

To Zoning Board of Appeals Applicant:

Please read the following material and instructions very carefully.

You are not entitled to automatically receive a variance just because you apply. You must show hardship to the Board, required under Section 7-712-b (2-b) OR 7-712-b (3-b) of the Village Law.

§ 7-712-b Permitted action by board of appeals

1. Orders, requirements, decisions, interpretations, determinations. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as is its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
2. Use variances.
 - a. The board of appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such local law, shall have the power to grant use variances, as defined herein.
 - b. No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in questions is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.
 - c. The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community
3. Area variances.
 - a. The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such local law, to grant area variances as defined herein.
 - b. In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefits sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
 - c. The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
4. Imposition of conditions. The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Village of Monroe Zoning Board of Appeals Requirements

APPLICANT:

In order for the Zoning Board of Appeals to consider your request, you must submit an application to the Village Clerk. This application must contain the required information and date and be submitted at least 20 days prior to the scheduled hearing upon such appeal. No appeal shall be heard unless a record on appeal is so furnished to the chairman. If no record on appeal is so furnished within the time prescribed herein the appeal shall be denied subject to renewal upon supplying a sufficient record on appeal to the chairman or adjourned at the discretion of the board.

CONTENTS OF THE RECORD OF APPEAL:

This record on appeal shall consist of the following material in regarding to the following matter (see Village Code Section 200-96 Zoning).

1. Zoning Board of Appeals Fees: These fees are payable to the Village of Monroe at the Village clerk's Office at the time of application for a hearing.
 - a. Appearance Fee: Fifty (\$50) dollars for each application
 - b. Area Variance: Four Hundred Twenty Five (\$425) dollars
 - c. Use Variance: Five Hundred (\$500) dollars
 - d. Interpretations: Three Hundred Fifty (\$350) dollars
2. A copy of the letter, opinion, decision or requirement or ruling appealed from. To be filed within 30 days of denial by the Building Inspector or regulating Board.
3. A written executed application starting in detail all the pertinent facts relating to the appeal and stating the grounds thereof.
4. A plot plan, survey or diagram showing accurately the size of the subject property, the location of the proposed structure thereon, the amount of frontage on any abutting road; the distance of the proposed structure from any abutting street or highway if the property does not abut a state, county or Village Road, and the dimensions, location and type of access to the property from the nearest state, county or Village road.
5. Proof of mailings to be made at least 10 days prior to the hearing to all property owners within 300 feet of your property. This must be done by CERTIFIED mail, return receipt requested.
 - a. The ZBA required that you show the mailing receipts before final action on your application will be taken.
 - b. In determining who to notify, you should refer to the official Tax Map to determine landowners. (See Town Assessor)
 - c. It is suggested that the required notice contain a copy of the NOTICE OF HEARING published in the local newspaper. This notice will be furnished to you by the Village.

NOTE: THE ZONING BOARD OF APPEALS IS AN ADMINISTRATIVE BODY REPRESENTED BY THE VILLAGE ATTORNEY. YOU MAY WISH TO CONSULT AND ATTORNEY AND/OR HAVE ONE WITH YOU AT YOUR HEARING ALTHOUGH IT IS NOT REQUIRED.

