

COUNCIL WORKSHOP ITEM

ITEM: **FILE NO. 1096 - ORDINANCE AMENDMENT TO CHAPTER 28 OF THE MUNICIPAL CODE, ZONING ORDINANCE** – Amend Section 28-1802(b). Authorized variations, yards

DATE: August 5, 2003

PREPARED BY: Joseph Skach, AIA, AICP, NCARB
Director, Planning and Community Development

PURPOSE: To consider approval of an Ordinance authorizing certain amendments to the Zoning Ordinance as proposed by Staff

DISCUSSION:

At their July 1, 2003 meeting, the Plan Commission conducted its public hearing regarding the proposed Ordinance amendments. The purpose of the proposed amendments is to amend the provisions of Section 28-1802 of the Zoning Ordinance, Authorized Variations with respect to parking and required yards in non-residence zoning districts only. The proposed amendments stem from strategic land use planning discussions between the Plan Commission and the Economic Development Commission on the Future Land Use Plan and zoning.

In non-residence zoning districts only, variations requesting the ability to allow parking in required yards would be considered. Additionally, in non-residence districts only, variations requesting reductions of the required yard by more than 50% would be considered; however, not if the subject lot line coincides with any lot in a residence district in which case the 50% reduction limitation would still apply. In residence zoning districts, the current provisions limiting requests for variations in required yards to a maximum 50% reduction shall remain the same.

ATTACHMENT:

1. Draft Minutes Dated July 1, 2003
2. Staff Report Dated June 26, 2003
3. Draft Ordinance prepared by Legal Department

RECOMMENDATION:

Chairman Jirik commented that this will be an exciting opportunity to engage in new endeavors that will utilize the expertise, knowledge and background of the Plan Commission members. Chairman Jirik expressed confidence that the appropriate forums will be defined in order to maximize the value of what is being asked of the Plan Commission members by the Village Council. The Plan Commission will now have the opportunity to do more than just hear petitions. He agreed with Mr. Nicholaou's comment regarding the necessity for good feedback from the Village Council so that the Plan Commission understands the Council's expectations.

Chairman Jirik asked if there were any other comments or questions. There were none.

Chairman Jirik reminded the Plan Commission members that any motion made should be in the form of a recommendation. Chairman Jirik then asked for a motion.

MOTION: WITH RESPECT TO FILE NO. 1095, MR. NICHOLAOU MOVED THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL THAT THE COUNCIL AMEND CERTAIN PROVISIONS OF THE MUNICIPAL CODE RELATING TO THE ZONING COMMISSION, ZONING BOARD OF APPEALS AND PLAN COMMISSION AS PROPOSED BY THE LEGAL STAFF. MR KAHLKE SECONDED THE MOTION.

Chairman Jirik asked if there were any questions or comments regarding the motion. There were none.

ROLL CALL:

AYE: Mr. Nicholaou, Mr. Kahlke, Mr. Matejczyk, Mrs. Reynolds, Mr. Stark, Mr. Waechtler, Chairman Jirik

NAY None

The motion passed unanimously.

Chairman Jirik closed the Public Hearing on File No. 1095.

PUBLIC HEARING: FILE NO. 1096 - ORDINANCE AMENDMENT TO CHAPTER 28 OF THE MUNICIPAL CODE, ZONING ORDINANCE – Amend Section 28-1802(b). Authorized variations, yards

Chairman Jirik noted the Village is the petitioner and asked Staff to make its presentation. Mr. Skach explained that this amendment request proposes to amend the provisions of Section 28-1802 of the Zoning Ordinance, *Authorized Variations*, allowing owners or petitioners of properties in non-residential zoning districts to request variations from current required yard requirements.

Mr. Skach advised that this request is the result of and stems logically and consistently from discussions between the Plan Commission and Economic Development Commission (joint assembly) regarding updating the Future Land Use Plan and subsequent discussion on zoning related issues that will likely need to be addressed as the Village redevelops. This request also stems from other recent land use related discussion in the context of the Ogden Avenue Master Plan (OMP), and redevelopment initiatives along the Ogden Avenue corridor as well as other locations throughout the Village. Mr. Skach noted such practical difficulties as narrowness of lots, non-conventional configuration of lots and various lot reconfigurations that have developed over the years in older sections of the Village were also discussed.

Mr. Skach indicated the way the Ordinance is currently structured, there is a specific list of authorized variations. With respect to authorized yard setback variations, Section 28-1802(b) of the Zoning Ordinance currently places a limitation on the amount of a variation that a petitioner can request. This currently applies to all properties.

