

INFORMATION SHEET

TO: APPELLANT - WHITECAPS, LLC

Your Appeal of Denial of Occupancy Change and Request for Variance has been received. The Appeal will be heard on **Tuesday, October 2, 2018, at 6:00 p.m.** The 2 parties will each have 25 minutes to present to the board and 10 minutes each for rebuttal. The matter will then be put to a vote of the board.

According to Section 16(B) of Ordinance 12-07, you must notify all interested owners or persons including adjoining landowners by certified mail of the time, place, and purpose of the hearing. It is suggested a copy of the Application for Appeal would provide explanation of purpose.

You need to file a copy of the certified mail receipts, along with a list of adjoining property owners and interested parties, with the Clerk prior to the hearing date.

Enclosed is a copy of Section 16 of the Ordinance. This letter is only instructional and informative, and you need to review the Appeal process as to all processes that you need to comply with.

SECTION SIXTEEN: BOARD OF APPEALS

(A) ESTABLISHMENT.

A Board of Appeals is hereby established to administer the details of the application of the regulations of this Code and to determine their application in harmony with their general purpose and intent in accordance with the general provisions of this Code. The Village Council shall serve as and in place of the Board unless and until the Council votes to create the Board. If so the Board shall consist of five non-salaried members appointed by the Mayor to serve for three years each without compensation, except that the terms of the two new members to be appointed shall be for two and three years respectively.

(B) HEARINGS.

Hearings shall be public, but any hearing on any appeal case shall be preceded by an application for the appeal in writing filed with the enforcement officer not less than six days in advance of the hearing and by notice of the filing of such application as herein provided. The appellant shall make a deposit with the Village Clerk, the sum of one hundred dollars (\$100. 00), but he shall receive back from the Village, after the disposition of the appeal, any unexpended balance of his deposit. The appellant shall be required to notify in writing by certified mail interested owners or persons, including adjacent land owners, concerning the time, place, and purpose of the hearing and the location and ownership of the property in question unless such notice is waived by the council.

The clerk shall make a recording of any hearing and appellant will bear any cost including transcription.

(C) APPEALS.

Appeals to the Board (Council) may be taken by any person, firm, corporation, officer, board or commission of the Municipality affected by any grant or refusal of a building permit or by any other decision of the enforcement officer in regard to the requirements of this Code. Such appeal shall be filed within thirty days from the ruling upon an appropriate form furnished by the administrator for an appeal. The Board (Council) may, in accordance with the provisions of this Code, refuse or affirm, wholly or partly, the appeal.

(D) VARIANCES.

The Board (Council) shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such

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variances from the provisions or requirements of this Code as will not be contrary to the public interest, but only in the case of exceptional conditions, involving irregular, narrow, shallow, or steep lots, or other exceptional physical conditions or circumstances, whereby strict application of such provisions or requirements would result in practical difficulty and unnecessary hardship that would deprive the owner of the reasonable use of the land or buildings involved. No variance from the strict application of any provision of this Code shall be granted by the Board (Council) unless it finds, beyond reasonable doubt, that all of the following facts and conditions exist:

- (1) There are special circumstances or conditions fully described in the Board's decision, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that such circumstances or conditions are such that the strict application of the provisions of this Code would result in practical difficulty and unnecessary hardship and deprive the applicant of the reasonable use of the land or building.
 - (2) The variance as granted by the Board is the minimum variance that will accomplish the reasonable use of the subject land or building.
 - (1) The benefit to the property owner and the Village as a whole would out-weigh any detriment cause to any individual(s).
- (E) Any application for variance which could be approved through rezoning to any other classification shall not be approved as a variance since this act would be equal to rezoning.