



## **Village of Montgomery**

### **Variation Application**

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#### **Village Contact:**

**Tony Farruggia**  
**Senior Planner**  
**[tfarruggia@montgomeryil.org](mailto:tfarruggia@montgomeryil.org)**  
**331-212-9022**

## ***Village of Montgomery***

### ***Submittal Checklist***

These items must be submitted with the application on or before the application submittal deadline.

1. Application	—
2. Application Fee (see below)	—
3. Developer Deposit of \$500	—
4. Plat of Survey showing location of proposed construction or use (5 11x17 copies & PDF)	—
5. Signed Deposit Agreement	—
6. Legal Description-Digital Copy in Microsoft Word Format	—
7. Letter Explaining Variation Request	—
8. Letter of Ownership	—

Additional Submittal Requirements after application is submitted:

1. Certified Mailing Receipts	—
2. Affidavit of Notification	—

### ***Fees***

Variances	\$600*
Zoning Appeals	\$300

\*Includes public notice. If public notice costs exceed \$75, additional fees may be required.

**NOTE: As required by Ordinance 2002, it is the responsibility of the Petitioner to pay all administrative, professional consulting and public hearing expenses, incurred by the Village in processing and acting upon petitions or requests (of any of the above actions)**

# **Village of Montgomery**

## **SUMMARY OF THE VARIATION / APPEAL APPLICATION REVIEW PROCESS**

### **NOTICE TO APPLICANTS**

A variation is a zoning adjustment, which permits minor changes of the requirements of the zoning district in which the property in question is located where individual properties are both harshly and uniquely burdened by the strict application of the law. The power to vary is restricted and the degree of variation is limited to the minimum change necessary to overcome the inequality inherent in the property. "Variation" means the modification of the requirements of a zoning district and does not include the substitution of uses assigned to other zoning districts.

You must prove that the combination of the Unified Development Ordinance requirements and the uncommon condition of your property prevents you from making any reasonable use of your land as permitted by your present zoning district. Since zoning regulates land and not people, the following conditions cannot be considered pertinent to the application for zoning variation: (1) proof that a variation would increase the financial return from the land; (2) personal hardship; and, (3) self-imposed hardship.

No variation may be granted which would adversely affect surrounding property in the general neighborhood. All variations must be in harmony with the purpose and intent of the Unified Development Ordinance.

### **PROCEDURES**

The application for zoning variation involves these steps:

1. A completed Application For Zoning Variation must be filled out and submitted to the Community Development Department, along with a plat of survey showing the location and dimensions of the property lines, easements and buildings on the property; a legal description; the location and dimensions of the proposed use or construction; any other supporting documentation that may be required by the Community Development Department; the non-refundable application fee; and the deposit for review and publication costs with signed Developer's Agreement. (Appendix B)
2. When your application is completed and accepted, you will be placed on the agenda for the next available Planning and Zoning Commission meeting. You will be informed of the date and time of the meeting.

3. All variations require a public hearing. Your variation request will be published in a local newspaper no less than fifteen (15) days before the scheduled public hearing date. All of the property owners within 250' of your property must receive notification summarizing the requested zoning variation and an invitation to attend the public hearing (See example letter) no less than 15 days before the scheduled public hearing. The applicant is responsible for this mailing. The mailing must be sent by certified mail with return receipts. Community Development staff will provide the list of property owners for the mailing. A draft of the letter should be provided to staff for review before letters are mailed. Once the mailing is complete, the applicant must submit the affidavit of notification (in packet) to staff. The certified mailing receipts must be submitted to the Village of Montgomery no later than the day of the hearing.
4. The Planning and Zoning Commission (PZC) will conduct the public hearing and make a recommendation to the Village Board.
5. The Village Board will review the recommendation from the Planning and Zoning Commission at the next regular meeting following the public hearing.
6. The Village Board will either approve or deny the variation at their next meeting following the review of the recommendation.
7. Once the variation is approved by the Village Board, staff can issue a building permit.