Mr. Skach recalled that over the past year we have been discussing the commercial districts and how to structure those commercial districts for economic success and at the same time have a positive relationship with the neighboring residents. This discussion brought out that there clearly was recognition that there are different types of parameters, constraints and needs for the residential community versus the commercial community. The residential community needs to be protected. Mr. Skach stated that is why Section 28-1802(b) of the Zoning Ordinance will remain the same with respect to residential zoning districts and will continue to limit the maximum variation to 50%.

Mr. Skach advised the Plan Commission that the Code talks about yards or what is commonly referred to as building setbacks. In the future, the Commission will probably see more discussion in terms of required yards because that is what the Code references. This is the distance between the property line and the face of the building. There is the issue of what can happen in those yards. Mr. Skach indicated as currently defined in the Code yards is an unobstructed space in the required yard.

Mr. Skach pointed out as the Code currently reads a parking area is not an authorized obstruction and would require a variation. Mr. Skach stated Staff recognized that has caused numerous difficulties in the context of requesting variations. He noted the criteria for requesting variations recognizes the ability to recognize practical difficulties or particular hardships.

As an example, Mr. Skach displayed an exhibit which showed the northwest corner of 63rd and Main Streets, the former site of the Lone Star Steakhouse. There have been discussions with several potential petitioners proposing several potential configurations of that property. Mr. Skach noted that site has been in an undeveloped state for quite some time. Mr. Skach stated the requirements laid upon this particular property creates a burden on petitioners who come in and want to put the property back into beneficial use. Mr. Skach pointed out that cars have historically been parked in what would be considered the required yard. Mr. Skach noted the proposed amendment would facilitate the ability for a petitioner to at least make the request to be able to use the area as it has been historically used. There are several other issues with regard to this parcel that may warrant a petitioner requesting consideration of certain practical difficulties.

Mr. Waechtler asked what a petitioner would need for that site that we cannot give them right now. Mr. Skach responded that the proposed amendment would allow the petitioner to request a variation for parking in the required yard. The way the Ordinance is currently structured, the required yard could not be reduced by more than one-half.

Mr. Waechtler asked if the retaining walls at that particular location caused some loss of any of the property. Mr. Skach indicated people who have looked at the possibility of redeveloping this site are verifying whether or not there is any loss.

Mr. Skach next displayed a representative site on Ogden Avenue. He noted it is not very large, and there have been several requests to put it back into beneficial use. He pointed out the requisite Ogden Avenue setbacks. In order to put this site back into productive use and respect the required yard setback, the parking lot area would have to be jogged. Mr. Skach pointed out an area like Ogden Avenue, where the development pressures are great and the cost and value of the land is high, forces petitioners and property owners to make physical arrangements that oftentimes do not make planning, engineering or economic sense.

With regard to the next slide, Mr. Skach stated, in consideration of these issues and in discussions with regard to landscaping and parking about Ogden Avenue in particular and other areas of the Village, this slide shows a potential scenario of how you can significantly green a piece of property by using trees, bushes and shrubs. The slide shows an eight foot minimum planting strip along and adjacent to rights of way consistent with other yard requirements.. Mr. Skach noted currently there are provisions in the Code for transitional yards between properties adjacent to residential and commercial districts. Mr. Skach stated the displayed example shows required parking islands with shade trees and curb bank so that there is no more than 20 spaces before a parking island is required. Mr. Skach commented that these are issues we will continue to look at because there are opportunities to significantly green a property in addition to or in conjunction with the percentages that are currently in use.

Mr. Skach stated should a petitioner come forward with a request for this type of variation to be able to allow parking in the setback, Staff would certainly work with that petitioner in terms of looking at addressing the minimum landscape and greenspace requirements based on the site but also that certain minimum are held so that we do not have a situation where blacktop meets sidewalk.

With respect to site considerations, Mr. Skach again referenced the Ogden Avenue slide which depicts a small site that has a number of overlying requirements such as landscaping. He noted that rebuilding such an old site is not unusual and in order to be able to meet setback and landscape requirements and other various Code provisions, readjustment or realignment of building location on the property may be warranted.

Mr. Skach commented that the proposed Section 28-1802(c) would allow the petitioner to make a request for a variation to the Council to reduce the side yard to be able to put commercial properties back to beneficial use.

Mr. Skach stated in consideration and deference to the original Code requirement regarding residential districts, if a commercial lot line were coincidental with residential properties, the 50% variation limitation would remain, and the yard could not be reduced

by any more than half. Mr. Skach noted currently in the downtown and other business districts a side yard is not required.

