

Village of Bentleyville

Variance Request

Pursuant to Ordinance 1262.02 Variances and Appeals, I _____
(name)

residing at _____
(address)

hereby make an application for a variance to the Planning & Zoning Code of the Village of Bentleyville .

This request must contain all of the information listed below:

1. Description and nature of the variance request.

2. Practical difficulty that applicant is experiencing.

3. Applicant will be responsible for payment for all expenses including but not limited to engineering, legal, postage and/or other professional expenses incurred by the Village.

I request to present my application to the Planning Commission on _____, 20__.

Homeowner Signature

Homeowner Printed Name

Homeowner Signature

Homeowner Printed Name

___ Request to be placed on Planning is granted.

___ Request to be placed on Planning is denied.

Date

Jeffrey Filarski, Building Official
Village of Bentleyville

(10) Satellite antenna. Permit fee: Twenty-five dollars (\$25.00).

(Adopting Ordinance)

(11) Street openings. Permit fee: Subject to Codified Ordinance Section 1024.05, the amount of at least one thousand dollars (\$1,000) for all street openings not involving a subdivision as that term is defined in Section 1240.02(h) of these Codified Ordinances. The sum of twenty-five dollars (\$25.00) shall be deemed the permit fee and the balance shall be used to cover inspection, restoration, clerical and administrative expenses involved in connection with such street opening. Any balance remaining shall be refunded to the permittee upon approval by the Village Engineer.

(12) Grading, filling and topsoil removal. Permit fee: Three hundred dollars (\$300.00) as provided in Section 1274.04. For minor work, a permit fee of ten dollars (\$10.00) as provided in Section 1274.05.

(13) Flood plain. Permit fee: As established by the Building Inspector, for any construction or activity in connection with the terms and provisions of Chapter 1273 of these Codified Ordinances.

(Ord. 1987-40. Passed 2-10-88; Ord. 2004-23. Passed 11-17-04.)

(14) General permit fee; bond. Permit fee: Fifty dollars (\$50.00) for any activity not otherwise provided for herein. A cash bond in the sum of fifteen hundred dollars (\$1,500) shall be required to insure payment by the applicant of all administrative expenses, including, but not limited to, engineering, legal and other professional fees. Any unused portion of said cash bond shall be refunded to the applicant.

(Ord. 1996-12. Passed 4-17-96; Ord. 2001-01. Passed 3-21-01; Ord. 2007-06. Passed 5-15-07; Ord. 2009-24. Passed 11-23-09.)

1262.02 VARIANCES AND APPEALS.

(a) Variances. A variance is a deviation from the strict or literal requirements of a zoning or planning regulation. In such instance where the Building Inspector has determined that a variance is needed in order for an application to be approved, the Village Planning Commission shall review the request for a variance and make a recommendation to Council whether such variance should be authorized. In these specific cases, such variance from the terms of the zoning regulations shall not be contrary to the public interest or the intent of these zoning regulations. However the Planning Commission shall consider where, owing to special conditions, a literal enforcement of the provisions of these zoning regulations would result in practical difficulties to the applicant. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

(1) Requesting a variance.

A. A variance from the terms of these zoning regulations shall not be considered by the Village Planning Commission for recommendation to Council unless the applicant has provided sufficient evidence to warrant the granting of a variance, and a written request for a variance is submitted containing the following information:

1. Description of and nature of the variance requested;
2. A narrative statement demonstrating the practical difficulty that the applicant is

experiencing;

3. In addition, the applicant will be responsible for payment for all expenses, including, but not limited to, engineering, legal, postage and/ or other professional expenses incurred by the Village (as indicated in Section 1262.06 Filing Fees).

B. Such variance request shall be submitted to the Planning Commission for review at the same time as the original application. The Village Fiscal Officer shall notify all adjoining property owners in writing of such request and of all hearing dates regarding such request via regular U.S. mail.

(2) Standards for granting variances. The following factors shall be considered and weighed in determining whether a property owner has a practical difficulty, these factors shall include but not be limited to:

A. Whether the property will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

B. Whether the variance is substantial;

C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

D. Whether the variance would adversely affect the delivery of governmental services;

E. Whether the property owner purchased the property with knowledge of the zoning restriction;

F. Whether the property owner's predicament can feasibly be obviated by some method other than a variance;

G. Whether the spirit and intent of the zoning requirement would be observed and substantial justice done by granting the variance;

H. Additional factors are to be considered for flood plain areas; refer to Section 1273.05 of this code and for riparian setbacks refer to Section 1271.11 of this code.

