

# Zoning Board of Appeals

Village of Ossining

2/23/2022

# ZBA Actions 2020 through 2021

- ▶ ZBA is a five member board, with one alternate (one open alternate position)
- ▶ 66 ZBA Applications reviewed
  - ▶ 51 Area Variance applications
    - ▶ 41 approved
    - ▶ 1 denied
    - ▶ 3 withdrawn
    - ▶ 6 pending
  - ▶ 8 Use Variance applications
    - ▶ 3 approved
    - ▶ 3 denied
    - ▶ 2 withdrawn/on hold
  - ▶ 3 Interpretations
  - ▶ 4 Extensions granted

# Responsibilities of the Zoning Board – Interpretations

- ▶ On appeal from an order, requirement, decision or determination made by an administrative official, or on request by any official, board or agency of the Village, to decide any of the following questions:
  1. The meaning of any portion of the text of this chapter or of any condition or requirement specified or made under the provisions of this chapter.
  2. The exact location of any district boundary shown on the Zoning Map.

# Responsibilities of the Zoning Board - Area Variances - Balancing Test

- ▶ Where an applicant requests a variance of the area requirements of this chapter, the Board may grant a variance in the application of the provisions of this chapter in the specific case. In making its determination, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community of such grant. In making its determination the Board shall consider whether:
  - ▶ An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - ▶ The benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
  - ▶ The requested area variance is substantial;
  - ▶ The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
  - ▶ The alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

# Responsibilities of the Zoning Board - Use Variances - the Four Factors

- ▶ Where, because of unnecessary hardship relating to the land for a use not allowed in the district in which the land is located, an applicant requests a variance of the use requirements of this chapter, the Board may grant a variance in the application of the provisions of this chapter in the specific case, provided that no use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship to the applicant. In order to prove unnecessary hardship, the applicant shall demonstrate that for each and every permitted use under this chapter for the district in which the applicant's property is located:
  - ▶ The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - ▶ The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
  - ▶ The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - ▶ The alleged hardship has not been self-created.

# Additional Code Guidance in deciding appeals

- ▶ The ZBA, in granting area variances, shall grant the minimum variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- ▶ The ZBA, in granting use variances, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

# Additional Code Guidance in deciding appeals, cont.

- ▶ The needs or desires of a particular owner or tenant, or of a particular prospective owner or tenant, shall not, either alone or in conjunction with other factors, afford any basis for the granting of a variance. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded or in disrepair or the fact that the property is then unimproved shall not be deemed to make the plight of the property unique or to contribute thereto.
- ▶ Where said Board finds the zoning classification of a particular property to be conducive to the deprivation of the reasonable use of the land or buildings and where said Board finds the same condition to apply generally to other land or buildings in the same neighborhood or zoning district, said Board shall call this condition to the attention of the Village Board.
- ▶ In all cases where the Zoning Board of Appeals grants a variance from the strict application of the requirements of this chapter, it shall be the duty of such Board to attach such conditions and safeguards as may be required in order that the result of its action may be as nearly as possible in accordance with the spirit and intent of this chapter.

The background features abstract, overlapping green geometric shapes, primarily triangles and polygons, in various shades of green, creating a modern, layered effect. The shapes are concentrated on the left and right sides of the frame, leaving a large white central area.

Questions?