Mr. Skach indicated the two proposed refinements are to address parking and the ability to use sites productively subject to a comprehensive review by the Plan Commission and the Village Council.

Mr. Skach concluded that the Planning and Community Development Staff recommends that the Plan Commission forward a positive recommendation to the Village Council regarding amending Section 28-1802(b) Authorized Variations; yards of the Municipal Code.

Chairman Jirik thanked Mr. Skach for his presentation.

Chairman Jirik asked if there was any member of the public who wished to speak. Hearing no response, Chairman Jirik closed the public participation portion of the public hearing.

Chairman Jirik next asked if there were any questions from the Plan Commission members.

Mr. Stark stated when he sees an amendment regarding the non-residential districts, the question came to his mind would we be inviting Luxury Motor type of parking lots where every possible car that can fit on the lot will be there right up to the sidewalk, and our idea of greenspace will be iron fences and a potted plant.

Mr. Skach responded that the greenspace requirements are not proposed to be modified. Depending on the site, a principal use is required. Mr. Skach stated we will not endeavor to go in the direction Mr. Stark has suggested. Mr. Skach noted outdoor display will be given a closer look so that we do not have any loopholes.

Mr. Stark commented should we include this language we have a "may grant" this variation, and our standard is only to the extent necessary. This would be a subjective standard that the Plan Commission has to comply with when somebody seeks this type of a variation. Mr. Skach stated the current standards for variations as they are defined in the Ordinance will remain exactly the same.

Chairman Jirik pointed out the proposed change would provide the ability for an applicant to request up to the additional remaining 50%. Someone asked if that is currently in the Ordinance, and Chairman Jirik responded that the request can be from 100% down to 50%. The proposed change would allow a variation with zero setbacks if the site in question did not abut a residential property. The proposed variation would be subject to public process on a case by case basis and the nature of the application. Chairman Jirik stated if the proposed change is adopted, it would be an available but not a guaranteed relief.

Mr. Skach stated the proposed amendment endeavors to provide a balance between the best interests of the Village from an economic development aspect and public purpose of the Code in terms of protection of public health, safety and welfare.

Mr. Nicholaou referred to Mr. Rockwell's presentation to the joint EDC-Plan Commission meeting and asked if we do this, are we creating and encouraging more aesthetic development along Ogden Avenue. Mr. Nicholaou stated he perceives these proposed changes turning the Plan Commission into an architectural review committee, and commented that is not where he wants to be. He would prefer to see some type of minimum landscaping requirements that the Village wants to have created. He expressed the opinion that a petitioner should have to present some type of acceptable landscaping plan otherwise we are going to perpetuate what has occurred in the past which would not be consistent with the Plan Commission's and the Economic Development Commission's discussions.

Chairman Jirik stated if an applicant is going to propose zero yard, there are still life safety, fire prevention and aesthetic issues. He emphasized that just because something is available, does not mean it will be granted.

Mr. Nicholaou commented that the Village Council approved a streamlined Commission in order to help a builder and a developer get through the process. Mr. Nicholaou stated if we are going to grant them more space and the ability to expand, we need to give them landscape guidelines so that they do not end up coming to any Commission with a request for a variation that is 35% more than what is currently allowed, but their request does not have any greenspace.

Mr. Skach pointed out that the provisions for minimum landscaping on a site are not proposed to be altered. Landscaping requirements still have to be met irrespective of a request for a variation to allow parking in the required yard. Mr. Skach agreed with Mr. Nicholaou with respect to landscaping guidelines. He indicated that is an issue that we have been discussing. Mr. Skach commented the way the Code is currently structured in terms of straight percentages of greenspace on a lot does not address qualitative aspects that can be quantified. Turf can be installed and technically meet the requirement of greenspace as opposed to a Code that might contemplate such language as any parking lot adjacent to a public right of way shall have at a minimum an eight foot planting strip that shall include at a minimum a three foot high hedge, at a minimum a three to four inch caliper shade tree not more than 20 spaces at the end of each parking bank, a landscaped island at the end of each parking bank. Mr. Skach stated with such measures the visual increase or the "bang for the buck" would be more apparent than just straight percentages. Mr. Skach commented we may currently be missing a qualitative aspect to our landscape criteria.

Chairman Jirik asked if proposed Section 28-18092(d) opens up the possibility to request parking within any required yard. Would such a request remain in the purview of the Plan Commission to limit it to either part of the side or front yard or all of the yards on a

case by case basis. Mr. Skach agreed that the intent is to review such variation requests on a site by site basis.

