

Guidelines for special use applications and appeals before the Plan Commission and Zoning Board of Appeals

These guidelines are designed to aid in making effective presentations to the Plan Commission and Zoning Board of Appeals (ZBA) for Morton residents and businesses seeking special uses, zoning variances, and in testifying for or against actions in public hearings and zoning appeals. The Plan Commission, the ZBA, and the Village Board want to ensure that all members of the community have access to and are able to effectively address their desires and concerns before these bodies – and that all issues receive a clear, fair hearing. Questions not answered in these guidelines should be directed to the Zoning Officer or to relevant Commissioners and Board members.

Presenting before the Plan Commission and Zoning Board of Appeals

- Prepare your case with a clear, succinct statement that describes your special use or variance requirement.
- Make a clear, direct opening statement
- Support your case with facts – what is the benefit of approval? Why should the Village of Morton approve your request? Remember that 3 – 5 key points are better than lengthy discussions that seek to cover every point. Avoid repetition.
- Be prepared to answer questions by Plan Commissioners, ZBA members, and citizens who may have concerns or be opposed to your application. Spend some time considering what questions might be asked, and how you will answer in a brief, clear, convincing manner.
- Provide supporting documentation where possible: drawings, maps, photos, site plans, blueprints, relevant state and federal data, agreements with neighbors, etc.
- If the request will have an impact on traffic or parking, try to determine that impact with specifics (example: our business will increase by 10 customers per day, and the three additional parking spaces will meet that need over eight hours).
- Keep in mind that Village authorities approve special uses based primarily on benefit to the Village. Economic benefit solely to the applicant is typically not a compelling reason for approval.
- Zoning appeals should show why approval benefits the Village of Morton or relieves a homeowner or business of a hardship caused by existing ordinance or other circumstances beyond the applicant's control.
- If you believe your application will affect neighboring homeowners or businesses, consider visiting with affected properties (those within 250 feet) to gain understanding. Be prepared to share maps, drawings, and other information that helps make your case and clarifies understanding. Make sure you present the same material to the Plan Commission or ZBA that you share with neighbors.

- To the extent possible, use visual aids in making your presentation – charts, maps, summary documents. Powerpoint presentations are most effective, but should be kept short and directly to the point of the request.
- Consider reviewing your proposals with the Village Superintendent of Public Works or Zoning Officer for guidance on acceptable practices or ensuring your material addresses the points Commissioners and Board members will consider.
- Keep in mind that the Plan Commission only considers questions of land use. It does not -- and legally cannot -- enforce regulation, consider social issues and similar matters. Safety issues can be addressed only as they relate to land use.
- The Zoning Board of Appeals considers only variances to existing ordinances. A ZBA decision is final, with the exception of variances within the Interchange Zone; those come before the Village Board following a ZBA review.
- Remember that the Plan Commission is a recommending body, and that final determination on Plan Commission recommendations is made by the Village Board. Applications and appeals, depending on their scope, may be continued beyond one meeting. You should plan with the recognition that you may not have a final answer within 30 days after you present. The Zoning Board of Appeals is an independent body, and all ZBA decisions are final.

Testifying in favor of or against special uses, zoning appeals, and other Plan Commission and ZBA issues

- Make sure you have the facts on the issues on which you intend to testify, and that the testimony is relevant to land use and zoning issues only. Make sure examples are relevant to Morton and to the issues at hand.
- As with applicants' presentations, support or oppose the issue with brief, factual, to-the-point statements. A few brief, strong points in favor or opposition are better than lengthy arguments that try to cover every point of support or objection, however small. A succinct 5-minute presentation is more powerful than a rambling 20-minute discussion.
- Use charts, drawings, maps, etc where appropriate to support your testimony
- All testimony is sworn before the Village attorney and recorded by a court stenographer. Rules of perjury apply.
- The Plan Commission and ZBA will also accept written statements, signed by the author(s). Such statements must contain the names and addresses of all signatories.

- Only testimony from affected residents within 250 feet of special use and zoning variance applications has legal standing, but the Plan Commission and ZBA will hear testimony from all interested parties. Those within 250 feet are encouraged to limit testimony to 10 minutes. Others will be limited to statements of five minutes only.
- Residents and business owners within 250 feet of a special use or appeal will have the opportunity to ask questions of the petitioner, Commissioners, or Board members during hearings.
- Use facts to support or oppose the issue. A statement like “We believe this is bad for neighborhood” is not as strong as a statement that documents why or how the proposed action could damage the neighborhood (example: facts, figures, measurements, etc that show damage). Remember that support and opposition must address only land use.
- Remember that Plan Commissioners, ZBA, and Village Board members are long-term members of the community, many with substantial experience in their Commission or Board positions. While they are sensitive to individual needs, their key focus is on the long-term benefit to Morton as a community.
- Plan Commissioners, ZBA, and Village Board members are happy to take your private calls and questions, but must make their decisions primarily on testimony at public hearings and legal responsibilities.

