

**ADMINISTRATION AND ENFORCEMENT****§ 183.165 VARIANCES.**

(A) *Description and purpose.* A variance may be granted in cases where there are practical difficulties or particular hardships in the way of carrying out the strict letter of any of the regulations herein relating to the use, construction or alteration of buildings or structures or the use of land. Such variance in the application of the regulations must be in harmony with the general purpose and intent of this chapter and the regulations and standards adopted herein, and in accordance with the general and specific rules and standards hereinafter set forth in regard to the granting of such variances.

(B) *General rules and standards.*

(1) The Village Board may grant a variance, by ordinance, in a specific case and after a public hearing before the Zoning Board, in accordance with the procedure hereinafter set forth when it appears:

(a) That special conditions and circumstances exist which are not applicable to other lands or structures in the same district;

(b) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other lands or structures in the same district under the terms of this chapter;

(c) That the special conditions and circumstances do not result from the actions of the applicant;

(d) That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district.

(2) No nonconforming use of neighboring lands or structures in the same district, and no permitted use of lands or structures in other districts shall be considered grounds for the issuance of a variance.

(C) *Limitation in granting variances.* When it appears that the conditions set forth in division (B) above have been satisfied, the Zoning Board shall not recommend that the Village Board grant a variance except in the following instances:

(1) To permit any yard, court, buffer strip, setback line or spacing between buildings of less dimension than required by the applicable regulations;

(2) To permit a reduction in the minimum or an increase in the maximum floor area ratio imposed by the applicable regulations;

(3) To permit any structure to exceed the height limitations imposed by the applicable regulations;

(4) To permit greater coverage than required by the applicable regulations;

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(5) To permit the use of a lot for a use otherwise prohibited solely because of the insufficient area of the lot;

(6) To permit a reduction in the minimum habitable floor area of a dwelling unit or a lodging unit;

(7) To permit a reduction in the minimum or an increase in the maximum floor areas of a building as imposed by the applicable regulations;

(8) To permit a reduction in the number of off-street parking spaces or loading berths required about or in connection with a use;

(9) To permit the reconstruction of a nonconforming structure which has been destroyed or damaged to an extent of more than 50% of its value by fire, an act of God or the public enemy, where the Zoning Board shall find some compelling necessity requiring a continuance of the nonconforming structure.

(10) To permit in a Residential District the creation of new lots having areas less than the minimum specified for the district, where such new lots conform with the size of lots directly across the street from and immediately adjacent on either side to, the tract being subdivided; provided, that the tract is located in an area which has been partially subdivided prior to the enactment of this chapter; it being the purpose of this variance to allow the logical completion of a subdivision plan already in progress and to permit the extension of smaller lot sizes to surrounding lands.

**(D) Application for variance.**

(1) Variances in the application of the zoning regulations and standards adopted herein may be applied for by filing a written application or petition to the Village Board, in triplicate, in the office of the Zoning Officer. Such application shall:

(a) State the name and address of the applicant;

(b) State the location of the property for which the variance is sought;

(c) State facts which the applicant believes bring him within the requirements set forth in division (B) above; and

(d) Request a variance restricted to one or more of the situations described in division (C) above.

(2) The original copy of such application shall be retained by the Zoning Officer; the duplicate copies shall be transmitted by the Zoning Officer to the Village Clerk for the records of the Village Board.

**(E) Hearing date and notice of public hearing.**

(1) If the application for variance is in proper form, the Zoning Board shall set a hearing date for the application and shall cause a notice of the time and place of such public hearing to be published in a newspaper of general circulation in the village not less than 15 days nor more than 30 days prior to the date of hearing. Such notice shall contain the particular location for which the variance is requested as well as a brief statement of what the proposed variance consists.

(2) Within five days after publication, a copy of such published notice shall be mailed to the applicant at the address given in such application, and a copy shall be mailed or delivered to the Village Clerk.

(3) If the application is not in proper form, the Zoning Board shall notify the applicant in writing, and send a copy of such communication to the Village Clerk, and no hearing shall be set nor notice published until a proper application is filed.

**(F) *Hearing by Zoning Board on variance.***

(1) A public hearing on the application for variance shall be conducted by the Zoning Board on the date set in accordance with the general rule for meeting provided in § 153.169 and such hearing may be continued from time to time as required.

(2) After the hearing, the Zoning Board shall make a report of their findings to indicate their approval or disapproval of such proposed variance. Every report shall contain findings of fact specifying the reason for the Zoning Board's recommendation of approval or disapproval.

