

## **APPLICATION FOR ZONING VARIATION**

### **NOTICE TO APPLICANTS**

A variation is a zoning adjustment which permits minor changes of the requirements of the zoning district in which the property in question is located where individual properties are both harshly and uniquely burdened by the strict application of the law. The power to vary is restricted and the degree of variation is limited to the minimum change necessary to overcome the inequality inherent in the property. "Variation" means the modification of the requirements of a zoning district and does not include the substitution of uses assigned to other zoning districts.

A variation recognizes that the same zoning district requirements do not affect all properties equally and was invented to permit minor changes to allow hardship properties to enjoy equal opportunities with similarly zoned property. You must prove that your property is affected by special circumstances or unusual conditions which do not exist on other property in the same zoning district. These must result in uncommon hardship and unequal treatment under the strict application of the Village of Waterman Zoning Ordinance. Where hardship conditions extend to other property a variation cannot be granted. The remedy for such general hardships is a change of the zoning map or the text of the Village of Waterman Zoning Ordinance.

You must prove that the combination of the Village of Waterman Zoning Ordinance requirements and the uncommon conditions of your property prevents you from making any reasonable use of your land as permitted by your present zoning district. Since zoning regulates land and not people, the following conditions cannot be considered pertinent to the application for zoning variation: (1) proof that a variation would increase the financial return from the land; (2) personal hardship; and, (3) self-imposed hardship.

No variation may be granted which would adversely affect surrounding property in the general neighborhood. All variations must be in harmony with the purpose and intent of the Village of Waterman Zoning Ordinance.

## APPLICATION FOR ZONING VARIATION PROCEDURES

### INTRODUCTION

The Board of Appeals in the Village of Waterman hear both Zoning and Code appeals. For the purpose of this document the Zoning Administrator is considered to be the Chairman of the Zoning Committee of the Board of Trustees. The Board of Appeals is an advisory body consisting of five (5) members and a Chairman. The members of the Board of Appeals are citizens of Waterman appointed by the Village President with the consent of the Board of Trustees.

One of the Board of Appeals' (BOA) functions is to hear cases concerning variations from the Waterman Zoning Ordinance and appeals from the decisions of the Zoning Administrator. The BOA does not hear cases concerning the use of land, i.e. rezoning, Special Use Permits, and planned developments, but rather cases concerning the standards for improvement to property in the Village, such as building setbacks, off-street parking requirements, signs and others as set forth in the Waterman Zoning Ordinance. The Waterman Zoning Ordinance is the set of rules, standards and procedures for the improvement of property in the Village adopted and amended from time to time by the Village Board.

The BOA, by Illinois statute, must determine that certain criteria is satisfied in order to grant a zoning variation. The validity of the alleged hardship is the primary criteria the BOA must use to decide whether to grant or deny a variation request. The BOA is very thorough in its investigation and analysis of the alleged hardship. It is to the Applicant's benefit to focus on the validity of his/her hardship during the public hearing.

A hardship is a unique circumstance created or brought about by unusual topographic or platting conditions affecting only the Applicant's property. If a valid hardship exists and there are no viable alternatives for the proposed use or construction a zoning variation could be granted.

### PROCEDURES

The application for zoning variation involves these steps:

1. A completed **application form** must be filled out and presented to the Zoning Administrator, along with a **plat of survey** showing the location and dimensions of the property lines, easements and buildings on the property; a **legal description**; the location and dimensions of the proposed use or construction; any **other supporting documentation** that may be required by the Zoning Administrator; and, the non-refundable **application fee**.

2. When your application is completed and **accepted**, you will be placed on the agenda for the next available Board of Appeals meeting. You will be informed of the date and time of the meeting.
3. All variations require a public hearing. Your variation request will be published in a local newspaper no less than fifteen (15) days before the scheduled public hearing date. All of the property owners adjacent to your property will receive notification from the Village summarizing the requested zoning variation and invite them to attend the public hearing.
4. Unless otherwise specified, all BOA meetings and public hearings are held in the Board Room at the Village Hall, 215 W. Adams St, Waterman, Illinois.
5. It is necessary that the Applicant or a duly authorized representative of the Applicant attend the public hearing in order to present the case and answer questions from the public and the BOA.
6. The public hearing proceeds as follows:
  - a. The public hearing is opened and the Applicant presents his or her case. During the public hearing, the Applicant must make an oral presentation consisting of the following:
    1. In what respect do you want the Village of Waterman Zoning Ordinance varied, or the decision of the Zoning Administrator changed?
    2. What, in your opinion, is the undue hardship or difficulty in complying with the Village of Waterman Zoning Ordinance or the decision of the Zoning Administrator?
    3. What hardship would result in the strict application of the Village of Waterman Zoning Ordinance, or the decision of the Zoning Administrator?
  - b. Following the Applicant's testimony, the BOA will permit the public to testify, after which the BOA members will question the Applicant.
  - c. The public hearing is closed and the BOA conducts a "findings of fact." This is the summary of the testimony given during the public hearing which focuses on the validity of the alleged hardship and the effect of the proposed variation will have on the subject property as well as adjoining property. A summary of the worksheet is attached to this application for your information.

