

CHAPTER 11

VARIANCE AND SPECIAL USE PROCEDURES

SECTION:

- 5-11-1: Variances
- 5-11-2: Special Uses

5-11-1: **VARIANCES:** The Village Board may authorize, upon appeal or written application, such variance from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the zoning regulations would result in unnecessary hardship. A fee of ten dollars (\$10.00) is required. For purposes hereof, a variance shall be defined as follows:

A.

A variance is a relaxation of the terms of the zoning regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the zoning regulations would result in unnecessary and undue hardship. As used herein, a variance is authorized only for height, area and size of the structure or size of required yards and open space, establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

B.

A variance from the terms of the zoning regulations shall not be granted by the Board unless the required public hearing is held, and unless and until all of the following findings are made by the Board:

1. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.

2. That literal interpretation of the provisions of the zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

3. That the special conditions or circumstances do not result from the actions of this applicant.

4. That granting of the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district.

C.

Notice of the time and place of such hearing shall be published at least once not more than thirty (30) nor less than fifteen (15) days before the hearing in an official newspaper or a newspaper of general circulation in the Village, said notice to contain the particular location for which the variance is requested as well as a brief statement of what the proposed variance consists.

D.

Every variance shall be accompanied by a finding of fact specifying the reason for making the variance.

5-11-2: **SPECIAL USES:** The Village Board will hear and decide only such special uses specifically authorized by the terms of the zoning regulations. The Board is authorized to decide such questions as are involved in determining whether special uses should be granted and to grant special uses with such conditions and safeguards as are appropriate under the zoning regulations, or to deny special uses when not in harmony with the purpose and intent of this Ordinance. A special use shall not be granted by the Board unless and until:

A.

A written application for a special use is submitted indicating the section of this Ordinance under which the special use is requested. A fee of ten dollars (\$10.00) is required.

B.

Notice shall be given at least fifteen (15) days in advance of public hearing in an official newspaper or a newspaper of general circulation in the Village.

C.

The public hearing shall be held. Any party may appear in person or by agent or attorney.

D.

Before any special use is issued, the Board shall make written findings certifying compliance with the specific rules governing special uses and that satisfactory provision and arrangement has been made concerning the following, where applicable.

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
2. Off-street parking and loading areas where required with particular attention to the items in 1 above and the economic, noise, glare or odor effects of the special use on adjoining properties and properties generally in the district;
3. Utilities, with reference to locations, availability and compatability;
4. Screening and buffering with reference to type, dimensions and character;
5. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatability and harmony with properties in the district;
6. Required yards and other open space;
7. General compatability with adjacent properties and other properties in the district.