

CHAPTER 2 ZONING VARIATIONS

9A-2-1: GRANTING VARIATIONS, VILLAGE DECISION:

The president and board of trustees, by ordinance, upon report of the plan and zoning commission, and only after a public hearing before the plan and zoning commission, shall decide variations of the provisions of this zoning title in harmony with its general purpose and intent, and shall vary them only in the specific instances hereinafter set forth where the plan and zoning commission shall have made a finding of fact based upon the standards hereinafter prescribed that there are practical difficulties or particular hardships to the applicant in complying with the regulations of this zoning title. (Ord. 83-0-3, 3-24-1983; amd. Ord. 24-O-2000, 8-24-2000; Ord. 12-O-2005, 8-11-2005)

9A-2-2: APPLICATION FOR VARIATION:

- A. An application for a variation shall be filed in writing with the village clerk and may be made by any government office, department, board, bureau or commission, by any person having a freehold interest, a possessory interest entitled to exclusive possession, a contractual interest which may become a freehold interest or any exclusive possessory interest applicable to the land or land and improvements described in the application for variation. (Ord. 83-0-3, 3-24-1983; amd. Ord. 24-O-2000, 8-24-2000)

- B. An application for a variation shall be filed with the village clerk who shall forward such application to the plan and zoning commission for hearing. No variation shall be made by the president and board of trustees except after a public hearing before the plan and zoning commission. Notice of the time and place of such public hearing shall be given at least once not more than thirty (30) nor less than fifteen (15) days before the hearing by publishing a notice thereof in one or more newspapers published in the village, or if no newspaper is published therein, then in one or more newspapers with a general circulation within the village. Notice of the time and place of such public hearing shall also be posted on the bulletin board in the village hall not less than fifteen (15) days before the hearing. (Ord. 83-0-3, 3-24-1983; amd. Ord. 24-O-2000, 8-24-2000; Ord. 12-O-2005, 8-11-2005)

9A-2-3: STANDARDS FOR VARIATIONS:

- A. The plan and zoning commission shall not vary the regulations of this title unless it shall make findings based upon the evidence presented to it in each specific case, as follows: (Ord. 83-0-3, 3-24-1983; amd. Ord. 24-O-2000, 8-24-2000; Ord. 12-O-2005, 8-11-2005)
 - 1. The property in question cannot yield a reasonable financial return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located; and

 - 2. The plight of the owner is due to unique circumstances; and

3. The variation, if granted, will not alter the essential character of the locality; and
4. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result as distinguished from a mere inconvenience, if strict compliance with zoning regulations were carried out; and
5. The conditions upon which the petition for a variation is based are unique to the property for which the variance is sought and are not applicable, generally, to other property within the same zoning classification; and
6. The alleged difficulty or hardship is caused by the zoning regulations and has not been created by any person presently having an interest in the property; and
7. The granting of the variation will not be detrimental to public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
8. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood. (Ord. 83-0-3, 3-24-1983; amd. Ord. 24-O-2000, 8-24-2000)

B. The plan and zoning commission may recommend and the president and board of trustees may require such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards established in this subsection, to reduce or minimize the effect of such variation upon other property in the neighborhood and to better carry out the general intent of this title. (Ord. 83-0-3, 3-24-1983; amd. Ord. 89-0-17, 11-30-1989; Ord. 24-O-2000, 8-24-2000; Ord. 12-O-2005, 8-11-2005)

9A-2-4: AUTHORIZED VARIATIONS:

Variations from the regulations of this title shall be recommended by the plan and zoning commission only in accordance with the standards established in section 9A-2-3 of this chapter, and may be granted by the president and board of trustees only in the following instances and in no others: (Ord. 83-0-3, 3-24-1983; amd. Ord. 89-0-17, 11-30-1989; Ord. 24-O-2000, 8-24-2000; Ord. 12-O-2005, 8-11-2005)

- A. To permit any yard or setback less than the yard or setback required by the applicable regulations, but not more than twenty five percent (25%). (Ord. 83-0-3, 3-24-1983)
- B. Except as specifically provided in subsections H and I of this section, to permit the use of a lot or lots for a use otherwise prohibited solely because of insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than ninety percent (90%) of the required area and width. The percentage set forth in this subsection, except as set forth in subsections H and I of this section, is not to be reduced by any other percentage for minimum lot area and area set forth in this title. (Ord. 90-0-7, 4-12-1990)