(3) Granting of a variance. If after considering the above factors as well as the opinion of the Building Inspector and/or the Village Engineer, the Planning Commission makes a determination that such variance should be granted, such recommendation shall be made to Council at the next regular meeting of Council. If Planning Commission makes a determination that such variance should not be granted, such recommendation shall be made to Council and the applicant may appeal such recommendation to Council.

(b) Appeals. If the Planning Commission either disapproves an application or does not recommend a request for a variance; the applicant may appeal to Council.

(1) Procedure for appeal.

A. An appeal from the decision or recommendation of the Planning Commission shall be made within thirty days and shall be filed with the Village Administrative Assistant on the form proscribed. Such appeal application shall contain the following information:

1. Name, address, and telephone number of the appellant;

2. Legal description of the property;

3. Description of the application and/or variance requested;

4. A narrative statement regarding the application and/or variance and the applicant's practical difficulty if appropriate.

5. In addition, the applicant will be responsible for payment for all expenses, including, but not limited to, engineering, legal, postage and/or other professional expenses incurred by the Village as indicated in Section 1262.06 of this Code.

B. Council shall make an examination and investigation as it deems necessary and shall affirm or reverse the decision of the Planning Commission. Council shall take its action at the meeting, at which the appeal is presented, or at the next regular meeting held thereafter, but in no event later than sixty days after the presentation of the appeal.

(2) Granting of an appeal. If an appeal of an application or recommendation on a request for a variance is granted by Council, the Building Inspector shall issue the building permit for which the applicant originally applied without delay.

(Ord. 2009-17. Passed 11-23-09.)

1262.03 START OF WORK; COMPLETION.

Upon issuance of a building permit, the work permitted shall be commenced within sixty days after the date of issuance and shall be completed within one year after the date of issuance or after the date of re-issuance obtained upon application in accordance with the procedures prescribed for original issuance. Failure to comply with this provision shall automatically cancel the permit. No dwelling shall be occupied until it is completely enclosed in accordance with the plans and until all sanitary facilities are installed, and until final inspection and issuance of an occupancy permit by the Building Inspector.

(Ord. 1983-35. Passed 4-11-84.)

1262.04 REVOCATION OF PERMIT.

The Planning Commission, upon recommendation of the Building Inspector, may order any permit to be revoked if it finds that the work being done pursuant thereto does not comply with the plans and specifications submitted and does not comply with this Zoning Code and other ordinances.

(Ord. 1983-35. Passed 4-11-84.)

1262.05 CONFORMITY REQUIRED.

No land, building or structure shall be used, and no building or structure shall be erected, moved, altered or enlarged, for any purpose or in any manner except in conformity with the use, height, bulk, setback building line, area, yard and other regulations established in this Zoning Code or as permitted thereby. No portion of any lot, yard or area required under this Zoning Code for one building shall be used as any portion of a required lot, yard or area for another building.

(Ord. 1983-35. Passed 4-11-84.)

1262.06 FILING FEES.

Except as may be otherwise provided in these Codified Ordinances, the filing fee shall be paid to the Village Treasurer in connection with any plan, document or drawing which is subject to review or approval by the Planning Commission, as follows:

- (a) Plot plan, one hundred dollars (\$100.00);
- (b) House site or drawing, fifty dollars (\$50.00);
- (c) Any other structure(s) or activity, twenty-five dollars (\$25.00).

1262.07 REINSPECTION FEES.

An additional charge of fifty dollars (\$50.00) shall be assessed against every contractor, property owner, builder or tradesman, who calls the Village Building Inspector for the purposes of an inspection prior to the subject area of inspection being completed and available for inspection. Such reinspection fee must be paid prior to the next inspection to be performed, and if same is not paid the Building Inspector may either withhold the next inspection, stop that portion of the job from proceeding, or withheld a final occupancy permit until all such fees have been paid.

(Ord. 1994-50. Passed 9-21-94.)

1262.99 PENALTY.

(a) Except as to any section herein which contains its own penalty, the owner of any building or premises, or part thereof, on, in or attached to which anything in violation of this Zoning Code shall be placed, erected, built, used or permitted to exist, and any architect, builder or contractor who shall be a party to any such violation, and any and all persons who shall violate any of the provisions of this Zoning Code or fail to comply therewith, shall, for each violation or noncompliance, be fined not more than two hundred fifty dollars (\$250.00).

(b) If the owner of any building or premises fails to obtain a permit as required in this chapter, such owner shall, for each such failure, be fined not more than five hundred dollars (\$500.00).

(c) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 1995-46. Passed 12-20-95.)