

Village of New Baden Zoning

Four Conditions Required for a Variance

A variance is a request to allow a deviation from a development standard required by the Zoning Ordinance. The Zoning Ordinance requires that four (4) conditions exist on the subject property for a variance to be approved. The Zoning Administrator must find that these four (4) conditions exist on the subject property to rule favorably on a variance request. It is the burden of the applicant to prove his or her case. The four (4) conditions are as follows:

1. There are special circumstances or conditions applying to the land, building, or use of the subject property which do not apply to other similar properties in the same zoning district. (Special circumstances or conditions would include, for example: an unusual lot size, shape, or topography. This condition is considered a property hardship and it must be a condition relating to the property that is so unique it cannot be replicated on any other similarly zoned land in the City.)
2. The special circumstances or conditions described above were not created by the applicant, owner, or any previous owner of the property. The property hardship cannot be self-imposed.
3. The authorization of a variance is necessary in order for the owner or applicant to enjoy reasonable and substantial property rights. (In other words, without the granting of a variance the property cannot be reasonably used. There is no cause for a variance if the property can be used, even if it is in a manner other than that desired by the owner or applicant.)
4. The authorization of a variance will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare in general. (A variance which will not be compatible with the surrounding development or will create an adverse impact on other properties cannot be approved.)