

CHAPTER 6
ZONING BOARD

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2-6-1A: BOARD CREATED; MEMBERSHIP: There is created hereby a Zoning Board. The Zoning Board shall consist of five (5) regular members and one alternate member. Except as necessary initially to stagger the terms of the regular members of the Zoning Board, as provided herein, or as may be necessary to fill a vacancy, each regular member of the Zoning Board shall be appointed by the Mayor with the advice and consent of the Village Board of Trustees by majority vote to serve a five (5) year term of office. The Mayor shall designate the person who shall serve as the chairman of the Zoning Board. The alternate member of the Zoning Board shall be appointed by the Mayor with the advice and consent of the Village Board of Trustees by majority vote to serve a one (1) year term of office. All persons appointed as members of the Zoning Board shall be residents of the Village who shall serve without pay and who have a particular fitness to be a member, whether by education, training, experience, judgment or otherwise. Attendance and participation in all meetings of the Zoning Board, and voting on all matters coming before the Zoning Board, shall be the right and the responsibility of each member of the Zoning Board, except as otherwise provided herein. The meetings of the Zoning Board shall be held as regularly scheduled or as called from time to time by the Chairman or any two (2) members of the Zoning Board, and any three (3) members of the Zoning Board shall constitute a quorum.

The first appointees as regular members of the Zoning Board shall be appointed to a specific office having a specific duration as follows: One (1) member shall be appointed to a term of one (1) year, one to a term of two (2) years, one to a term of three (3) years, one to a term of four (4) years, and one to a term of five (5) years, the successor to each member so appointed to serve for a term of five (5) years.

The alternate member of the Zoning Board shall be appointed for an initial term of one (1) year. The alternate member shall be expected to attend each meeting of the Zoning Board, but the alternate member may not vote on any matter before the Zoning Board unless a regular member of the Zoning Board is absent from the Zoning Board meeting and the alternate member is personally familiar with the request and proceedings thereon either from attendance and participation or from acquaintance with the verbatim record.

2-6-1B: REMOVAL; FILLING VACANCIES: The Mayor shall have the power to remove any member of the Zoning Board at any time he is of the opinion that the interests of the Village require removal, so long as the Mayor reports his or her reasons for the removal in writing to the Village Board of Trustees within seven (7) calendar days of the removal. The Board of Trustees may disapprove of the removal at its next regular meeting by a motion passed by two-thirds yeas and nays vote against removal by the Village Trustees then holding office, which shall be entered upon the record of the corporate authorities. If the Mayor fails to report his or her reasons for the removal in writing to the Village Board of Trustees within seven (7) calendar days or if the removal is overruled by the Board of Trustees, the member shall be restored to the office from which he or she was removed and considered as having never been removed. No member shall be removed a second time for the exact same factual occurrence.

If the vacancy shall occur in any office of member of the Zoning Board, that vacancy shall be filled in the same manner as the original appointment was made, but only for the period remaining in the term of the particular office of member being filled at the time the replacement member is appointed to the vacancy.

2-6-1C: SECRETARY TO THE ZONING BOARD: The Secretary to the Department of Community Development shall serve as Secretary to the Zoning Board and shall be responsible to keep and maintain the records of the Zoning Board. The Zoning Board shall keep minutes of its meetings, including a record showing the vote of each member upon every question. The Secretary shall be the custodian of all such minutes and all reports, recommendations, submissions, documents, exhibits, evidence and other material pertaining to the conduct of the affairs of the Zoning Board.

2-6-2: INTENT AND PURPOSE: The mission of the Zoning Board is to advise the Village Corporate Authorities on matters referred to it by the Village Board of Trustees with the purpose of preserving, protecting and maintaining the public health, safety, welfare and comfort by promoting and maintaining the high character of the development of the Village and encouraging the most appropriate use of land within the Village, by protecting and preserving real estate within the Village from impairment or destruction of value, appearance and use and by seeking to promote enhanced real estate values overall in the Village.

