



ZONING BOARD OF APPEALS REGULAR VIRTUAL MEETING AGENDA

MONDAY, NOVEMBER 9, 2020 - 7:00 PM

In accordance with social distancing requirements and Governor Pritzker's Executive Order 2020-59 and Senate Bill 2135, the Winnetka Zoning Board of Appeals meeting on Monday, November 9, 2020 **will be held virtually**. The meeting **will be livestreamed via the Zoom platform**. In accordance, with Public Act 101-0640, at least one representative from the Village will be present at Village Hall Council Chambers at 510 Green Bay Road, Winnetka, IL, and **the virtual meeting will be simulcast at Village Hall for members of the public who do not wish to view the virtual meeting from another location**. Pursuant to Executive Order 2020-59 issued by the Governor, the number of people who may gather at Village Hall for the meeting is limited due to the mandated social distancing guidelines. **Accordingly, the opportunity to view the virtual meeting at Village Hall is available on a "first-come, first-served" basis.**

The public has the following two options **for virtually observing and participating during this virtual Zoning Board of Appeals meeting, including the ability to provide testimony or comments**. Persons wishing to participate are strongly encouraged (but not required) to complete the Sign-In form found at www.villageofwinnetka.org/meetingsignin.

- 1) **Telephone (audio only)**. Call: 312-626-6799; when prompted enter the Webinar ID: 9739 288 1338 (Please note there is no additional passcode or attendee ID required.)
- 2) **Livestream (both audio and video feed)**. Download the Zoom meetings app to your smart phone, tablet, or computer, and then join Webinar ID: 9739 288 1338; Event Passcode: ZBA110920

If you wish **to provide testimony or comments prior to the meeting**, you may provide them one of three ways:

- 1) By sending **an email** to planning@winnetka.org;
- 2) By sending **a letter** to Community Development Department, Village of Winnetka, 510 Green Bay Road, Winnetka, IL 60093; or
- 3) By leaving **a voice mail message** at the phone number 847-716-3524. All voicemail messages will be transcribed into a written format.

All comments received prior to the posting of the agenda packet will be included in the agenda packet. All comments received after the agenda packet has been posted and received by 6:00 PM the day of the meeting will be read at the meeting by staff. Such public comment is limited to 200 words or less and should identify both (1) the subject of the comment being offered (such as property address or case number of the agenda item) and (2) the full name of the individual providing the comments. In addition, you may wish to include your street address, phone number, and the name of the organization or agency you represent, if applicable.

General comments for matters not on the agenda will be read at the end of the meeting under Public Comment. Comments specific to a particular agenda item will be read during the discussion of that agenda item.

All emails received will be acknowledged either during or after the meeting, depending on when they are received.

Persons seeking additional information concerning any of the applications, accessing the virtual meetings, or requesting alternative means to provide testimony or public comment are directed to email inquiries to planning@winnetka.org or by calling 847-716-3525.

**ZONING BOARD OF APPEALS REGULAR VIRTUAL MEETING AGENDA
MONDAY, NOVEMBER 9, 2020 - 7:00 PM**

AGENDA ITEMS

1. Call to Order & Roll Call.
2. Introductory Remarks Regarding Conduct of Virtual Meeting.
3. Approval of Minutes – October 12, 2020.
4. **Case No. 20-32-V: 160 Westview Road:** An application submitted by Thomas and Suzanne Lyman seeking approval of a zoning variation to allow a fence at 160 Westview Road along its Hibbard Road property line. The requested zoning variation would permit the fence to exceed the maximum permitted height. The Zoning Board of Appeals has final jurisdiction on this request.
5. Training Session Regarding the Conduct of Meetings.
6. Other Business.
 - a. Community Development Report
 - b. December 14, 2020 Meeting - Quorum check
7. Public Comment.
8. Adjournment

Note: Public comment is permitted on all agenda items.

NOTICE

All agenda materials are available at www.villageofwinnetka.org/agendacenter.