- C. To permit the same off street parking facility to qualify as required facilities for two (2) or more uses, provided the substantial use of such facility by each use does not take place at approximately the same hours of the same days of the week.
- D. To reduce the applicable off street parking or loading facilities required by not more than one parking space or loading space, or twenty percent (20%) of the applicable regulations, whichever number is greater.
- E. To increase by not more than twenty five percent (25%) the maximum distance that required parking spaces are permitted to be located from the use served.
- F. To increase by not more than ten percent (10%) the maximum gross floor area of any use so limited by the applicable regulations.
- G. To exceed any of the authorized variations allowed under this section, when a lot of record or a zoning lot, vacant or legally used on the effective date hereof, is by reason of the exercise of the right of eminent domain by any authorized governmental body or by reason of a conveyance under threat of an eminent domain proceeding reduced in size so that the remainder of said lot of record or zoning lot or structure on said lot does not conform with one or more of the regulations of the district in which said lot of record or zoning lot or structure is located. (Ord. 83-0-3, 3-24-1983)
- H. To permit in those lots which: 1) are zoned within an R-1 residence district; and 2) were legally platted prior to January 1, 1970; and 3) are located within an area of the village bounded as follows:

On the north by the Des Plaines River, on the south by Archer Avenue, on the east by LaGrange Road and on the west by Willow Springs Road,

variations in minimum lot size which exceed the ten percent (10%) maximum variation allowed in subsection B of this section, but in no event shall such variation be granted which would authorize a minimum lot size of less than six thousand five hundred (6,500) square feet. Additionally, the plan and zoning commission in its recommendation, and/or the president and board of trustees in its final approval, may condition the approval of a variation in lot size authorized by this subsection upon the completion by the owner of the subject lot(s) of certain development considerations, including, but not limited to, approved landscaping, architectural review to assure quality construction, adequate buffering and screening of adjacent lots and any special setback requirements deemed necessary to limit impacts to surrounding properties and the village as a whole and in order to maintain property values. (Ord. 90-0-7, 4-12-1990; amd. Ord. 24-O-2000, 8-24-2000; Ord. 12-O-2005, 8-11-2005)

- I. To permit in the following ten (10) lots located on Hill Street and Spring Street, designated by the permanent real estate index numbers:

18-33-209-007 18-33-209-009

18-33-209-008 18-33-209-010

18-33-209-022 18-33-209-025

18-33-209-023 18-33-209-026

18-33-209-024 18-33-209-027

variations in minimum lot size which exceed the ten percent (10%) maximum variation allowed in subsection B of this section, but in no event shall such variation be granted which would authorize a minimum lot size of less than five thousand three hundred seventy five (5,375) square feet. Additionally, the plan and zoning commission in its recommendation to the president and board of trustees, and/or the president and board of trustees in its final approval, may condition the approval of a variation in lot size authorized by this subsection upon the completion by the owner of the subject lot(s) of certain development considerations, including, but not limited to, approved landscaping, architectural review to construction, adequate buffering and screening of adjacent lots and any special setback requirements deemed necessary to limit impacts to surrounding properties and the village as a whole and in order to maintain property values. (Ord. 91-0-6, 4-25-1991; amd. Ord. 24-O-2000, 8-24-2000; Ord. 12-O-2005, 8-11-2005)

9A-2-5: APPEALS:

A. Initiation:

1. An appeal may be taken to the plan and zoning commission by any person aggrieved by an administrative order, requirement, decision or determination under the zoning ordinance of the village by the building commissioner or other authorized officials of the village other than the president and board of trustees.
2. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the plan and zoning commission, after the notice of appeal has been filed that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In this event the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the plan and zoning commission on due cause shown.

B. Processing:

1. The appeal shall be taken within forty five (45) days of the action complained of by filing with the officer from whom the appeal is taken and with the plan and zoning commission in care of the village clerk a notice of appeal specifying the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the plan and zoning commission all papers and documents constituting the record upon which the appeal is taken.
2. The plan and zoning commission shall conduct a hearing within a reasonable time from receipt of the notice of appeal. The plan and zoning commission shall give ten (10) days' notice of said hearing date to all parties and shall decide the appeal and prepare written

findings of fact and a decision within thirty (30) days from the conclusion of the hearing. The plan and zoning commission may reverse or affirm, wholly or partly, or may modify the order, requirement or decision or determination as in its opinion ought to be made on the premises and to that end has all the powers of the official from whom the appeal is taken. (Ord. 83-0-4, 3-24-1983; amd. Ord. 89-0-17, 11-30-1989; Ord. 24-O-2000, 8-24-2000; Ord. 12-O-2005, 8-11-2005)