2-6-3: POWERS AND DUTIES: The Zoning Board shall be an advisory body of the Village government, with the following powers and responsibilities:

- A. To hear all appeals from any order, requirement, decision or determination made by an Administrative Officer under this Title, taken by notice of appeal filed with the Secretary of the Zoning Board within thirty (30) days of the action appealed, along with a proof of service on the Administrative Officer, specifying the grounds for appeal, and to thereafter recommend a decision to the Village Board of Trustees;
- B. To hear all applications for a Zoning Map Amendment not involving Planned Unit Developments or the Annexation of Territory to the Village and to thereafter recommend to the Village Board of Trustees regarding the final action to be taken thereon;
- C. To hear all applications for a Special Use Permit not involving Planned Unit Developments or the Annexation of Territory to the Village and to thereafter recommend to the Village Board of Trustees regarding the final action to be taken thereon;
- D. To hear all applications for a variation from the Zoning Regulations of this Code not involving Planned Unit Developments or the Annexation of Territory to the Village and to thereafter recommend to the Village Board of Trustees regarding the final action to be taken thereon;
- E. To hear and/or to advise the Village Board of Trustees regarding all other matters referred to it by the Village Board of Trustees or upon which it is to pass by the other requirements of this Title.
- F. The Zoning Board may, upon a reasonable request of a directly and substantially interested party in any hearing held pursuant to Subparts C and D of this Section, issue subpoenas for persons to appear and/or for the examination of documents either before or at the hearing subject to the limitations that the person or document have a substantial evidentiary connection with (1) the property for which a zoning variation or special use is requested, (ii) facts which would support or negate the requisite legal standards for granting a zoning

variation or special use, and (iii) facts which support or negate the conclusion that neighboring property will be substantially affected by the outcome of the decision. No subpoena shall issue against the Village. Service of subpoenas shall be made in the same manner as summons in a civil action.

- G. To prepare and recommend to the Mayor and Board of Trustees a Comprehensive Plan and an Official Map, and all powers and duties incidental and related thereto, or to recommend changes from time to time, for the present and future development or redevelopment of the Village, all as more expressly described in Article 11, Division 12 of the Illinois Municipal Code, 65 ILCS 5/11-12-4, et seq. (Ord. Amend 11-3209-31, eff. 7/25/11)

2-6-4: RULES AND PROCEDURES: The Zoning Board shall have the power to adopt, amend or repeal its own procedural rules from time to time, provided the same are not inconsistent with law, including this Chapter, and must include the following:

- A. All hearings shall be open to the public and held only after due notice of the hearing to be held has been given to directly and substantially interested parties, as well as newspaper public notice, reasonably calculated to inform Village residents;
- B. Any interested party may appear and participate in any hearing in his or her own proper person or by a licensed attorney, subject to the time, order and other content neutral procedural rulings of the Chairman of the Zoning Board;
- C. Any person having information relevant and material to a matter before the Zoning Board for hearing, whether the information is factual or opinion evidence, may testify and offer evidence publicly during the Zoning Board's hearing of the matter, subject to the cross-examination of any other directly and substantially interested party;
- D. All witnesses testifying and giving evidence shall be sworn or affirm their testimony in the manner required in Illinois courts of record, and the Chairman of the Zoning Board or any member acting in his stead, or any certified court reporter taking the record of the hearing, shall administer oaths and take affirmations, and where appropriate, compel the attendance of witnesses;
- E. The Zoning Board may take judicial notice of facts on the same basis and to the same extent as Illinois courts of record, but the facts of which judicial notice are being taken must be stated publicly and made of record with the hearing proceedings, and if any party seeks to challenge the fact by evidence at the time judicial notice of the fact is announced, the party shall be permitted to promptly and efficiently introduce said contradicting factual evidence;

- F. One continuance of a reasonably short period may be granted a party to the hearing or the Village staff in order to produce additional evidence on a relevant and material issue or to compel the attendance of a significant witness;
- G. Rebuttal evidence confined to the answer of new factual matters raised during the hearing shall be permitted within reason;
- H. Members of the Zoning Board may ask questions of both parties and their witnesses; and
- I. No joint hearings with other Boards or on other applications shall be held.

2-6-5: STANDARDS: The findings and recommendations of the Zoning Board shall be guided by the following considerations relevant to the particular proceeding, as well as any other relevant and material factor stated in the Zoning Board's findings and recommendations.