The Village of Winnetka, in compliance with the Americans with Disabilities Act, requests that all persons with disabilities, who require certain accommodations to allow them to observe and/or participate in this meeting or have questions about the accessibility of the meeting or facilities contact the Village ADA Coordinator at 510 Green Bay Road, Winnetka, Illinois 60093, (Telephone (847) 716-3543; T.D.D. (847) 501-6041).

**WINNETKA ZONING BOARD OF APPEALS
OCTOBER 12, 2020**

Zoning Board Members Present:

Matt Bradley, Chairman
E. Gene Greable
Kimberly Handler
Mike Nielsen
Max Weigandt

Zoning Board Members Absent:

Sarah Balassa
Lynn Hanley

Village Staff:

David Schoon, Director of Community Development
Brian Norkus, Asst. Director of Community Development
Ann Klaassen, Senior Planner

**Minutes of the Zoning Board of Appeals
October 12, 2020**

Call to Order & Roll Call:

Chairman Bradley called the meeting to order at 7:00 p.m. and read the Oral Declaration into the record. Ms. Klaassen took roll call of the Board Members present.

Introductory Remarks Regarding Conduct of Virtual Meeting:

Chairman Bradley outlined the agenda items and explained how the virtual meeting would take place. He also explained how public participation would take place and outlined the rules of procedure.

Approval of September 14, 2020 meeting minutes.

Chairman Bradley asked if there were any comments or a motion to approve the September 14, 2020 meeting minutes. A motion was made by Mr. Weigandt and seconded by Ms. Handler. A vote was taken, and the motion unanimously passed:

AYES: Bradley, Greable, Handler, Nielsen, Weigandt

NAYS: None

Continued from the September 14, 2020 meeting – Case No. 20-25-V2: 811 Cherry Street: An amended application submitted by Kathleen E. Hamburger seeking approval of zoning variations to allow a front porch addition at 811 Cherry Street. The requested zoning variations would permit the front porch to: (a) exceed the maximum permitted front yard lot coverage; (b) provide less than the minimum required front yard setback; and (c) provide less than the minimum required side yard setback from the west property line. The plans have been amended to reduce the requested variations for front yard lot coverage and the front yard setback. The Zoning Board now has final jurisdiction on this request.

Ms. Klaassen described the zoning relief currently being requested for the front yard lot coverage, front yard setback and side yard setback variations. She stated since the front yard lot coverage variation has now been reduced, the Board has final jurisdiction on the request. Ms. Klaassen stated at the September meeting, the Board asked the applicant to make reductions to the requested variations and described the changes made to the front porch and private sidewalk noting the side yard setback request remained unchanged. She then identified the elevations of the revised plan. Ms. Klaassen stated the Board is to consider whether the requested variations meet the standards for granting such variations and noted that staff prepared resolutions for the Board's consideration as noted on page nos. 30 and 42 of the agenda report. She stated

1 following the Board's discussion, a Board Member may make a motion to approve or deny the request. Ms.
2 Klaassen noted no written comments were received and asked the Board if there were any questions.

3
4 Chairman Bradley asked what the reduction in the percentages in terms of the overall percentage from the
5 original plan is. Ms. Klaassen responded the original front yard lot coverage variation was 26.75% and it has
6 been reduced to 19.87%. Ms. Handler asked if the front yard setback is measured from the bottom of the
7 last stair. Ms. Klaassen confirmed stairs are allowed to encroach and the setback is measured to the outer
8 limits of the porch.

9
10 Mr. Norkus allowed the applicants, Kathleen and Ron Hamburger and the architect, David Widick, into the
11 meeting. Chairman Bradley swore in those speaking to this matter. Mrs. Hamburger stated they considered
12 the Board's suggestions and revised the plans which reduced the porch size by 1 foot confirming it would
13 still be usable. Mr. Widick stated the porch at 5 feet is the minimum for it to be usable and referred to the
14 front door which extended out 30 inches which made it tight in order to walk past the porch and the front
15 door.

16
17 Chairman Bradley asked if there were any comments or questions from the Board or the public. No
18 comments were made at this time from the Board. Mr. Norkus confirmed there were no members of the
19 public to comment. Chairman Bradley then called the matter in for discussion.