Application for Variance

For Office Use Only

Case Number: _____

Building Permit Number: _____

Date: _____

A variance is sought under Sec. 10-10-2-C of the Village of Morton Municipal Code (Ord. #78-31), due to the practical difficulties or hardships that deny the carrying out of the strict letter of the Zoning Ordinance.

A building permit for _____ has been denied because _____
_____.

Name of Petitioner: _____

Address of Petitioner: _____

Phone #: _____ Email Address: _____

Property Owner (if different from petitioner): _____

Variance Location Address: _____

Subdivision: _____ Lot #: _____ ¼ Sec.: _____

Zoning District: _____ Present Use: _____

1. How long have you owned the property in question? _____

2. Check the applicable areas which, if modified, would allow you reasonable use of your property:

_____ Setback requirements

_____ Size limitations

_____ Allowable height

_____ Expansion of a non-conforming building/use

_____ Other (explain in detail): _____

3. State the exact variation requested, specifying distances, dimensions, etc.:

4. State, in detail, the reasons for the request:

5. Who is the contractor for this project? _____

6. Has a variance previously been granted on this property? _____

If so, when was it, and what were the circumstances? _____

7. Following are the names and addresses of property owners within a distance of 250 feet of the subject property. Each individual listed will be notified of the variance request and the scheduled Public Hearing.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

8. **PETITIONER’S AGREEMENT**

I, the undersigned, understand that my application for a building permit has been denied due to non-compliance with the Village of Morton Zoning Ordinance. I also understand that the fee for the variance application is one hundred seventy-five dollars (\$175), which includes the cost of the required legal publication, and that said amount must be filed with the Village of Morton before the variance application may be processed.

I further acknowledge that, should the Zoning Board of Appeals grant my request, it will be necessary for me to obtain a building permit from the Village Zoning Officer prior to initiating the building project. I am also aware that it is necessary to begin construction on the project within ninety (90) days of the granting of the variance. **Failure to comply shall result in automatic revocation of the variance.** In the event said project is completed at the time the variance is granted, it will be necessary, nonetheless, for me to obtain a building permit from the Zoning Officer.

I affirm that all the preceding information, including that contained in the plans submitted herewith, is, to the best of my knowledge, true.

_____ Date

_____ Petitioner/Property Owner

NOTE: With the completed forms, please submit dimensioned drawings “to scale”, consisting of plot plan and elevation views (preferably on 8 ½” x 11” sheets), identifying existing and proposed structures, streets, and property lines, along with a north directional arrow.

FOR OFFICE USE ONLY:

Legal Publication Date: _____

Public Hearing Date: _____

Property Owners Notified: _____

Application Fee Paid: _____

The Zoning Board of Appeals shall not grant a variance unless it shall first make findings of fact based on the evidence presented to it in each specific case. You, the applicant, therefore, are required to and are responsible for providing evidence in your specific case that the following conditions are met:

- A. That you will suffer a particular hardship (as distinguished from a mere inconvenience) if the strict letter of the zoning regulations was to be carried out.
- B. That your particular hardship is caused because of the particular physical surrounding, shape or topographical condition of your property.
- C. That the particular physical surrounding, shape or topographic conditions of your property which you cite as a basis for being awarded a variance are unique attributes to your property and are not generally found in other properties within the same zoning classification.
- D. That your request for a variance is not based exclusively upon a desire for financial gain.
- E. That your alleged hardship is caused by the zoning regulations and not caused by any person presently having an interest in the property.
- F. That granting you a variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which your property is located.
- G. The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public street, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

Please be further advised that the Zoning Board of Appeals can impose such conditions and restrictions upon your property if a variance is awarded as may be necessary to comply with these standards, to reduce or minimize the effect of such variation upon other properties in the neighborhood, and to better carry out the general intent of the Zoning Code.

Please answer the following questions:

1. What particular hardship to you would result if the strict letter of the zoning regulations was to be carried out?

2. Explain how the particular surrounding shape or topographical conditions of your property creates that particular hardship.

3. Explain how the conditions upon which your variance is based are unique to the property for which the variance is sought and not generally applicable to other property similarly zoned within the Village.

4. Explain the purpose of the variance and explain how it is not based exclusively upon a desire for financial gain.

5. Explain how granting the variance will not be detrimental to the public welfare nor injurious to other property or improvements in the neighborhood.

6. Explain how the proposed variance will not impair an adequate supply of light and air to adjacent property nor substantially increase the congestion in public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within your neighborhood.

7. Explain how granting the variance is the minimum adjustment necessary to correct the particular hardship that you will suffer.
