

When a variance request is **denied**, a copy of the signed decision is made available to the Applicant and Building Inspector.

\*Building permit fees are based upon project size. An estimate of this fee can be provided by the Building Inspector when a building application is first made.

\*\*The subdivision map is signed by the Mayor the applicant files the map with the Suffolk County Clerk's office (Riverhead), and the applicant provides the Village with three (3) copies of the filed map.