20
21 Mr. Weigandt stated he is in favor of the request and these are the types of homes they want to keep in
22 Winnetka. He added no objections were made by the neighbors. Ms. Handler agreed with Mr. Weigandt and
23 noted the request is for an open structure as opposed to an enclosed addition to the home. She also stated
24 the porch and design is appropriate. Mr. Greable stated he is satisfied, and the applicants did a fine job. Mr.
25 Nielsen stated he is also in favor of the request. Chairman Bradley stated he is also in support of the request
26 and the reduction allowed the request to be up to the Board in terms of final approval. He agreed these
27 types of homes are what they are trying to preserve in the Village. Chairman Bradley then asked for a motion
28 to approve the resolution as noted on page 30 of the agenda report.

29
30 Mr. Nielsen moved to approve the resolution as stated on page 30, and Mr. Weigandt seconded the motion.
31 A vote was taken, and the motion unanimously passed:

32 AYES: Bradley, Greable, Handler, Nielsen, Weigandt

33 NAYS: None
34

35 **Continued from the September 14, 2020 meeting – Case No. 20-07-SD: 1415 and 1423 Asbury Avenue: An**
36 **amended application submitted by Judy Lesnik seeking approval of a Final Plat of Subdivision and a zoning**
37 **variation to allow a two-lot resubdivision of 1415 Asbury Avenue and 1423 Asbury Avenue and**
38 **construction of a detached garage on Proposed Lot 2 (1415 Asbury Avenue). The requested zoning**
39 **variation would permit the existing residence and proposed detached garage at 1415 Asbury Avenue to**
40 **exceed the maximum permitted building size (GFA). The Final Plat of Subdivision has been amended to**
41 **eliminate the previously requested zoning variation to observe less than the minimum required side yard**
42 **setback from the east property line. The Village Council has final jurisdiction on the request.**

43 Ms. Klaassen stated by amending the proposed plat of resubdivision, the applicant eliminated the request
44 to reduce the side yard setback from the east property line to less than the minimum required side yard
45 setback. The Board is to make a recommendation to the Village Council regarding the variation requested
46 to exceed the maximum permitted GFA. She then described the revision to the plat of resubdivision on the
47 parcels with the dividing line and explained the shift in the lot line designations. Ms. Klaassen then referred
48 to the resulting east side yard setback measurement. She also stated the plans for the proposed detached
49 garage have been revised reducing its square footage.

1 Ms. Klaassen referred the Board to Table 3 outlining the current and proposed zoning setback requirements
2 of the proposed two lots as well as Table 4 identifying the building size requirements for the current and
3 proposed lots. She then referred to the calculations resulting in the net GFA increase of 2,571 square feet
4 (56%). Ms. Klaassen described how the existing improvements excluding the garage would exceed the GFA
5 of the proposed lot area by 2,439 square feet (53%) and described the reduction in the degree of
6 nonconformity GFA for 1415 Asbury. She then outlined how the basement area of the home is now counted
7 due to the ordinance change in connection with how GFA is calculated. Ms. Klaassen informed the Board
8 that the Plan Commission's consideration of the subdivision request was continued to October 28, at the
9 applicant's request, after hearing the Board's comments and concerns at the last ZBA meeting. She also
10 stated the applicant submitted a demolition permit for 1423 Asbury and the LPC would consider the
11 application at its November 2 meeting. Ms. Klaassen noted one email received in connection with the
12 request would be read into the record.

13
14 Ms. Klaassen then stated the Board is to consider whether the GFA request meets the standards for granting
15 the variation and following public comment and Board discussion, a Board Member may make a motion to
16 the Village Council with a draft motion provided on page 7 of the agenda packet. She then asked if there
17 were any questions.

18
19 Chairman Bradley also asked if there were any questions. Ms. Handler asked how the net increase in GFA
20 was calculated in terms of the garage removal. Ms. Klaassen responded the existing garage at 1423 Asbury
21 is not a shared garage and does not play a part in the calculation for the 1415 Asbury parcel. She then stated
22 if the property were not subdivided, the existing garage would be on the 1423 Asbury parcel and would be
23 removed if the subdivision request is approved. No additional questions were raised at this time.