## **STANDARDS FOR GRANTING A VARIATION FINDINGS OF FACT WORKSHEET**

### **Section 4.04 of the Unified Development Ordinance *Village of Montgomery***

**Recommendations of the Planning and Zoning Commission:** The Planning and Zoning Commission shall recommend the approval of a variation from the provisions of this ordinance as authorized in this section only if the evidence, in the judgment of the Commission, sustains each of the following standards:

- a) The proposed variation will not endanger the health, safety, comfort, convenience, and general welfare of the public.
- b) The proposed variation is compatible with the character of adjacent properties and other property within the immediate vicinity of the proposed variation.
- c) The proposed variation alleviates an undue hardship created by the literal enforcement of this Ordinance.
- d) The proposed variation is necessary due to the unique physical attributes of the subject property, which were not deliberately created by the applicant.
- e) The proposed variation represents the minimum deviation from the regulations of this Ordinance necessary to accomplish the desired improvement of the subject property.
- f) The proposed variation is consistent with the intent of the Comprehensive Plan, this Ordinance, and the other land use policies of the Village.

The Planning and Zoning Commission, by Illinois statute, must determine that certain criteria are satisfied in order to grant a zoning variation. The validity of the alleged hardship is the primary criteria the PZC must use to decide whether to grant or deny a variation request.

It is to the Applicant's benefit to focus on the validity of his/her hardship during the public hearing.

The Planning and Zoning Commission may require such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards set forth in this section to reduce or minimize the effect of such variation upon other property in the neighborhood, and to implement the general purpose and intent of this ordinance.

**Village of Montgomery**  
**APPLICATION FOR ZONING VARIATION**

**Case Number:** \_\_\_\_\_ - \_\_\_\_\_  
**Date Filed:** \_\_\_\_\_

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**PART I. Applicant Information**

**APPLICANT** (Please Print or Type)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

**CONTACT PERSON** (If different from Applicant)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

IS THE APPLICANT THE OWNER OF THE SUBJECT PROPERTY? YES [ ] NO [ ]

(If the Applicant is not the owner of the subject property, a letter from the Owner authorizing the Applicant to file the **Application for Zoning Variation** must be attached to this application).

IS THE APPLICANT AND/OR OWNER A TRUSTEE OR  
A BENEFICIARY OF A LAND TRUST?

YES [ ] NO [ ]

(If the Applicant and/or Owner of the subject property is a Trustee of a land trust or beneficiary(ies) of a land trust, a disclosure statement identifying each beneficiary of such land trust by name and address and defining his/her interest therein shall be verified by the Trustee and shall be attached hereto).

**PART II. Property Information**

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**ADDRESS OF PROPERTY:** \_\_\_\_\_

**PARCEL INDEX NUMBER(S):** \_\_\_\_\_

**LEGAL DESCRIPTION:** \_\_\_\_\_

*A legal description must be provided or attached to this application, include a digital copy*

**ZONING DESIGNATION:** \_\_\_\_\_

**Is the property in question currently subject to a  
Zoning Variation or a Special Use Permit?**

**YES [ ] NO [ ]**

If so, please describe its nature: \_\_\_\_\_

Is the property in question currently non-conforming in any respect? **YES [ ] NO [ ]**

If so, please describe its nature: \_\_\_\_\_

### **PART III. Nature of Zoning Variation Request**

Please note that the following questions must be answered completely. If additional space is needed, attach extra pages to application.

1. Please state specifically the nature of the zoning variation requested (ex. To allow encroachment into side yard setback, etc.) *(Please Print or Type)*

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2. Briefly describe the characteristics of your property that prevent you from complying with the requirements of the Unified Development Ordinance, giving dimensions where necessary. *(Please Print or Type)*

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3. Are these characteristics or conditions the result of other man-made changes, such as relocation of a road or highway? Please describe.

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4. What specific requirement(s) of the Unified Development Ordinance prevent you from establishing the proposed use or construction on your property?

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5. What is the minimum reduction of the requirements of the Unified Development Ordinance that would permit the proposed use or construction on your property?

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6. What is the practical difficulty or particular hardship that would result if the requirements of the Unified Development Ordinance were strictly applied to your property?

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7. To the best of your knowledge, can you affirm that the hardship you described above was not created by you or anyone having a proprietary interest in the subject property?

YES [ ] NO [ ]

If not, explain why the hardship should not be regarded as self-imposed (self-imposed hardships are not entitled to a zoning variation).

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8. Are the conditions of hardship for which you request a zoning variation true only of your property?  
YES [ ] NO [ ] If not, how many other properties in the Village are similarly affected?