Mr. Waechtler referred to Section 28-1802(e) of the current Ordinance which is a 10% increase in height. He asked if we are running into petitioners who are needing to go higher with their proposed buildings. Mr. Skach stated the height variation which is currently in Section 28-1802(c) is not being considered in this amendment.

Mr. Skach clarified that the items which are double-underlined are the only ones being added, the balance currently exist.

Mr. Nicholaou asked Mr. Skach if he could give the Plan Commission members an example of a residential property which could request up to a 50% yard variation. Mr. Skach explained while he does not have a specific example, the sensitivity to neighbors is often considered higher in residential districts. He stated a side yard is a more typical example based on the height of a residence that someone may be proposing. Currently there are specific requirements in terms of how wide the side yard has to be based on the height. Mr. Skach suggested that a builder might request such a variation to go to the five foot minimum side yard because in his opinion he cannot do a reasonable sized house and meet the current Code requirements because of the narrowness of the site.

As an example, Mr. Nicholaou cited properties on Highland Avenue and Rogers, where the back yards are literally parking lots for properties on Main Street. Mr. Nicholaou stressed that is the kind of usage the Plan Commission should not be encouraging. He gave another example of an insurance business on Main Street that has a big sign on the back of its building which abuts a residential area. Mr. Nicholaou indicated the Village should not be allowing those types of loopholes. He emphasized that as the Village works very hard to improve the aesthetics of the commercial areas, the residential areas cannot be neglected.

Mr. Skach pointed out that the concentrated business district overlay for the downtown area significantly adjusts many aspects with respect to parking, yards, etc.

Mr. Rockwell was recognized, and he stated he could give some examples; Walgreen's at Main and Ogden backs right up to residential as does Steak and Shake on Ogden Avenue.

Mr. Waechtler asked Mr. Skach if the Plan Commission recommends approval of a variation for one petitioner will that create any precedent or legal problems if a different petitioner requests the same variation on his site. Mr. Skach stated whether variation requests are called variations or exceptions as the Plan Commission is used to hearing with regard to subdivisions, they do the same thing procedurally. By their nature, variations as they are defined do not require the Commission or the Council to approve or deny one based on what they did with regard to a previous variation request even if they are similar.

Chairman Jirik noted that the Plan Commission will want to create a good record that shows the rationale for recommending a variation. The Plan Commission will not be prejudiced in any particular case to say yes or no. Each case will be heard on its own merits.

Mrs. Reynolds asked if there is any consideration being given to modifying the floor area ratio. Mr. Skach responded there has not been any discussion with regard to floor area ratios.

Chairman Jirik complimented the Commissioners on a good discussion. Chairman Jirik called for a motion.

MOTION: WITH RESPECT TO FILE NO. 1096, MR. WAECHTLER MOVED THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL REGARDING THE PROPOSED AMENDMENT TO CHAPTER 28 OF THE MUNICIPAL CODE ZONING ORDINANCE SECTION 28-1802 VARIATIONS. MRS. REYNOLDS SECONDED THE MOTION.

Chairman Jirik asked if there was any discussion regarding the motion or any question regarding its intent. There was no response.

ROLL CALL:

AYE: Mr. Waechtler, Mrs. Reynolds, Mr. Kahlke, Mr. Matejczyk, Mr. Nicholaou, Mr. Stark, Chairman Jirik

NAY: None

The motion passed unanimously.

Chairman Jirik stated this recommendation will be forwarded to the Village Council for further action.

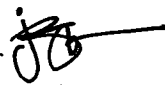
Chairman Jirik closed the Public Hearing on File No. 1096

Chairman Jirik announced the next joint meeting with the Economic Development Commission will be Monday, July 14, 2003 at 7:00 p.m.

Chairman Jirik asked Staff to advise the Plan Commission members of upcoming petitions. Mr. Skach indicated future petitions could include Luxury Motors, Saab and Good Samaritan Hospital. Mr. Skach suggested the Plan Commission might want the Hospital people to chat with them in a workshop discussion format to revisit their Master Plan.