24
25 Mr. Norkus allowed the applicants, Cal Bernstein, David Dote, Jim Chambers and Keith Jacobs, into the
26 meeting. Chairman Bradley then swore in those speaking to this matter. Cal Bernstein referred to the existing
27 garage on the 1423 Asbury parcel which has nothing to do with the calculations for the 1415 Asbury parcel.
28 He then stated they filed for a demolition application for the 1423 Asbury noting the home is uninhabitable.
29 Mr. Bernstein stated if the request is approved, the smaller one car garage would be visible from the street
30 on the 1415 Asbury parcel and the 1423 Asbury garage would be removed. He noted there will only be one
31 garage door as opposed to two garage doors facing the street.

32
33 Mr. Bernstein stated the existing garage at 1415 Asbury is not functional as a two-car garage due to elevation
34 changes inside the garage and stairways. He then stated after the September discussion, the Board
35 recommended the elimination of the side yard setback encroachment, which they have done. Mr. Bernstein
36 also stated the Board asked for consideration of a one car garage as opposed to a two-car garage, which was
37 done along with the elimination of the request for side yard setback relief.

38
39 Jim Chambers described the location of the proposed garage noting it would also reduce the amount of
40 impermeable surface. He also stated they considered a minimally sized one car garage which would have
41 the same design, roof pitch and gable details as the home. Mr. Chambers informed the Board in terms of the
42 calculations, the overage amount would remain the same as if it were a 400 square foot detached garage
43 and the garage was reduced in response to the Board's concerns.

44
45 Mr. Bernstein informed the Board there is a significant amount of reduction in the nonconformity with this
46 application with the garage having a minimal impact on the existing nonconformity. He then stated in
47 connection with the standards relating to unique circumstances and altering the character of the community,
48 the zoning ordinance changed since the home was constructed rendering the home noncompliant. Mr.
49 Bernstein also stated the existing attached garage is undersized and is unable to operate as a two-car garage

1 which constitutes unique circumstances. He then stated regarding the neighborhood, there are several two-
2 car garages in rear yards which face the street and having a one car garage facing the street would result in
3 less bulk on the street. Mr. Bernstein then asked if there were any questions.
4

5 Chairman Bradley also asked if there were any questions. No questions were raised at this time. Ms. Klaassen
6 read an email from Kevin Gazely, 1418 Scott, in support of the application into the record. Mr. Schoon
7 confirmed there are no members of the public to comment. Chairman Bradley then called the matter in for
8 discussion.
9

10 Mr. Greable stated he was impressed by the applicant correcting the flaws of the application and he is in
11 support of the request. Ms. Handler stated the proposal solved a lot of the issues and she would move to
12 recommend approval of the variations while commenting on the attractiveness of the proposal and
13 reduction in the number of garage bays on the street. Mr. Weigandt and Mr. Nielsen stated they are also in
14 support of the request.
15

16 Chairman Bradley stated he is also in support of the request after the applicant's consideration of the Board's
17 comments from the previous meeting along with the elimination of one of the variances requested. He
18 agreed the standards have been met with the benefit of the positive changes on the proposed lot 1.
19 Chairman Bradley then asked for a motion to recommend approval of the GFA variance as noted on page 7
20 of the agenda materials. A motion was made by Mr. Weigandt and seconded by Mr. Greable to recommend
21 approval of the variation. A vote was taken, and the motion unanimously passed:

22 AYES: Bradley, Greable, Handler, Nielsen, Weigandt

23 NAYS: None
24

25 **Other Business:**

26 a. Community Development Report

27 Mr. Schoon informed the Board there would be one agenda item together with a training session scheduled
28 for the next meeting. He confirmed materials for the training session would be sent to the Board prior to the
29 meeting.
30

