



**THE ZONING BOARD OF ADJUSTMENT  
of  
THE CITY OF BUNKER HILL VILLAGE**

Function of the Zoning Board Of Adjustment

The City of Bunker Hill Village Board of Adjustment is a legally created entity, which enables you, under very limited circumstances, to seek relief from decisions of the City Building Official, or the application of the Zoning Ordinance to you or your property.

**Board Members do not have jurisdiction or authority to change existing Ordinances in any way. That responsibility rests solely with the Bunker Hill Village City Council. While the Board's jurisdiction includes the authority to grant variances from the City's Zoning Ordinance, that authority is extremely limited. Current law prohibits the Board from granting a variance unless they find, by a seventy-five percent (75%) majority vote of the five-member Board, that the variance requested is necessary to prevent "undue hardship." Absent this determination, the Board has no legal authority to grant a variance.**

**To prove "undue hardship," A PROPERTY OWNER MUST SHOW THAT ENFORCEMENT OF THE ORDINANCE WOULD DESTROY ANY REASONABLE USE OF HIS PROPERTY. A variance is not authorized to accommodate the highest and best use of property, or to allow deviations for the convenience of a property owner, but to grant relief where strict application of the Zoning Ordinance does not permit ANY REASONABLE USE of the applicant's property.**

**The granting of a variance without "undue hardship" is tantamount to the Board amending the City's zoning regulations for the benefit or convenience of one individual, to the exclusion of others. This is discriminatory against the citizens who comply with the regulation.**

The Board is made up of five regular members. There are four alternate members, who are available to serve in the absence of a regular member. One member serves as Chairman of the Board and presides over the meetings. All are Bunker Hill residents and property owners with varied backgrounds. They are appointed by the City Council and volunteer their time and efforts to apply our Zoning Ordinances in a fair and impartial manner.

It is important for you to understand that the Board of Adjustment cannot approve an application simply because the Board's members may personally like the goal pursued by the applicant, or may personally question the wisdom of the Building Official's decision being reviewed or the particular zoning regulation in question.

Role of Building Official

The key person you deal with in your activities related to our Zoning Ordinance is the Building Official. They are appointed by the City Council and charged with the duty of issuing permits and certificates of occupancy, and carry the primary responsibility of enforcing our zoning code in the manner in which it has been enacted by the City Council. They are well experienced in these matters, both from a technical and community relations' viewpoint. In carrying out the prescribed duties, the Building Official has available the services of our Legal Counsel and other City Officials.

### When to Request a Zoning Board Of Adjustment Hearing

You can request the Board of Adjustment to receive your application and conduct a hearing in one or the other of three areas:

- (1) You can request the Board to consider your appeal wherein you allege our Building Official has made an error in an order, requirement, decision or determination in enforcement of our Zoning Ordinances. For example, if you believe our Building Official has wrongfully denied you a permit or wrongfully decided you have violated the Zoning Ordinance because he incorrectly interpreted the requirements of the Ordinance, then you can appeal this alleged error to the Board;
- (2) You can request the Board to consider your request for a special exception to the terms of the Zoning Ordinance, but this consideration can only be made in those few instances when the Ordinance requires the Board to do so; or
- (3) You can request the Board to consider your particular case and authorize a variance from the terms of the Zoning Ordinance. As part of your request you must show that:
  - (a) The variance will not be contrary to the public interest of the other citizens of Bunker Hill;
  - (b) Due to your special conditions peculiar to your particular property, a literal enforcement of the Ordinance would cause you an unnecessary hardship; and
  - (c) The spirit of the Ordinance will still be observed and substantial justice will be done if your variance is granted.

In considering an application for a variance, the most critical question to be asked is whether or not you will be deprived of any reasonable use of your property if the variance is not granted. If the answer is no, you are not entitled to a variance. Keep in mind when making your application that your personal choice, your preferred construction plan, a more pleasing construction project, or cheaper construction costs are not considered unnecessary hardships. The Board is without legal authority to grant a variance unless there is a showing of an “unnecessary hardship”. There are very clear court cases, which have set precedence that unless you can show an unnecessary hardship, you are not entitled to the relief you request.

### Procedure For Requesting Zoning Board Of Adjustment Hearing

First, thoroughly discuss the matter with our Building Official, and try every way possible to work things out at this level.

If you cannot work things out, prepare and submit the completed Application for a Board of Adjustment Hearing, which is attached. It must include:

- (1) A thorough site plan, drawn to scale, showing the dimensions of your lot and the location and dimensions of all your existing and proposed lot improvements. If applicable, include the proposed floor plans and elevations.
- (2) If applicable, a copy of the City of Bunker Hill Building Official’s letter of denial.

- (3) If applicable, your statement of acts and reasons to your proposal as to why a literal application of the code should not be applied and how the standards which govern the Board's actions, would be satisfied. If requesting a variance, you should thoroughly address how application of the Code will specifically impose an unnecessary hardship on you.
- (4) Add anything else you might think will enhance your application in the way of additional narrative information; drawings, photographs or other details, which can better inform the Board about the exact nature of your request.
- (5) If you intend for an agent to speak on your behalf, include with your application a notarized letter of designation of your agent.
- (6) After all of this material has been accumulated and the application completed, ten (10) copies of this material must be submitted to our City Secretary no later than fifteen (15) days after you were notified of the decision of our Building Official. The City Secretary will arrange for the copies of your application to be distributed to all the proper parties.

#### The Hearing

After the administrative procedures have been completed and proper notice has been given to all affected parties, your hearing will be conducted at a designated date and time at City Hall. The hearing will be open to the public and conducted in a respectful, non-adversarial manner, in a way which is intended to allow you to present your best case. Neither questioning nor arguments between individuals appearing before the Board will be permitted. At the hearing, the Chairman will preside and:

- (1) All interested parties appearing before the Board will be sworn;
- (2) To support your application, you will be called upon, under oath, to present your case and all relative material;
- (3) Any other people who support your application will be given an opportunity to speak under oath in favor of your application;
- (4) Anyone who opposes your application will be given an opportunity to speak or present material. They will also be under oath;
- (5) You can rebut any opposing statements or add to what you have previously presented;
- (6) Members of the Board may question you or any of the people who speak for or against your application;
- (7) The Chairman will solicit comments or questions among the Board members, the Building Official, the Board's Legal Counsel, or anyone else who might be appropriate.

### Ruling Of The Board

After your appeal has been presented and after proper deliberation among the Board's members, they will make a ruling on your application. Law requires the approval of four of the five Board members; a simple majority is not sufficient. There are four options available to the Board.

- (1) Grant the relief you have requested in your application.
- (2) Grant the relief you have requested upon satisfaction of whatever conditions might be imposed by the Board.
- (3) Deny the relief you have requested, but grant some sort of modification of the relief requested.
- (4) Deny the relief you have requested.

### Action After The Hearing

Any approval granted by the Board will expire ninety (90) days after the date of the Board's decision unless proper permits and approvals have been obtained from our Building Official, or unless more time has been requested in your application, which was approved by the Board. If you need additional time, you should promptly contact our Building Official.

If the Board has made a ruling which you choose not to accept and you want to proceed to formal court action, you must present to a court of record a verified petition which states that the decision of the Board is illegal in whole or in part and specify the grounds of the illegality. The petition must be presented within ten (10) days after the date the decision is filed by the Board. The matter is then under the Court's jurisdiction and will proceed accordingly.

### Additional Assistance

If you need any additional explanation or assistance in this matter, you are welcome to contact our Building Official or the other personnel at City Hall, who will help you in every way possible.