**(G) *Vote of the Village Board.***

(1) Upon the report of the Zoning Board, the Village Board may, by ordinance, without further public hearing, adopt the proposed variance or they may refer it back to the Zoning Board for further consideration.

(2) No proposed variance which fails to receive the approval of the Zoning Board may be adopted by the Village Board except by the favorable vote of three-fourths of all the members of the Village Board.

(3) Every ordinance granting a variance shall contain findings of fact specifying the reason for making such variation.

**§ 153.166 ZONING ENFORCING OFFICER.**

The Zoning Enforcing Officer is hereby authorized and directed to enforce all the provisions of this chapter. The Zoning Enforcing Officer shall be appointed by the Village Board. The Zoning Enforcing Officer shall have the power to:

(A) Issue building permits.

(B) Grant certificate of occupancy permits.

(C) Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this chapter.

(D) Perform such other further functions necessary and proper to enforce and administer the provisions of this chapter.

**§ 153.167 BUILDING PERMIT APPLICATION.**

(A) No building or structure within the village shall hereafter be erected, moved, altered or razed, nor shall any such work be started to erect, move, alter or raze until a building permit shall have been obtained from the Zoning Enforcing Officer, as required by the Village Building Code; nor shall any material change be made in the use of any building or land without a building permit having been obtained from the Zoning Enforcing Officer. No such building permit shall be issued to erect a building or structure or make any change of use of a building or land unless it is in conformity with the provisions of this chapter and all amendments hereto. The Zoning Enforcing Officer shall have the authority to issue permits for temporary buildings and uses for construction purposes, when said building or use will not continue for a period exceeding one year. Unless construction is started within six months after the date of issuance of a building permit, the building permit shall automatically become void and fees forfeited. The Zoning Officer may reinstate a building permit that has become void for failure to commence construction without payment of further fees in his discretion upon good cause shown. Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Chapter shall be collected by the Zoning Enforcing Officer in advance of issuance. The amount of such fees shall be established by ordinance or resolution of the Village Board. Within 12 months from the issuance of any building permit for new construction and within six months from the issuance of a building permit for remodeling (or construction on existing improvements), the owner of the premises or holder of the permit shall complete the construction, and request within said time period that the Zoning Enforcing Officer perform a final inspection pursuant to division (D) below. A reasonable extension of time to complete construction shall be granted to any owner or holder of a building permit who shall prove to the reasonable satisfaction of the Zoning Enforcing Officer that the size, nature or complexity of the construction, or unavoidable delays caused by strikes, weather or Acts of God, have caused the construction to exceed the time limits set forth above. Any owner or holder of a building permit who fails to complete construction within the time period set forth in this division (A), (or any extension thereof) or who fails to obtain a certificate of occupancy within 30 days following the expiration of the construction time period, shall be subject to a fine as set forth in § 153.999, for each and every day the construction has not been completed.

(B) The Zoning Enforcing Officer shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contract, such as covenants or private agreement which may occur upon the granting of such permit.

(C) The Zoning Enforcing Officer shall require that all applications for building permits be accompanied by plans and specifications including a plot plan, in duplicate, drawn to scale, showing the following:

- (1) The actual shape, location and dimensions of the lot drawn to scale.
- (2) The shape, size and location of all buildings or other structures upon it, including, in residential areas the number of dwelling units the building is intended to accommodate.
- (3) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.
- (4) The plans and specifications for a building permit for an in-ground swimming pool shall also set forth all dimensions for the swimming pool, including the location, length, width and depth of the in-ground swimming pool.

One copy of the plans shall be returned to the applicant by the Zoning Enforcing Officer, after he shall have marked such copy either approved or disapproved. The second copy shall be retained in the office of the Zoning Enforcing Officer.

(D) Upon the completion of the work authorized by a building permit, the holder thereof shall seek final inspection thereof by notifying the Zoning Enforcing Officer. The Zoning Enforcing Officer shall make such final inspection promptly.

(Am. Ord. 876, passed 3-10-14; Am. Ord. 878, passed 3-10-14)

#### § 153.168 CERTIFICATE OF OCCUPANCY.

No land, building, structure or part thereof shall be occupied by or for any use for which a building permit is required by this chapter unless and until a certificate of occupancy shall have been issued for such new use. The following shall apply in the issuance of any certificate:

(A) *Certificates not to be issued.* No certificate of occupancy shall be issued for any building, structure or part thereof, or for the use of any land, which is not in accordance with all the provisions of this chapter.