- d. A motion will be made by the BOA to grant, deny, or amend the zoning variation request. The BOA may impose conditions and restrictions on the variation as it sees fit to protect adjacent property owners and neighborhood property values.
- e. The BOA's recommendation and findings of fact are forwarded to the Village Board for their decision. The decision of the Village Board is final.

If you have any questions concerning the zoning variation procedures or application requirements, please don't hesitate to call the Village Hall at (815) 264-3652.

**FINDINGS OF FACT WORKSHEET  
SUMMARY**

1. Would the Applicant's property yield a reasonable return if the variation were denied?
2. Do special circumstances or unusual conditions exist on the property?
3. Will the proposed variation merely serve as a convenience to the Applicant?
4. Will the proposed variation relieve a demonstrated hardship?
5. Is the alleged hardship self-imposed?
6. Has the hardship been created by any person having a proprietary interest in the premises?
7. Will the proposed variation be harmful to the public health, safety, comfort, morals, or welfare of the residents and property owners of (Municipality Name)?
8. Will the proposed variation impair adequate light and air to the Subject Property and/or adjacent properties?
9. Will the proposed variation increase congestion on any public street to the point of being hazardous to the public well being?
10. Will the proposed variation increase the risks of fire not only to the Subject Property, but to adjacent property?
11. Will the proposed variation alter the essential character of the neighborhood?
12. Will the proposed variation be in harmony with the spirit and intent of the Village of Waterman Zoning Ordinance?
13. The Board of Appeals may impose such conditions and restrictions upon the location, construction, design, and use of the property benefited by a variation as may be necessary or appropriate to comply with the foregoing standards and to protect the value of adjacent property in the neighborhood. If there are any conditions or restrictions, specify them below:

# APPLICATION FOR ZONING VARIATION

## PART I. Applicant Information

### APPLICANT *(Please Print or Type)*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_ Fax: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

### CONTACT PERSON *(If different from Applicant)*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_ Fax: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

IS THE APPLICANT THE OWNER OF THE SUBJECT PROPERTY? YES [ ] NO [ ]

*(If the Applicant is not the owner of the subject property, a letter from the Owner authorizing the Applicant to file the **Application for Zoning Variation** must be attached to this application).*

IS THE APPLICANT AND/OR OWNER A TRUSTEE OR A BENEFICIARY OF A LAND TRUST? YES [ ] NO [ ]

*(If the Applicant and/or Owner of the subject property is a Trustee of a land trust or beneficiary(ies) of a land trust, a disclosure statement identifying each beneficiary of such land trust by name and address and defining his/her interest therein shall be verified by the Trustee and shall be attached hereto).*

## PART II. Property Information

ADDRESS OF PROPERTY: \_\_\_\_\_

PARCEL INDEX NUMBER(S): \_\_\_\_\_

LEGAL DESCRIPTION: \_\_\_\_\_

\_\_\_\_\_

*A legal description must be provided or attached to this application*

Is the property in question currently subject to a zoning variation or a Special Use Permit? YES [ ] NO [ ]

If so, please describe its nature: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Is the property in question currently non-conforming in any respect? YES [ ] NO [ ]

If so, please describe its nature: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## PART III. Reasons for the Zoning Variation Request

- 1. Briefly describe the characteristics of your property which prevent you from complying with the requirements of the Village of Waterman Zoning Ordinance.  
*(Please Print or Type; Attach additional pages if necessary)*

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- 2. Are these characteristics or conditions the result of other man-made changes, such as relocation of a road or highway? Please describe.

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- 3. What specific requirement(s) of the Village of Waterman Zoning Ordinance prevent you from establishing the proposed use or construction on your property?

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- 4. What is the minimum reduction of the requirements of the Village of Waterman Zoning Ordinance that would permit the proposed use or construction on your property?

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- 5. What is the practical difficulty or particular hardship which would result if the requirements of the Village of Waterman Zoning Ordinance were strictly applied to your property?

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- 6. To the best of your knowledge, can you affirm that the hardship you described above was not created by you or anyone having

a proprietary interest in the subject property?

YES [ ] NO [ ]

If not, explain why the hardship should not be regarded as self-imposed.

*Note: self-imposed hardships are not entitled to a zoning variation.*

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7. Are the conditions of hardship for which you request a zoning variation true only of your property?

YES [ ] NO [ ]

If not, how many other properties in the Village are similarly affected?

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I certify that all of the above statements and the statements and information contained in any papers, plans and other documents submitted herewith are true to the best of my knowledge and belief.

\_\_\_\_\_  
*Applicant's Signature*

\_\_\_\_\_  
*Date*