

## ORDINANCE NO. 480-17

### ORDINANCE RELATIVE TO VARIANCES

The Village Board of the Village of Endeavor does hereby Ordain as follows:

The following Section of Chapter 480; Zoning is hereby created to read as follows:

#### **§480-17. Variance.**

##### A. Purpose

- (1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this chapter would cause undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
- (2) The Village Board may authorize upon appeal, in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.
- (3) For the purposes of this section, the term "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

B. Application. The application for variance shall be filed with the Village Clerk-Treasurer. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application is available at the Village Clerk-Treasurer's office.

##### C. Public hearing.

- (1) The application shall be referred to the Village Board. The petitioner shall appear before the Village Board in order to answer questions.
- (2) The Village Board shall conduct at least one public hearing on the proposed variance. Notice of such hearing shall be given not more than 30 days and not less than ten days before the hearing in a newspaper in general circulation, or posted in accordance with State Statute, in the Village, and shall give due notice to the parties in interest and the Zoning Administrator. At the hearing, the appellant or applicant may appear in person, by agent or by attorney. The Village Board shall thereafter reach its decision within 30 days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant, Zoning Administrator and Village Board.

D. Action of the Village Board. For the Village Board to grant a variance, it must find that:

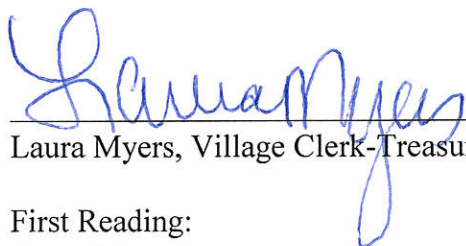
- (1) Denial of variation may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.
- (2) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- (3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
- (4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
- (5) The proposed variation will not undermine the spirit and general and specific purposes of this chapter.

E. Conditions. The Village Board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section.

Passed this 8<sup>th</sup> day of July, 2014.

  
Steve Biba, Village President

Attest:

  
Laura Myers, Village Clerk-Treasurer

First Reading:

Second Reading:

Published: