

Dear Applicant,

Before completing your application to the McFarland Board of Zoning Appeals (BZA), it is important to understand the purpose and function of the BZA, its authority and the limits on its authority. This letter is intended to inform you of those details.

The BZA is not the Village Board, but a separate board whose members are appointed by the Village Board, and which functions in many respects like a court. For that reason, it is often referred to as a quasi-judicial body. Its role is to apply local ordinances and related state laws to specific appeal and variance requests. The BZA must apply existing ordinances as they are written and does not have authority to amend or repeal any provisions of the zoning ordinance. Ordinance proposals, revisions, and adoptions are legislative functions reserved by state law for the Village Board.

A matter may come before the BZA in one of three ways. First, any aggrieved person affected by an administrative decision of a zoning or building inspection officer may appeal that decision to the BZA. This is referred to as an **Administrative Appeal**.

Second, a **Use Variance**, may be granted if any applicant can prove that there can be no reasonable use of the property absent a variance. Per, Sec. 62-366(d) of the Municipal Code of Ordinances, the BZA shall not grant a use variance in Floodplain or Wetland and Conservancy Districts. In all other districts, no use variance shall be granted unless the applicant has first petitioned for a zoning amendment or a conditional use permit, if applicable, and upon a showing that no lawful and feasible use of the subject property can be made in the absence of such variance. Any use variance granted shall be limited to the specific use described in the BZA decision and shall not permit variances in yard, area, or other requirements of the districts in which located.

Third, and most common, an applicant may seek an **Area Variance**. An area variance means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the BZA. To qualify for an area variance, the burden of proof is on the applicant requesting the variance. The aggrieved party must provide evidence which satisfies all three parts of the standards for granting a variance under Sec. 62-366(e), of the Municipal Code of Ordinances, 1) Unnecessary hardship, 2) Hardship may not be self-imposed, and 3) Hardship must be unique to the property.

To further explain these criteria, an unnecessary hardship exists where compliance with the strict letter of the restrictions governing the property would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. In considering whether an unnecessary hardship exists the BZA shall consider the following factors a) the purpose of the zoning restriction in question, b) the effect of

the restriction on the property, and c) the effect of a variance on the neighborhood and larger public interest. Variances may not be granted to remedy self-imposed hardships. An example of a self-created hardship would be excavating a pond on a vacant lot, then arguing there is no suitable location for a home. Finally, unique to the property can refer to the physical limitations of the property, such as steep slopes or proximity to wetlands that prevent compliance with the ordinance.

A variance may not be granted where they are contrary to public interest or where granting the variance would violate the spirit of the regulation. Concerns over the most profitable use of a parcel are not proper grounds for granting variances. Neither are circumstances of an applicant, such as a growing family or the need for a larger garage. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide a basis for granting a variance.

We hope the information presented in this letter helps you in preparing your application to the BZA. Please contact our office if you have any questions.

Community & Economic Development Department