(B) *Certificates required.* No building or structure, or parts thereof, which is hereafter erected or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.

(C) *Certificates including zoning.* Certificates of occupancy as required by the Building Code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this chapter.

(D) *Certificates for existing buildings.* Certificates of occupancy will be issued for existing buildings, structures or parts thereof or existing uses of land if, after inspection, it is found that such buildings, structures or parts thereof, or such use of land are in conformity with the provisions of this chapter.

(E) *Temporary certificates.* Nothing in this chapter shall prevent the Zoning Enforcing Officer from the issuing of a temporary certificate of occupancy for a portion of a building or structural in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six months nor more than five days after the completion of the building ready for occupancy, and provided further that such portion of the building, structure or premises is in conformity with the provisions of this chapter.

(F) *Records of certificates.* A record of all certificates issued shall be kept on file in the office of the Zoning Enforcing Officer, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

(G) *Certificate for dwelling accessory buildings.* Buildings accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plat plan and when completed at the same time as such dwellings.

(H) *Application for certificates.* Application for certificates of occupancy shall be made in writing to the Zoning Enforcing Officer on forms furnished by the village, and such certificates shall be issued if, after final inspection, it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this chapter. If such certificate is refused for cause, the applicant therefor shall be notified in writing of such refusal and cause thereof.

**§ 153.169 BOARD OF APPEALS; APPEAL PROCEDURES AND STANDARDS.****(A) Organization.**

(1) A Board of Appeals is hereby established in accordance with the provisions of the state statutes applicable thereto.

(2) Regular meetings of the Board shall be held at such time and place within the village as the Board may determine. Special meetings may be held at the call of the Chairman, or determined by the Board. Such Chairman, or, in his absence, the Acting Chairman, may administer oaths and compel attendance of witnesses.

(3) All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member on every question. If any member is absent or fails to vote, the minutes shall indicate such fact. The Board shall adopt its own rules of procedure not in conflict with the state statutes or this chapter.

**(B) Appeals, how taken.**

(1) Appeals to the Board may be taken by any person aggrieved or by an officer, department, board or bureau of the village.

(2) An appeal shall be taken within 20 days from the date of the action appealed from, by filing with the Zoning Enforcing Officer and with the Board of Appeals a notice of appeal, specifying the grounds thereof. The Zoning Enforcing Officer shall forthwith transmit to the Board all papers constituting the records upon which the action appealed from was taken.

(3) An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Enforcing Officer certifies to the Board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.

(4) The Board of Appeals shall fix a reasonable time for hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. The Board may reverse or affirm, wholly or partly, or may modify the use, requirement, decision or determination as, in its opinion, ought to be made in the premises.

**(C) Jurisdiction.** The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter, but does have the power to act on those matters where this chapter provides for an administrative review, interpretation and to authorize a variance as defined in this chapter and laws of the State of Illinois. Said powers include:

(1) **Administrative review.** To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Enforcing Officer or any other administrative official in carrying out or enforcing any provisions of this chapter.

(2) **Special use.** To hear and recommend to the Village Board provisions of this chapter for interpretations of the zoning map and for decisions on special use situations on which this chapter specifically authorizes the Board to approve. Any special use permit shall be subject to such conditions

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as the Board may require to preserve and promote the character of the Zoning District in question and otherwise promote the purpose of this chapter.

(3) **Variance.** To recommend to the Village Board, upon an appeal, a variance from the strict application of the provisions of this chapter. In recommending a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this chapter. In recommending a variance, the Board shall state the grounds upon which it justifies the granting of a variance.

(D) **Standards.** Each case before the Board of Appeals shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such case. All uses as listed in any district requiring Board approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts. The Board shall give consideration to the following:

(1) The location and size of the use.

(2) The nature and intensity of the operations involved in or conducted in connection with.

(3) Its size, layout and its relation to pedestrian and vehicular traffic to and from the use.

(4) The assembly of persons in connection with it will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood.

(5) Taking into account among other things, convenient routes of pedestrian traffic, particularly of children.

(6) Vehicular turning movements in relation to routes of traffic flow, relation to street intersections, sight distance and the general character and intensity of development of the neighborhood.

(7) The location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping of the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

(8) The nature, location, size and site layout of the uses shall be such that it will be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another.

(9) The location, size, intensity and site layout of the use shall be such that its operations will not be objectionable to nearby dwellings, by reason of noise, fumes or flash of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses, nor interfere with an adequate supply of light and air, nor increase the danger of fire or otherwise endanger the public safety.