**VILLAGE OF DOWNERS GROVE
DEPARTMENTAL CORRESPONDENCE**

TO: Plan Commission

FROM: Amanda G. Browne, Planner
and Joseph Skach, AIA, AICP, NCARB, Director 
Department of Planning and Community Development

DATE: June 26, 2003

RE: **File 1096, an Ordinance amendment to Chapter 28 of the Municipal Code, Zoning Ordinance, Zoning Ordinance, Section 28-1802(b), Authorized Variations; yards.**

Purpose

In general, the purpose of this request is twofold:

1. To address the recognition by staff and joint discussions of the Plan Commission and Economic Development Commission regarding updating the Future Land Use Plan and subsequent discussion on zoning related issues that will likely need to be addressed as the Village redevelops;
2. To address consistent expressed concerns from property/business owners and/or petitioners regarding the Village providing the ability to formally request consideration for relief based on certain practical difficulties or hardship based on specific conditions to a specific petitioner regarding a specific property

Specifically, this amendment request proposes to amend the provisions of Section 28-1802 of the Zoning Ordinance, *Authorized Variations*, allowing owners or petitioners of properties in non-residential zoning districts to request variations from current required yard requirements.

Background

This staff initiated request, only concerned with non-residential districts, is the result of and stems logically and consistently from joint discussion between the Plan Commission and Economic Development Commission (joint assembly) regarding updating the Future Land Use Plan and subsequent discussion on zoning related issues that will likely need to be addressed as the Village redevelops. This request also stems from other recent land use related discussion in the context of the Ogden Avenue Master Plan (OMP), redevelopment initiatives along the Ogden corridor as well as other locations throughout the Village.

Given the Village's strategic physical location in the Chicago and northeastern Illinois region, as well as its advantageous socio-economic statistics desirable to businesses, the Village is and will continue to be a desirable location to live, work, and enjoy leisure time, and as importantly, to conduct business. This observation has been a consistent theme in joint discussions noted above that explore land use designations and resulting zoning mechanisms in an urbanizing and redevelopment environment.

Staff, as well as the joint assembly, recognize that certain preexisting or other property conditions or configurations, that may be either outside a petitioner/property owner's control or that are a result of reasonable proposals to redevelop a property, will likely result in the increasing need to allow formal consideration of requests for variations to the zoning and subdivision ordinances (Code). Issues such as increasing pressure to create lots due to higher land values, left over, unique or unconventional lots due to previous land-owner agreements or zoning actions, shallow lots, as well as zoning criteria that may warrant refinement based on identifiable and desirable land use trends and contemporary site usage standards are some of the factors that result in conflicts between redevelopment proposals and the Code. Consequently, there is recognition that the Village will need to consistently evaluate the Code, from both a land use

regulation as well as economic development perspective to ensure that the Village's interests and goals are being furthered.

Analysis

The provisions regarding the consideration of variations from the terms of the Zoning Ordinance are found in Article XVIII, *Variations*. Section 28-1802, *Authorized Variations*, provides a specific list of variation types which can be granted. In certain instances, the provisions of this section also limit the extent to which a variation can be granted. Specific to setback variations, Section 28-1802(b) provides that variations can be considered "to permit any yard of less dimension than required by the applicable regulations not to exceed fifty percent (50%) reduction." This provision applies to all minimum yard requirements of the Ordinance.

As proposed, this amendment will categorize variations by the underlying zoning district of the property in question into either residential zoning districts or non-residential zoning districts. In residential zoning districts, the provisions are proposed to remain the same, and will continue to limit the maximum variation to 50%. In non-residential zoning districts, the provisions are proposed to be amended to remove the maximum 50% limitation for structure variations, provided that if the subject property is contiguous to a residentially zoned property, the 50% limitation will still be applicable. Additionally, the maximum 50% limitation for setbacks as applied to parking areas is proposed to be removed in non-residential zoning districts.

Discussion

Parking Considerations

In this regard, the issue of parking, most often in the context of redevelopment sites, has and will continue to be a consistent area of concern and monitoring by the Village. Discussions regarding potential, desirable redevelopment proposals consistently face the challenge of parking but not necessarily providing the required amount of parking per code, but rather, where parking can be located on the site in non-residence districts. Most often this conflict occurs on older, smaller, or non-conventional lots typically found along Ogden Ave. and other older commercially developed areas of the Village resulting in the inability of a owner/petitioner to provide for parking in a required yard even though, in some instances, parking had been provided in such a yard historically prior to current Code.

In recognition of the increasing need to be able to consider practical difficulties or particular hardship in the way of carrying out the strict letter of the provision of the Code, the proposed Code amendment considers the addition of an authorized variation that would give a property owner/petitioner the means to request a variation to be considered, consistent with Article XVIII, *Variations*, that if approved would allow parking in required yards in order to facilitate the successful, beneficial, and orderly development/redevelopment of the property.

