What Is The Zoning Board of Appeals?

The Zoning Board of Appeals has the authority to consider requests for variances from the requirements of the Village Zoning Code, Chapter 310; Fence, Walls and Plantings, Chapter 158 and Signs, Chapter 247. The Board of Appeals also considers Special Use Permits for swimming pools, tennis courts and some home occupations. The Board of Appeals consists of five volunteer members and two alternate members, appointed by the Mayor, subject to the approval of the Board Trustees. Each member serves for five years with one member’s term expiring each year. The Board’s public meetings are held at Village Hall, generally on the second Wednesday of each month, with one meeting held during the summer.

1. Variances

Upon receiving an application for a building permit, the Coordinating Office determines whether the plans comply with the Village’s zoning requirements. If the plans submitted do not comply, the applicant may choose either to appeal the ruling of the Building Inspector, or to apply for a variance.

A. Area Variances

The most frequent variance request is for an “Area Variance” – requests for exceptions from the zoning code’s various requirements such as, but not limited to, minimum setbacks from lot lines, maximum building or lot coverage, minimum lot area or lot frontage and FAR. In addition, variances are requested from the maximum permitted fence and wall heights and maximum sign sizes or locations.

New York State law provides that in considering area variance requests, the Board must grant the minimum variance that it deems necessary, and at the same time, weigh the benefit to the applicant against the health, safety and welfare of the community. In making such a determination the Board must use the following criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the variance;
2. Whether the benefit sought can be achieved by some method, feasible for the applicant to pursue, other than the variance;
3. Whether the requested variance is substantial;
4. Whether the requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and
5. Whether the alleged difficulty is self-created.

It is helpful if a statement is submitted to supplement the application that explains the reasons for the requested variance and responds to the criteria outlined above.
B. Use Variances
Must less frequent are applications for a “Use Variance” – requests for a use of land that is not permitted by the zoning code. An example could be a request to conduct a business in a residential zoning district (other than those permitted in the code for home occupations). New York State Law describes the proof required to demonstrate unnecessary hardship caused by the zoning regulations. Applicants interested in an area variance should discuss the matter with the Village Planner and, because these requests require a higher level of proof to support approval, it is likely that the applicant will need the assistance of an attorney in filing an application.

2. Special Use Permits
Special Use Permits are for uses that are permitted in the zoning code, subject to meeting certain conditions specified in the code. The conditions are designed to minimize the impact of the use and might include landscaping, fencing, setbacks and other relevant measures. Special Use Permits are required for the construction of swimming pools and tennis courts, for “visible” home occupations in a residence district and for a few other categories of uses. Separate Guidelines and Policy Statements for each of these uses are available on the Village Web site.

For Further Information Contact
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