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9. Will the granting of a variation in the form requested be in harmony with the neighborhood and not contrary to the intent and purpose of the Unified Development Ordinance and why?

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I certify that all of the above statements and the statements and information contained in any papers, plans and other documents submitted herewith are true to the best of my knowledge and belief.

I (we) consent to the entry in or upon the premises described in this application by any authorized official of the Village of Montgomery for the purpose of posting, maintaining, and removing such notices as may be required by law.

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Applicant Signature

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Date

## **Example Letter-You Must Reproduce Your Own Letter**

**DO NOT RETURN THIS TO THE VILLAGE – IT IS FOR YOUR USE IN DRAFTING LETTERS**

(On Applicant's Letterhead)

### Notice for Public Hearings

*Every applicant is required to notify property owners within 250 feet of his/her property of the Public Hearing (for Variation or Appeal). Applicants should provide the property owners with a brief description of the request to help adjoining property owners better understand what is being proposed in their neighborhood. The public, including the surrounding property owners, will be permitted to comment on the proposal at the Public Hearing.*

### **NOTICE OF PUBLIC HEARING**

Dear Neighbor:

(Applicant Name) has submitted an application to the Village of Montgomery for (type of application, i.e variation for...) to allow (describe variation) on the property located at \_\_\_\_\_.

The staff at the Village of Montgomery is currently reviewing our application material. If you have any concerns or questions about the requested (variation or appeal), you are encouraged to call (contact for the Applicant) at (Contact's telephone number), or Tony Farruggia at 331-212-9022 before (date of Planning and Zoning Commission Meeting). You will also have an opportunity to comment about the proposed development at the Planning and Zoning Commission meeting scheduled for (date of meeting) at 7:00 p.m. at the Montgomery Village Hall at 200 N. River Street.

Sincerely,

(Applicant)

## Example Affidavit

**Village of Montgomery  
AFFIDAVIT OF NOTIFICATION  
FOR REZONING, SPECIAL USE PERMIT,  
VARIATION OR PLANNED  
DEVELOPMENT**

To: Village of Montgomery  
200 N. River Street  
Montgomery, IL 60538

From:

Date:

The undersigned, being sworn upon his/her oath, deposes and says that the list below includes the names and addresses of all owners of property adjacent or within two hundred-fifty feet of the property requesting a variation from the Unified Development Ordinance and, further that all persons owning property which is adjacent to within two hundred-fifty feet of the parcel referred to in the petition for a variation to the Unified Development Ordinance have been notified of the intent of the Petitioner(s).

The property is located at\_\_\_\_\_ A legal description is attached hereto.

PROPERTY INDEX #	PROPERTY OWNER	ADDRESS
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**Attach additional sheets, if necessary.**

*Subscribed and sworn before me*

*By:\_\_\_\_\_*

*this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_*

**NOTE: You must submit certified mailing receipts and list of property owners on or before the date you're your application is taken before the Commission.**

## Appendix B

### DEVELOPER'S AGREEMENT WITH RESPECT TO LAND DEVELOPMENT FEES AND DEPOSITS

The undersigned Developer acknowledges that he/she has filed a \_\_\_\_\_ (type of action requested) and acknowledges he has received a copy of Ordinance No. 2002 and accepts the terms thereof. The Developer, inconsideration of the Village undertaking review of the Developer's request, agrees to be bound by the terms of such Ordinance and herewith submits an initial deposit of (\$\_\_\_\_\_) Dollars.

Developer further acknowledges that said amount is an estimated amount only and is to be held a security for monthly payments of invoiced expenses and shall only be drawn upon if the Developer fails to pay invoices when due. If invoices are not paid, or said deposit is exhausted, the Developer acknowledges that his/her application shall be held and not processed further until said amounts are satisfied or brought current. Developer may be required to replenish said amount if it becomes exhausted.

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Developer

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Dated

Billing Attn: \_\_\_\_\_

Billing Company Name: \_\_\_\_\_

Billing Address: \_\_\_\_\_

For Staff Use:

Project Name: \_\_\_\_\_

RECEIPT OF INITIAL FEE DEPOSIT ACKNOWLEDGED  
BY VILLAGE COLLECTOR.

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Village Collector

***This form must be executed and accompany all Development Applications. No Application will be accepted or processed without this completed form.***