9A-2-6: FEES:

A. Applications for a variation, special use, special use - planned unit development, zoning amendment or site plan review shall be made in the office of the village clerk on forms provided by the village clerk. The applications shall be accompanied by a nonrefundable fee in the following amounts:

| Relief Required | Application Fee |
|--|--------------------|
| Variations | \$400.00 |
| Special use, special use - planned unit development, zoning amendment, site plan review | 750.00 |

An applicant shall pay the appropriate application fee for each approval required. By way of example, if the applicant requires a zoning amendment, seven hundred fifty dollars (\$750.00), site plan review, seven hundred fifty dollars (\$750.00) and variation(s), four hundred dollars (\$400.00), the total application fee payable is one thousand seven hundred fifty dollars (\$1,750.00). (Ord. 26-O-2009)

B. The fee for filing a notice of appeal for review of any order, requirement, decision or determination of the building commissioner shall be five hundred dollars (\$500.00). This fee shall be paid to the office of the village clerk prior to filing the notice of appeal and is nonrefundable. A receipt from the village clerk evidencing payment of the fee shall accompany the notice of appeal when filed with the plan and zoning commission.

C. In addition to the payment of the foregoing fees in subsections A and B of this section, the applicant, or owner of the subject property, if different, or person appealing in the case of an appeal, shall reimburse the village (or pay directly to the village's consultants if so directed by the village) all expenses, costs and fees incurred by the village in its sole judgment in connection with the consideration and review of applications for variation(s), special use, special use - planned unit development, zoning amendment, site plan review or an appeal. Such costs shall include, but not be limited to, stenographic fees; engineering review fees; traffic engineer fees; financial consultants; planning consultants; landscape consultants; and other consulting fees; attorney fees; public hearing and other publication charges; and recording charges. These charges shall be paid within seven (7) days after an invoice is submitted to the applicant, owner or appellant by the village clerk or person performing the service, but in no event shall the plan and zoning commission or village board of trustees take any final action or render any final decision on any application or appeal prior to

payment of all invoiced items. These fees and charges shall be paid notwithstanding an adverse decision to the applicant on an appeal, the abandonment of the proceedings by the applicant, or the denial of the request of an applicant, in whole or in part, by the plan and zoning commission and/or the village board of trustees. (Ord. 95-0-36, 12-28-1995; amd. Ord. 24-0-2000, 8-24-2000; Ord. 12-O-2005, 8-11-2005)

D. In addition to the foregoing, the village may, in its sole discretion, upon receipt of an application for a variation, special use, special use - planned unit development, zoning amendment or site plan review, require the applicant to deposit with the village for deposit by the village into a special account, an advance payment, toward the subsection C development review fees and costs to be incurred by the village. The amount of such deposit shall be determined by the village, the receipt of which shall be a condition precedent to the village's acceptance of an application and the commencement of the development/zoning review process. From time to time as fees are incurred by the village, they shall be paid by the village from said special account and the applicant so notified. At such time as the village deems necessary, the applicant shall deposit additional monies to the special account. The deposit of such additional monies within ten (10) days of a request therefor shall be a condition precedent to the village continuing the development/zoning review process. (Ord. 95-0-36, 12-28-1995; amd. Ord. 24-0-2000, 8-24-2000)

CHAPTER 3 ZONING DISTRICTS MAP

9A-3-1: ZONING DISTRICTS ESTABLISHED:

In order to classify, regulate and restrict the location of residential, business, commercial and industries, and the location of buildings designated for specified uses and to regulate and limit the height of buildings hereafter erected or altered, to regulate and limit the use of lot areas, and to regulate and determine the area within and surrounding such buildings, the Village is hereby divided into classes of districts, as follows:

- R-1 Residence District
- R-2 Residence District
- R-3 Residence District
- SR-1 Suburban Residential Single-Family District
- SR-2 Suburban Residential Single-Family District
- SR-3 Suburban Residential Single-Family District
- SR-4 Suburban Residential Single-Family District
- B-1 Community Shopping District
- B-2 Commercial and Business Service District
- L-I Light Industrial District