

CHAPTER 9-11

VARIANCES

SECTION:

- 9-11-1: Authority
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9-11-1: **AUTHORITY:** The Planning Commission (see Chapter 9-12) shall provide recommendations to the Village Board based on the provisions of this Ordinance and in harmony with its general purpose and intent. The Planning Commission shall recommend variances to those provisions only in specific instances hereinafter set forth where it shall have made a finding of fact based upon the standards hereinafter prescribed that there are practical difficulties or particular hardship in the way of carrying out the strict letter of the regulations of this Ordinance. The power to determine and approve variances is hereby reserved to the Village Board.

9-11-2: **INITIATION:** An application for a variance may be made by any person, firm, or corporation, or by an office, department, board, bureau, or commission requesting or intending to request application for a building permit, or occupancy certificate. Application for a variance must be made in the format specified by the Village on form made available from the Village Clerk.

9-11-3: **PROCESSING:** An application for a variance shall be filed with the Village Clerk. The Village Clerk shall forward such application to the Planning Commission for processing in accordance with applicable statutes of the State of Illinois and the provisions of this Ordinance. The Zoning Enforcement Officer shall be copied on all applications for a variance.

9-11-4: **STANDARDS:**

- A. The Planning Commission shall not recommend variation from the provisions of this Ordinance, unless it shall have made findings based upon evidence presented to it as follows:
1. That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the zoning district in which it is located; or
 2. That the plight of the owner is due to unique circumstances; or
 3. That the variation, if granted, will not alter the essential character of the locality.

- B. The Planning Commission, in determining whether there are practical difficulties or particular hardships, shall also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:
1. That the particular physical surroundings, shape, or topographical conditions of the specific property involved will bring particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were carried out.
 2. That the conditions upon which the application for variation is based would not be applicable generally to other property within the same zoning district.
 3. That the purpose of the variance is not based exclusively upon a desire to make more money from the subject property.
 4. That the granting of the variance will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located.
 5. That the proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the risk of fire, or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.
- C. The Planning Commission may, upon the premises benefited by a variance, require conditions and restrictions as may be necessary to reduce or minimize the effect of such variance upon other property in the neighborhood, and to implement the general purpose and intent of this Ordinance.
- D. Action by the Planning Commission
1. For each application for variance, a recommendation to the Village Board shall be provided by the Planning Commission after a public hearing before said Commission. A public hearing requires that a notice of time and place of the hearing be published at least once, not more than thirty (30) nor less than fifteen (15) days before the hearing, in one (1) or more newspapers with general circulation within the Village. In addition, a written notice of the public hearing and its purpose is to be served at least fifteen (15) days before the hearing to the owners of the properties located adjacent to the location for which the variance is requested.
 2. All decisions and findings upon variances arrived at after the public hearing shall, in all instances, be referred to the Village Board with a written report containing findings of fact and recommendations.
 3. The concurring vote of four (4) members of the Planning Commission shall be necessary to recommend any variance to the Village Board.

E. Action by the Village Board

The Village Board, after receiving the written report and recommendations of the Planning Commission, and without further public hearing, may adopt by ordinance any proposed variance or may refer it back to the Planning Commission for further consideration. Any proposed variance which fails to receive the approval of the Planning Commission, shall not be approved by the Village Board except by the favorable vote of two-thirds of the Village Board consisting of all Trustees and the President of the Board.

F. Authorized Variance – No Public Hearing

Without public hearing, variances from this Ordinance may be granted by the Village Board only in the following instances:

1. To permit up to a twenty (20) percent reduction in front, side, or rear yard required by this Ordinance;
2. To permit the use of a lot or lots for a use otherwise prohibited solely because of insufficient area width of the lot or lots but in no event shall the respective area width of the lot or lots be less than ninety (90) percent of the required area and width. The percentage set forth in this subparagraph is not to be reduced by any other percentage for a minimum lot width and area set forth in this Ordinance;
3. 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;
4. To reduce the applicable off-street parking or loading facilities required by not more than one (1) parking space or loading space, or twenty (20) percent of the applicable regulations, which ever is greater;
5. To extend the period of time a non-conforming use may continue or remain;
6. 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 of this Ordinance, is by reason of the exercise of the right of eminent domain by an 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 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.

9-11-5: **AVERAGE FRONT YARDS:** The required front yards may be decreased in any Residential or Business Districts to the average of the existing front yards of the abutting lots on each side, but in no case less than fifteen feet (15') in any Residential District and five feet (5') in any Business District.

9-11-6: **NOISE EXEMPTIONS:** Sirens, whistles, and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this Ordinance.