Site Considerations

An additional authorized variation is being requested in recognition of and in conjunction with the above discussion that goes to providing reasonable accommodation to request flexible but orderly and beneficial usage of a lot when certain practical difficulties or particular hardships are demonstrated. It also recognizes that site usage needs of commercial land uses are distinctly different from those of residential land uses and that yard requirements, in general, and in particular in Business districts, are less restrictive than in residence districts as for example, side yards in the B1, B2, and B3 zoning districts are *Not Applicable*. Consequently, this addition does not contemplate in any way any modifications to residential zoning districts.

Nevertheless, this amendment would also give a property owner/petitioner the means to request a variation to be considered, consistent with Article XVIII, *Variations*, that if approved would allow required yards in non-residence districts only to be reduced in order to facilitate the successful, beneficial, and orderly development/redevelopment of the property. It is important to note that the amendment acknowledges the current authorized variation limitation under Section 28-1802(b) limiting any requested and/or approved yard

reduction to no more than 50% of the required yard if any lot line of the subject lot is coincidental with a residential district lot; however, across a right-of-way would not be considered coincidental. It is also important to note that current provisions regarding landscaping generally under Section 28-1106 are not affected by this proposed amendment.

Proposed Text

The text of the proposed amendment is as follows (~~stricken~~ items are proposed to be deleted; double-underlined items are proposed to be added):

Section 28-1802. Authorized variations.

Variations from the regulations of this Zoning Ordinance may be granted in the following instances only and then only to the extent necessary:

(a)

(b) In residence districts, to permit any yard of less dimension than required by the applicable regulations not to exceed a fifty percent (50%) reduction.

(c) In non-residence districts, to permit any yard of less dimension than required by the applicable regulations, provided that if any lot line of the subject lot coincides with any lot line of a lot in a residence district, the reduction of the yard may not exceed a fifty percent (50%) reduction.

(d) In non-residence districts, to permit parking within any required yard.

~~(e)~~

Staff Recommendation:

Planning Staff recommends that the Plan Commission forward a positive recommendation regarding the proposed amendment to Chapter 28 of the Municipal Code, Zoning Ordinance, Section 28-1802, *Authorized Variations* as detailed above.

Attachment

- C: Zoning Board of Appeals
- Economic Development Commission
- Riccardo Ginex, Village Manager
- Enza Petrarca, Village Attorney
- Kenneth Rathje, Director of Planning Services
- Steven Rockwell, Director of Economic Development

28-1802. Authorized variations.

Variations from the regulations of this Zoning Ordinance may be granted in the following instances only, and then only to the extent necessary:

(a) To permit the extension of a district to include an entire lot where the boundary line of the district divides a lot of record on. Provided, such extension shall not to exceed an additional one hundred (100) feet of street frontage nor increase the area of the district by twenty thousand (20,000) square feet.

(b) In residence districts, to permit any yard of less dimension than required by the applicable regulations not to exceed a fifty percent (50%) reduction.

(c) In non-residence districts, to permit any yard of less dimension than required by the applicable regulations, provided that if any lot line of the subject lot coincides with any lot line of a lot in a residence district, the reduction of the yard may not exceed a fifty percent (50%) reduction.

(d) In non-residence districts, to permit parking within any required yard.

(e) To permit any structure to exceed the height limitations imposed by the applicable regulations, not to exceed a ten percent (10%) increase.

(f) To permit the use of a lot less in width or area by not more than twenty percent (20%) of the lot width or area required by this Zoning Ordinance.

(g) To reduce the applicable off-street parking or loading facilities required by not more than two (2) parking spaces nor one (1) loading berth or twenty percent (20%) of the required number, whichever is greater.

(h) To reduce the minimum lot area required per dwelling unit not more than ten percent (10%).

(i) 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.

(j) To permit the same off-street parking facilities to qualify as a required facility for two or more uses, provided the substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.

(k) To permit temporary buildings and uses for periods greater than sixty (60) days but not more than two (2) years in undeveloped sections of the Village, and for periods greater than sixty (60) days but not more than six (6) months in developed sections.

(l) To permit a limited increase in the number of employees permitted in processing activities in the business districts, but only when such increase will not adversely affect the character of the establishment, will not be detrimental to or affect the character of surrounding residential development and will not increase traffic or parking congestion.

(m) Notwithstanding the standards of Section 28-1803, to allow the required screening for parking spaces to be discontinuous to the extent that no more than twenty-five percent (25%) of the perimeter is unscreened in instances where it is in the interest of public safety to permit observation of parking areas.

(n) Notwithstanding the standards of Section 28-1803, to permit variations of any provision of Section 28-1301, if, in the opinion of the Board, a literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of such provisions regulating fences, or to the public interest.