- A. For Appeals: The factors which the Zoning Board should consider when it determines whether it should recommend that an order, requirement, decision or determination made by an Administrative Officer be affirmed, modified or reversed should include:
 - (1) whether the order, requirement, decision or determination is consistent with the applicable ordinance or statute; and
 - (2) whether the order, requirement, decision or determination is reasonable in the circumstances.
- B. For Zoning Map Amendment (i.e., Rezoning): The factors which the Zoning Board should consider when determining whether it should recommend a change in zoning classification or recommend that the same be denied should include:
 - (1) the existing uses on and zoning of nearby property;
 - (2) the extent to which property values are diminished by the particular zoning restrictions;
 - (3) the extent to which the destruction of an applicant's property values promotes the health, safety, morals or general welfare of the public;
 - (4) the relative gain to the public as compared to the hardship imposed upon the individual property owner;

- (5) the suitability of the subject property for the zoned purpose;
- (6) the present use of the property or the length of time that the property has remained vacant as zoned;
- (7) the trend of land development in the vicinity of the property; and
- (8) the community need for the proposed use.

C. For Special Use: The Zoning Board shall not recommend a special use unless it shall find, based upon the evidence presented to it in regard to the specific application, that the proposed special use meets each and every one of the following standards:

- (1) The establishment, maintenance, or operation of the special use can be prevented from being detrimental to, or endangering the public health, safety, morals comfort, or general welfare by special regulation and/or the establishment of practical conditions;
- (2) The special use can be prevented from being injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or from substantially diminishing and impairing property values within the neighborhood in which it is to be located by special regulation and/or the establishment of practical conditions;
- (3) The establishment of the special use, subject to special regulation and/or practical conditions, will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- (4) Adequate utilities, access roads, drainage and/or necessary facilities have been or will be provided;
- (5) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- (6) The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Zoning Board.

D. Standards for Variations: The Zoning Board shall not recommend variations from the regulations of this Title unless it shall find, based upon the evidence presented to it in regard to the specific application, that the proposed variation meets each and every one of the

following standards:

- (1) 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 the strict letter of the regulations were to be carried out;
- (2) 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;
- (3) The conditions upon which an application 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;
- (4) The purpose of the variation is not based primarily upon a desire to increase financial gain;
- (5) The alleged difficulty or hardship is caused by this Title and has not been created by any persons presently having an interest in the property;
- (6) 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;
- (7) The granting of the variation will not alter the essential character of the neighborhood or locality;
- (8) The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood;
- (9) The proposed variation is consistent with the official Comprehensive Policies Plan of the Village and other development codes of the Village.

The Zoning Board may recommend and the Board of Trustees may impose such conditions and restrictions upon the premises benefitted by a variation as may be necessary to comply with the standards established in this Section and the objectives of this Title.

2-6-6: REPORTS AND RECOMMENDATIONS: Each member of the Zoning Board, including its Chairman may vote on each matter, provided that he or she has personally attended the hearing or certified that he or she has made himself or herself familiar with the record of the hearing. The vote of the Zoning Board on each matter shall be by adoption of written findings, addressing at a minimum those relevant factors set forth in Section 2-6-5 hereof, followed by written recommendations for Village Board of Trustees action on the matter and any conditions recommended to qualify that action.

The Zoning Board shall forward its written findings and recommendations on each matter to the Village Board of Trustees within ninety (90) days of opening the hearing on the matter, unless the applicant agrees to the particular extension of this time period. The failure of the Zoning Board to forward its written findings and recommendations to the Village Board of Trustees within the time period herein provided, or as extended with the agreement of the applicant, shall result in the recommendation on the application or request being deemed to be for denial, and the Village Board of Trustees shall conduct itself accordingly. Notwithstanding the foregoing, written findings and recommendations on all applications or requests for single-family variances shall be forwarded to the Village Board of Trustees by the Zoning Board within sixty (60) days, rather than ninety (90) days, or the recommendation concerning the application or request shall be deemed to be for denial.

The Village Board of Trustees shall decide each matter on the factual record made at the hearing and in accordance with the vote required for action on the matter as a result of the recommendation of the Zoning Board to grant or to deny.

2-6-7: CONFLICT OF INTEREST: No member of the Zoning Board shall participate in the review of any work of which he or any partner or professional associate is the author or in which he or they have any direct or indirect financial interest. If such an occasion arises, the other members of the Board shall proceed to determine the particular matter.