31 b. November 9, 2020 Meeting – Quorum check

32 The Board Members discussed their availability.
33

34 **Public Comment:**

35 No comments were made at this time.
36

37 **Adjournment:**

38 A motion to adjourn was made by Mr. Greable and seconded by Ms. Handler. A vote was taken, and the
39 motion unanimously passed:

40 AYES: Bradley, Greable, Handler, Nielsen, Weigandt

41 NAYS: None
42

43 The meeting adjourned at 7:59 p.m.
44

45 Respectfully submitted,

46 Antionette Johnson

47 Recording Secretary
48



MEMORANDUM VILLAGE OF WINNETKA

COMMUNITY DEVELOPMENT DEPARTMENT

TO: ZONING BOARD OF APPEALS
FROM: ANN KLAASSEN, SENIOR PLANNER
DATE: NOVEMBER 2, 2020
SUBJECT: 160 WESTVIEW ROAD -VARIATION (CASE NO. 20-32-V)

INTRODUCTION

On November 9, 2020, the Zoning Board of Appeals is scheduled to hold a virtual public hearing, in accordance with social distancing requirements, Governor Pritzker's Executive Orders and Senate Bill 2135, on an application submitted by Thomas and Suzanne Lyman (the "Applicants") as the owners of the property at 160 Westview Road (the "Subject Property"). The Applicants request approval of the following zoning variation to allow installation of a fence on the Subject Property along its Hibbard Road property line:

1. A fence that is 8 feet in height, whereas a maximum of 6.5 feet above natural grade is permitted, a variation of 1.5 feet (23.08%) [Section 17.30.130 – Obstructions in Required Yards or Courts].

A mailed notice was sent to property owners within 250 feet of the Subject Property in compliance with the Zoning Ordinance. The hearing was properly noticed in the *Winnetka Talk* on October 22, 2020. As of the date of this memo, staff has not received any written comments from the public regarding this application.

The Zoning Board of Appeals has final jurisdiction on this request as the Board has the authority to allow a fence to exceed the maximum permitted height, provided that the maximum permitted height allowed pursuant to the variation shall be no more than 10 feet.

PROPERTY DESCRIPTION

The Subject Property, which is approximately 0.53 acres in size, is located on the west side of Westview Road, east of Hibbard Road, between Broadmeadow Road and Lindenwood Drive, and contains an existing one-story residence with an attached garage (see Figure 1). The Subject Property is a "through lot" with two lot lines along two more or less parallel streets; Westview Road to the east and Hibbard Road to the west.

The property is zoned R-2 Single Family Residential, and it is bordered by R-2 Single Family Residential to the north, south, and east, and the Cook County Forest Preserve to the west (see Figure 2). The Comprehensive Plan designates the Subject Property as appropriate for single family residential development. The zoning of the property is consistent with the Comprehensive Plan.

PROPERTY HISTORY AND PREVIOUS ZONING APPLICATIONS

The residence was built in 1951. The following subsequent building permits were issued in:

1. 1969 to enclose the front porch and add a powder room;
2. 1972 to construct an addition on the west side of the residence;
3. 1975 to construct an addition to the residence;
4. 2013 to construct an addition to the residence.

Other permits for interior remodeling and foundation repair have also been issued over the years. The Applicants acquired the property in 2005.

There is one previous zoning case on file for the Subject Property. On February 7, 1972, a variation was granted to allow an addition on the west side of the residence to encroach the required front yard setback from the front property line along Hibbard Road.