(E) **Miscellaneous.** No order of the Board of Appeals permitting the erection or alteration of buildings shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit. No order of the Board of Appeals permitting use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that the use of such permit is dependent upon the

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erection or alteration of a building, such order shall continue in full force and effect if a building permit for such use, erection or alteration is obtained within such period and such erections or alterations are commenced and proceed to completion in accordance with the terms of such permit.

(F) *Appeals to Court.* All final administrative decisions of the Board of Appeals rendered under the terms of this chapter shall be subject to judicial review pursuant to the provisions of the "Administrative Review Act" approved May 8, 1945, and all amendments thereof, and the rules adopted pursuant thereto.

### § 153.170 AMENDMENT OF REGULATIONS AND DISTRICTS.

#### (A) *Procedure for proposing amendments.*

(1) The Zoning Board of Appeals is hereby designated as the commission that shall conduct a hearing on all proposed amendments to the Zoning Code as required by ILCS Ch. 65, Act 5, § 11-13-14.

(2) The Village Board, if it desires to amend the Zoning Code, shall adopt a resolution referring to the Zoning Board of Appeals a proposed amendment stating specific changes proposed to be made and shall transmit one copy of the Resolution to the Zoning Board and Zoning Officer.

(3) When an amendment is proposed by the Zoning Board, the Board shall prepare a statement of recommendation to the Village Board, stating the specific changes proposed to be made and explain why such amendment may be needed or desirable, and shall file three copies of such statement in the office of the Zoning Officer. The Zoning Officer shall retain the original copy of the statement, and the duplicate copies shall be transmitted to the Village Clerk for the records of the Village Board.

(4) If the amendment is proposed by petition of a person or persons other than the Zoning Board, such proposal may be made by filing three copies of a written petition to the Village Board in the offices of the Zoning Officer. Such petition shall:

(a) State the name and address of the petitioner or petitioners;

(b) State the interest of the petitioner in the property involved and/or in the changes sought by the amendment;

(c) State the specific changes sought and state facts sufficient to demonstrate need for or desirability of such changes, and support such statements with any plans and/or data necessary for a proper understanding of the changes proposed and the grounds therefor, or such plans and/or data as are recommended by the Zoning Officer or prescribed by the Zoning Board or Village Board.

The original copy of such petition and any supporting documents shall be retained by the Zoning Officer; the duplicate copies shall be transmitted to the Village Clerk for the records of the Village Board.

(B) *Procedure on petition before hearing.* If the amendment proposed may not be adopted legally under the laws of this state, the Village Board shall notify the petitioner in writing and send a copy of the communication to the Village Clerk.

(C) *Hearing date and notice of public hearing.* Within a reasonable time after receipt of a copy of a resolution statement of recommendation or petition, as provided in division (A) above, the Zoning Board



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shall set hearing dates for the proposed amendment and shall cause a notice of the time and place of such public hearings to be published in a newspaper of general circulation in the village not less than 15 days nor more than 30 days before the date of hearing. Such notice shall set forth in full the proposed changes in this chapter.

### *(D) Hearing by Zoning Board on amendment.*

(1) Public hearings on the proposed amendment shall be conducted by the Zoning Board on the dates set in accordance with the general rules for meetings provided in this chapter, and such hearings may be continued from time to time as required.

(2) After the conclusion of the last hearing required herein, the Zoning Board shall make a report of their findings to the Village Board, and in said report shall indicate their approval or disapproval of the proposed amendment. Every report shall contain a finding of fact specifying the reason for the Zoning Board's recommendation of approval or disapproval.

### *(E) Vote of the Village Board.*

(1) Upon the report of the Zoning Board after the public hearings, the Village Board may, by ordinance, adopt the proposed amendment by majority vote, regardless of the recommendation of the Zoning Board, except in those cases where a written protest against the proposed amendment is filed with the Village Clerk, signed and acknowledged by:

(a) The owners of 20% of the frontage proposed to be altered; or

(b) The owners of 20% of the frontage immediately adjoining or across an alley from the frontage proposed to be altered; or

(c) The owners of 20% of the frontage directly opposite the frontage proposed to be altered.

(2) In these cases, a three-fourths vote of all the members of the Village Board shall be required for adoption of the proposed amendment.

(3) A written protest pursuant to this division (E) shall be filed in the office of the Village Clerk at least five days before the Village Board meeting next following the Zoning Board hearing.  
(Am. Ord. 604, passed 5-22-00)