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Dear Applicant:

Before completing your application to the McFarland Board of Zoning Appeals, it is important to understand something about the nature of the Board, its authority and the limits on its authority.

The Board of Zoning Appeals functions in many respects like a court. For that reason, it is referred to as a quasi-judicial body. Its role is to apply local ordinances and related state laws to specific development proposals. A zoning board must apply ordinances as they are written and may not substitute its judgment for that of the elected local governing body. Ordinance proposal, adoption and revision are legislative functions reserved by state law for the planning and zoning committee and the local governing body.

A matter may come before the Board in one of two ways. First, any aggrieved person affected by a decision of a zoning officer may appeal that decision to the Board. State law requires that when zoning ordinance interpretation or an administrative decision is contested the Board of Zoning Appeals is required to resolve the question.

More commonly, an applicant may seek a variance from the land use provisions of an ordinance or an area variance. A variance is a relaxation of a dimensional standard in a zoning ordinance. In order to qualify for such a variance the burden of proof is on the applicant, and all three parts of a three-step test must be met.

First, strict application of an ordinance requirement must result in unnecessary hardship. An applicant may not claim hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have determined that loss of profit or financial hardship, do not, by themselves, justify a variance. Decks and similar minor accessory structures are not essential to the reasonable use of property and are not eligible for variances.

Second, a hardship must be due to unique physical limitations of the property, i.e. compliance with ordinance requirements is prevented by limitations that are not generally shared by other properties. The circumstances of an applicant, such as a growing family or the need for a larger garage, are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.

Third, a variance may not be granted which results in harm to public interests. In applying this test, the Board must consider impacts of your proposal and the cumulative impacts of similar projects on the interests of the entire community.

We hope this information will be of help to you in preparing your application, and your presentation to the Board.

Community Development Department