(o) Notwithstanding the standards of Section 28-1803, to permit the location of detached private garages in the portion of the front yard in excess of the required setback in any particular case in which the enforcement of the requirement that accessory buildings be located in side or rear yards would do manifest injustice or would be contrary to the spirit and purpose of this Zoning Ordinance or to the public interest, and in which case a site plan and architectural drawings show compatibility of the proposal with the surrounding area.

(ap) To permit a fifty percent (50%) reduction in the yard dimensions required by this Zoning Ordinance in those cases when fifty percent (50%) of the building, based on a current appraisal of the market value, has been damaged by fire, explosion, act of God, or the public enemy; provided that, the amount of nonconformity existing prior to said calamity shall not increase.

(aq) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals may vary any provision of Article XV, Signs, in any particular case in which the literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of Article XV or the public interest.

(ar) Notwithstanding the standards of Section 28-1803, to permit variations of any provision of Section 28-1003 regarding Group Homes, if, in the opinion of the Board, a literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of such provisions regulating group homes or to the public interest.

(as) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals may vary the provisions of , Sections 28-1405 and 28-1406, size of parking spaces and design of off-street parking areas, in an amount not to exceed ten percent (10%) of any requirement established therein in any case in which the following conditions can be met:

(1) The required size of spaces is not necessary or appropriate due to the nature of the use which the parking serves, including such considerations as the degree to which there is turnover of parked vehicles as a result of the use, and the necessity to provide space for loading and unloading of goods, as in a retail use;

(2) The owner for the variation can provide for snow removal in such manner that plowed snow can be stored elsewhere on the property than within the parking spaces themselves.

(3) The reduction in the required size of spaces or aisles will not create a hazardous condition for the movement of vehicles within the parking area. A partial variation to allow for a certain percentage of space for compact vehicles may be, but is not necessarily, a part of the conditions of the variation.

(at) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals may authorize variations as provided in this section from the height, separation and setback requirements of Article IXa for an antenna or telecommunications tower where no reasonable alternative is available and strict enforcement of the provision would prevent, from a technical perspective, the reasonable and necessary use of the facility for telecommunications services; or where, because of unique circumstances, such as but not limited to the location of the property, the potential for collocation and the proximity and nature of surrounding uses, the proposed variation and telecommunications tower will promote the goals of collocation and minimal impact on residential areas. The variations which may be granted under this section are as follows:

(1) To modify by not more than 5% the maximum height, separation or setback for an antenna or telecommunications tower located within a residential district. (R-1, R-2, R-3, R-4, R-5, R-5A, R-6)

(2) To modify by not more than 10% the maximum height, separation or setback for an antenna or telecommunications tower located within a business district. (B-1, B-2 B-3)

(3) To modify by not more than 20% the maximum height, separation or setback for an antenna or telecommunications tower located within an office or manufacturing district. (O-R, O-R-M, M1, M2)

(au) To permit the waiver or reduction of any provision of Section 28-1106 regarding open space and landscaped greenspace requirements. Provided, any variation shall be conditioned upon the owner, to the extent practical, providing alternative landscaped greenspace on the property of a quality and quantity, as determined by the Board, necessary to reduce or eliminate the impact of the variance granted.

ORDINANCE NO. _____

AN ORDINANCE AMENDING PROVISIONS FOR VARIATIONS

BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows: (Additions are indicated by shading; deletions by ~~strikeout~~.)

SECTION 1. That Section 28-1802 of the Downers Grove Municipal Code is hereby amended as follows:

28-1802. Authorized variations.

Variations from the regulations of this Zoning Ordinance may be granted in the following instances only, and then only to the extent necessary:

(a) To permit the extension of a district to include an entire lot where the boundary line of the district divides a lot of record on. Provided, such extension shall not to exceed an additional one hundred (100) feet of street frontage nor increase the area of the district by twenty thousand (20,000) square feet.

(b) ~~In residence districts, to~~ To permit any yard of less dimension than required by the applicable regulations not to exceed a fifty percent (50%) reduction.

(c) ~~In non-residence districts, to permit any yard of less dimension than required by the applicable regulations, provided that if any lot line of the subject lot coincides with any lot line of a lot in a residence district, the reduction of the yard may not exceed a fifty percent (50%) reduction.~~

(d) ~~In non-residence districts, to permit parking within any required yard.~~

(ee) To permit any structure to exceed the height limitations imposed by the applicable regulations, not to exceed a ten percent (10%) increase.

(df) To permit the use of a lot less in width or area by not more than twenty percent (20%) of the lot width or area required by this Zoning Ordinance.