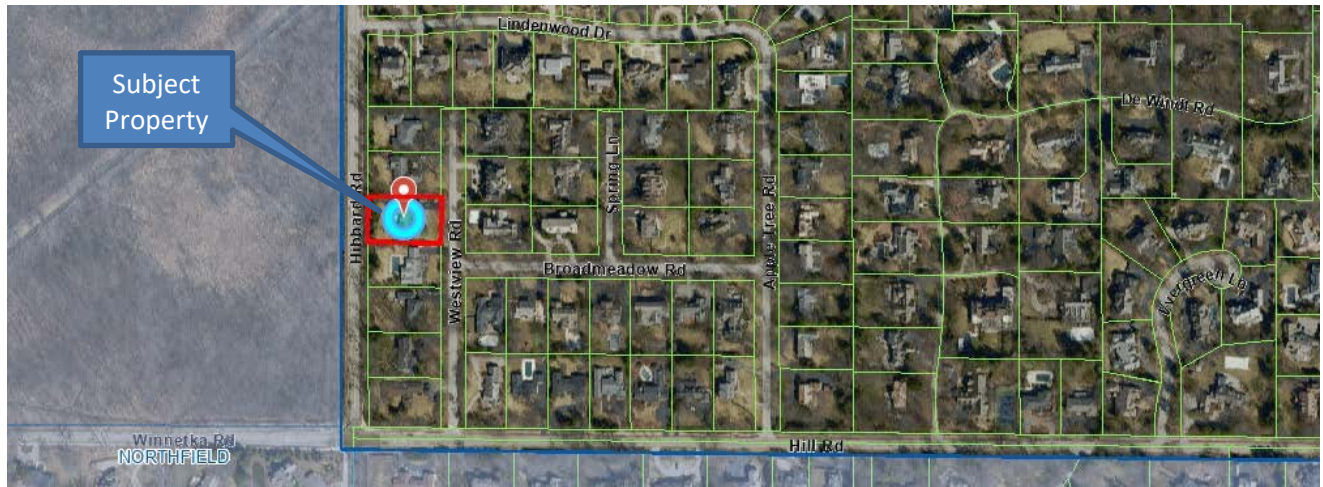


Figure 1 – Aerial Map



Figure 2 – Zoning Map



Figure 3 – Subject Property – East Elevation (Westview Road)

