

# **Applicant's Guide to the Village of Bergen**

## **Zoning Board of Appeals**

**This guide is intended to help explain the process of applying for a variance.**

Fee to process the application \$300.00

Plus a public hearing fee of \$100.00

### What is a Variance?

A variance is a relief/waiver of the application of specific requirements to the Village of Bergen Code. Each applicant seeking a variance has the legal burden of showing that specific conditions are met to allow for such a waiver.

### Why do I need a variance?

- ✓ A desire to do something that is not within the Code regulations
- ✓ To appeal the decision or action by the Code Enforcement Officer

### Area and Use Variances

**Area Variance:** is defined as “authorization by the Zoning Board of Appeals for the use of land in a manner, which is not allowed by the dimensional or topographical requirements of the applicable zoning regulations.”

- ✓ To put something in a place where something is not normally allowed to be on a property.

**Use Variance:** is defined as “authorization by the Zoning Board of Appeals for the use of land in a manner or for a purpose, which is otherwise not allowed or is prohibited by the applicable zoning regulations.”

- ✓ To do something not normally allowed with a property

*Note of Interest:* No Use Variance shall be granted unless the Board finds that there remains an unnecessary hardship otherwise. The Board, in granting the variance will seek to grant the minimum variance necessary. The overall charge of the Zoning Board is to still uphold the Village of Bergen Zoning Law.

If there are any questions as to which type of variance you are seeking, please contact the Village of Bergen at (585)494-1513.

## Important Additional Information

When submitting your application, please include any and all relevant information/documentation you have. This includes pictures of the property, a survey map, and any drawings of pertinent structures on the property.

## Defining Our Terms

### 1. **Accessory Building**

A secondary building (such as a garage or shed) of a property

### 2. **Applicant**

The person who files an application to the Zoning Board of Appeals

### 3. **Coverage**

The percentage of a lot occupied by all the buildings or structures located thereon

### 4. **Plan**

A survey drawn by a professional or your sketch of the property drawn to scale, clearly showing the parcel boundaries, existing improvements and any proposed construction including elevation details

### 5. **Principal Building or Use**

The main building or use occupying the property, such as a house or commercial building

### 6. **Public Hearing**

A meeting of the Zoning Board of Appeals advertised in advance, at which time the applicant presents his request to the Board and where the public is invited to listen and comment

### 7. **Yard**

A required open area of each lot between its property boundary and the required building setback lines. There are front, side and rear yards for each lot. Corner lots are considered to have two front yards.

### 8. **Zoning Board of Appeals**

A board consisting of five (5) members appointed by the Village Board of Trustees to hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of the code.

## What happens at the Public Hearing?

### 1. **Meeting Called to Order**

The ZBA Chairperson will read the legal notice description of your request

### 2. **Open Hearing**

You and/or your representative come before the Board to present your request. Bring anything that will help you explain your application: photographs, maps, plans, slides, etc. You should clearly state the explanation of the hardship you are claiming. Such hardships include showing:

- ✓ Whether the outcome can be achieved by any other means
- ✓ If there will be an undesirable change to the neighborhood
- ✓ If the request is substantial
- ✓ If the request will have any adverse physical effects
- ✓ Whether the difficulty is self-created

### 3. **Questions**

The Board may ask you questions at any time to help them fully understand your request

### 4. **Comments by the Public**

Following your presentation, the chairperson will ask any interested persons if they wish to speak in favor or in opposition to the application.

### 5. **Close of Hearing**

After the information is heard, the chairperson will request a motion to close the hearing. After this point, no further comments or information from the applicant or public is permitted.

### 6. **Decision**

After the public hearing is closed, the Board will discuss and consider the application and determine the Means Test. This test consists of the five points to determine if there is substantial hardship to require a granting.

## Variance Application Process Summary

- ✓ Submit complete application and plans to the Village of Bergen
- ✓ Legal notice is published and you and your neighbors are notified by mail
- ✓ Public Hearing held at Village Hall
- ✓ Decision is made by Board
- ✓ Decision is sent to you and the Building Department
- ✓ Proceed to the Building Department to obtain proper permits

## Questions and Answers

### **1. How long does the process take?**

The variance process typically takes one to two months from the time the application is submitted.

### **2. How long is the variance valid?**

Once granted, the variance is permanent and stays with the property.

### **3. Can variances be transferred?**

Variances are granted to properties, not owners. Therefore, when a property is sold, the rights granted by the variance remain with the property.

### **4. Who can apply for a variance?**

Anyone who owns or who has legal interest in the property can apply for a variance.

### **5. If denied, can I reapply?**

If the variance is denied, the same request cannot be heard again. However, alternate variance requests can be applied for.

## What happens after Approval?

### **1. Filing the Decision**

The Board's decision will be sent to you by mail within five (5) business days after the decision is finalized. A copy of the decision will be sent to the Village of Bergen Building Department.

### **2. Building Permit**

After the variance has been approved, building permits may need to be obtained. It is your responsibility to apply for the appropriate permits with the Village of Bergen Building Department.

## Suggestions

- Make sure your application packet is complete! Incomplete packets waste your time and the time of the ZBA. If your application is lacking, it may delay your variance request at least one month.
- Be prepared to explain and discuss fully the hardship that causes you to need the variance.
- Make all of your exhibits part of the application so ZBA members can review it prior to your presentation.

- Visit your neighbors and discuss what you are proposing to do. They will appreciate the personal contact and you can answer any questions they might have before the night of the public hearing.
- Be prepared to discuss what effect the requested variance would have on your property, your neighbor's property, the neighborhood and the community.