(eg) To reduce the applicable off-street parking or loading facilities required by not more than two (2) parking spaces nor one (1) loading berth or twenty percent (20%) of the required number, whichever is greater.

(fh) To reduce the minimum lot area required per dwelling unit not more than ten percent (10%).

(gi) 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.

(hj) To permit the same off-street parking facilities to qualify as a required facility for two or more uses, provided the substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.

(ik) To permit temporary buildings and uses for periods greater than sixty (60) days but not more than two (2) years in undeveloped sections of the Village, and for periods greater than sixty (60) days but not more than six (6) months in developed sections.

(jl) To permit a limited increase in the number of employees permitted in processing activities in the business districts, but only when such increase will not adversely affect the character of the establishment, will not be detrimental to or affect the character of surrounding residential development and will not increase traffic or parking congestion.

(km) Notwithstanding the standards of Section 28-1803, to allow the required screening for parking spaces to be discontinuous to the extent that no more than twenty-five percent (25%) of the perimeter is unscreened in instances where it is in the interest of public safety to permit observation of parking areas.

(h) Notwithstanding the standards of Section 28-1803, to permit variations of any provision of Section 28-1301, if, in the opinion of the Board, a literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of such provisions regulating fences, or to the public interest.

(i) Notwithstanding the standards of Section 28-1803, to permit the location of detached private garages in the portion of the front yard in excess of the required setback in any particular case in which the enforcement of the requirement that accessory buildings be located in side or rear yards would do manifest injustice or would be contrary to the spirit and purpose of this Zoning Ordinance or to the public interest, and in which case a site plan and architectural drawings show compatibility of the proposal with the surrounding area.

(j) To permit a fifty percent (50%) reduction in the yard dimensions required by this Zoning Ordinance in those cases when fifty percent (50%) of the building, based on a current appraisal of the market value, has been damaged by fire, explosion, act of God, or the public enemy; provided that, the amount of nonconformity existing prior to said calamity shall not increase.

(k) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals may vary any provision of Article XV, Signs, in any particular case in which the literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of Article XV or the public interest.

(l) Notwithstanding the standards of Section 28-1803, to permit variations of any provision of Section 28-1003 regarding Group Homes, if, in the opinion of the Board, a literal enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of such provisions regulating group homes or to the public interest.

(m) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals may vary the provisions of Sections 28-1405 and 28-1406, size of parking spaces and design of off-street parking areas, in an amount not to exceed ten percent (10%) of any requirement established therein in any case in which the following conditions can be met:

(1) The required size of spaces is not necessary or appropriate due to the nature of the use which the parking serves, including such considerations as the degree to which there is turnover of parked vehicles as a result of the use, and the necessity to provide space for loading and unloading of goods, as in a retail use;

(2) The owner for the variation can provide for snow removal in such manner that plowed snow can be stored elsewhere on the property than within the parking spaces themselves.

(3) The reduction in the required size of spaces or aisles will not create a hazardous condition for the movement of vehicles within the parking area. A partial variation to allow for a certain percentage of space for compact vehicles may be, but is not necessarily, a part of the conditions of the variation.

(n) Notwithstanding the provisions of Section 28-1803, the Zoning Board of Appeals may authorize variations as provided in this section from the height, separation and setback requirements of Article IXa for an antenna or telecommunications tower where no reasonable alternative is available and strict enforcement of the provision would prevent, from a technical perspective, the reasonable and necessary use of the facility for telecommunications services; or where, because of unique circumstances, such as but not limited to the location of the property, the potential for collocation and the proximity and nature of surrounding uses, the proposed variation and telecommunications tower will promote the goals of collocation and minimal impact on residential areas. The variations which may be granted under this section are as follows:

(1) To modify by not more than 5% the maximum height, separation or setback for an antenna or telecommunications tower located within a residential district. (R-1, R-2, R-3, R-4, R-5, R-5A, R-6)

(2) To modify by not more than 10% the maximum height, separation or setback for an antenna or telecommunications tower located within a business district. (B-1, B-2 B-3)

(3) To modify by not more than 20% the maximum height, separation or setback for an antenna or telecommunications tower located within an office or manufacturing district. (O-R, O-R-M, M1, M2)

(st) To permit the waiver or reduction of any provision of Section 28-1106 regarding open space and landscaped greenspace requirements. Provided, any variation shall be conditioned upon the owner, to the extent practical, providing alternative landscaped greenspace on the property of a quality and quantity, as determined by the Board, necessary to reduce or eliminate the impact of the variance granted.

SECTION 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____
Village Clerk

[variat]