

SECTION 23

VARIATIONS & SPECIAL EXPECTATIONS

23.1 AUTHORITY:

The Board of Trustees shall have the authority to approve variations after application therefore and a public hearing before the Planning and Zoning Commission. In cases where a variation is created by a de minimis dimensional change, the Board of Trustees grants the Village Administrator authority to approve the application as set forth in 23.11 of this Section.

23.2 APPLICATION:

Any person, firm or corporation having an interest in a parcel of property may apply for a variation from the literal enforcement of a provision this Zoning Code. Unless otherwise states herein, a hearing on every such application for a variation, pursuant to notice in the manner provided by this Zoning Code, shall be held by the Planning and Zoning Commission. No variation shall be granted except in accordance with the standards for such a grant set forth in this Zoning Code.

23.3 AUTHORIZED VARIATIONS:

Variations from the dimensional and/or quantitative requirements of this code may only be considered.

23.4 FEE:

Each application shall be accompanied by payment of the required fee as determined from time to time by the Board of Trustees.

23.5 PUBLIC HEARING:

The Planning and Zoning Commission shall hold a public hearing, pursuant to notice therefor as provided by the Illinois Municipal Code (65 ILCS 5/11-13-1, *et seq.*) and Section 21.6 of this Zoning Code.

23.6 STANDARDS:

When evidence in a specified case shows conclusively that literal enforcement of any provision of this Zoning Code would result in a practical difficulty or particular hardship because of unusual surroundings or condition of the property involved, or by reason of exceptional narrowness, shallowness or shape of the zoning lot, or

because of unique topography, underground conditions or other unusual circumstances, then the Planning and Zoning Commission may recommend and the Board of Trustees may grant, by ordinance duly adopted, a variation to permit relief from any provision of this Zoning Code relating to the use, construction or alteration of buildings or structures or the use of land.

23.7 FINDINGS OF FACT

The Planning and Zoning Commission may recommend and the Board of Trustees shall permit a variation of the provisions of this Zoning Code, as authorized in this Section, only if the evidence, in the judgement of the Village sustains each of the following three conditions:

- A. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;
- B. The plight of the owner is due to unique circumstances; and
- C. The variation, if granted, will not alter the essential character of the locality.

For the purpose of supplementing the above standards, the Village, in making this determination whenever there are practical difficulties or particular hardship, also shall take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

- D. That the particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out;
- E. That the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification;
- F. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property;
- G. That the alleged difficulty or hardship has not been created by any person presently having interest in the property;

- H. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; or
- I. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.

23.8 CONDITIONS:

When granting a variation, the Planning and Zoning Commission may recommend, and the Board of Trustees may impose every condition or restriction as appears necessary to minimize possible detrimental effects of such variation on other properties in the neighborhood.

23.9 BOARD OF TRUSTEES ACTION:

No variation shall be granted by the Board of Trustees without a hearing by the Planning and Zoning Commission as required herein or without a report having been made by the Planning and Zoning Commission to the Board of Trustees, and every such report shall be accompanied by a findings of fact specifying the reasons for the report.

After receipt of the report of the Planning and Zoning Commission, the Board of Trustees, without further public hearing, may grant, by ordinance duly adopted, or may deny any proposed variation or may refer the application back to the Planning and Zoning Commission for further consideration. Any proposed variation that fails to receive the approval of at least four members of the Planning and Zoning Commission shall not be approved by the Board of Trustees except by the favorable vote of two-thirds of the members of the Board of Trustees.

23.10 EXPIRATION:

An ordinance approving a variance shall be valid for no longer than one year from the date of adoption unless a building permit has been issued for said variance.

23.11 SPECIAL EXCEPTIONS FOR DE MINIMIS DIMENSIONAL CHANGES:

Dimensional changes of less than one foot may be considered de

minimis and, if so, the requirements for a public hearing and Planning and Zoning Commission review would be onerous. The Board of Trustees grants authority to the Village Administrator to consider any application where the only deviation(s) from dimension standards are less than one foot, and approve any such applications as de minimis special exceptions should no significant risk to public health, safety, or welfare, or diminishment to nearly property values or use be found to exist. Sections 23.2, 23.4, 23.8, and 23.10 of this Section shall apply to a de minimis special exception, as it would to a variance, substituting the Village Administrator for the Planning & Zoning Commission where applicable. The application and determination shall be in writing shall include the Village Administrator's signature and approval or disapproval. Disapproved applications may proceed through the regular process for seeking a variance.

Amended February 22, 2018