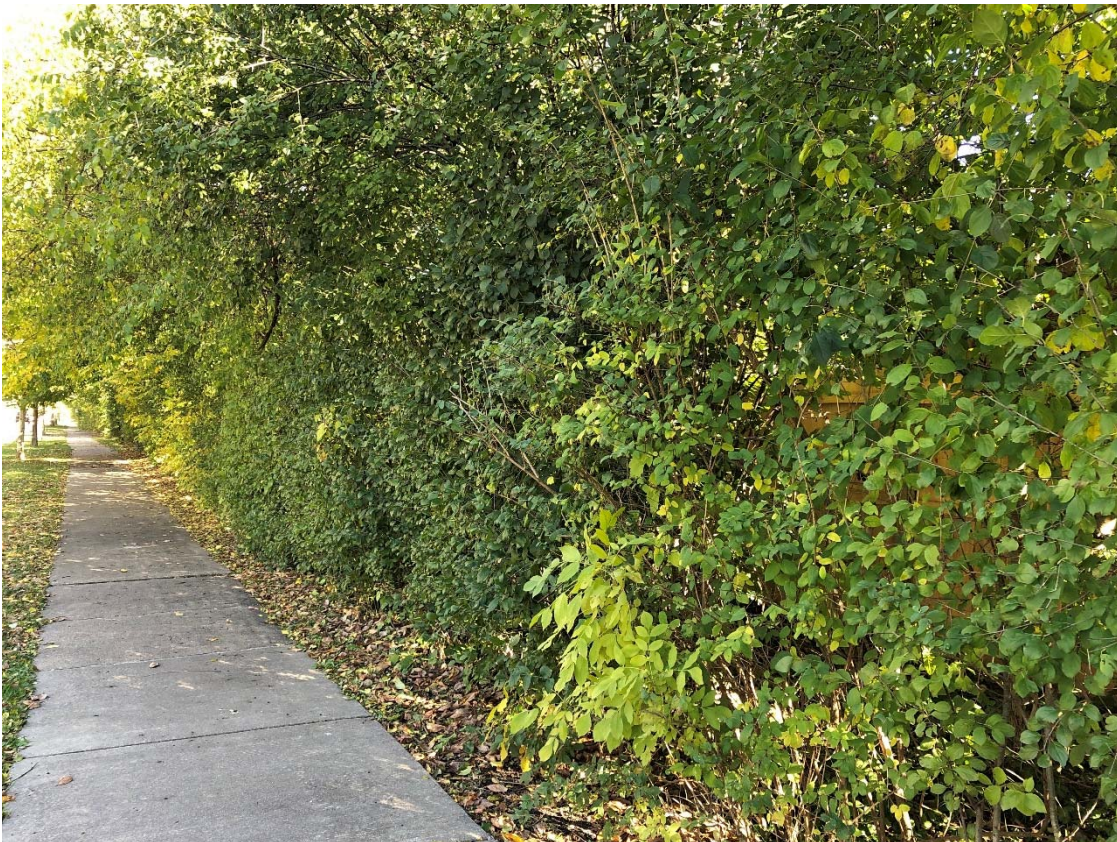


Figure 4 – Subject Property – West Elevation (Hibbard Road)

PROPOSED PLAN

The requested variation would allow the replacement of the existing fence along the west front lot line of the Subject Property. According to the Applicants, the existing fence is 6 feet in height. The proposed fence would be a solid traditional fence constructed of wood and measure 8 feet in height. Figure 5 below identifies the existing fence that would be replaced. As described in the Applicants' written explanation, which is provided in Attachment A, the additional height in excess of the permitted 6.5 feet is to increase privacy and to reduce noise from Hibbard Road.



Figure 5 – Existing Fence

REQUESTED ZONING RELIEF

One variation is being requested to allow a fence 8 feet in height along the west front lot line, whereas the maximum permitted height is 6.5 feet above natural grade, a variation of 1.5 feet (23.08%). For reference, fences and walls along the contiguous rear or side lot lines between commercial and single-family or multi-family residential zoning districts are allowed a height of 8 feet above natural grade.

FINDINGS

In the attached application materials submitted by the Applicants, the Applicants have provided a statement of justification regarding how the requested variation meets the standards for granting the requested zoning variation. Does the ZBA find that the requested variation meets the standards for granting such variations; and if so, is the ZBA prepared to approve the requested variation?

Staff has prepared the attached draft resolutions for the Board's consideration (Attachment B). One resolution approves the request, while the other denies the request. A Board member may wish to make a motion to adopt either the resolution to approve the requested variation or the resolution to deny the requested variation.

ATTACHMENTS

Attachment A: Application Materials

Attachment B: Draft Resolutions

VILLAGE OF WINNETKA, ILLINOIS
DEPARTMENT OF COMMUNITY DEVELOPMENT

ZONING VARIATION APPLICATION

Case No. 20-32-VProperty InformationSite Address: 1600 Westview RdOwner InformationName: Thomas & Suzanne LymanAddress: 1600 Westview RdCity, State, ZIP: Winnetka, IL 60093Email: [REDACTED]Primary Contact: Suzanne LymanPhone No. [REDACTED]Date property acquired by owner: Feb 2005Architect InformationName: N/A

Primary Contact: _____

Address: _____

City, State, ZIP: _____

Phone No. _____

Email: _____

Attorney InformationName: N/A

Primary Contact: _____

Address: _____

City, State, Zip: _____

Phone No. _____

Email: _____

Nature of any restrictions on property: Current fence runs north to southalong west border of lot and is 6' in height. We are looking to replace it with a solid wood traditional fence 8' in height.Brief explanation of variation(s) requested (attach separate sheet providing additional details): We arehoping to (1) reduce significant road noise to the property as well as increase privacyProperty Owner Signature: [REDACTED]Date: 10/12/2020

Fence Height Variance Request
160 Westview Rd
Winnetka, IL

With this Zoning Variation Application submission we, the owners of 160 Westview Road are seeking approval to replace our current 6-foot high traditional solid wood fence with an 8-foot high traditional solid wood fence.

We have consulted with several companies who specialize in noise attenuation and acoustical barrier treatments. Each of those industry specialists recommend a fence of at least 8-feet in height to begin to mitigate road traffic noise. While we have, and continue to landscape with dense foliage plantings, that alone is not enough. However, we have learned that an 8-foot solid fence can potentially knock up to 10 decibels off traffic and other ambient noise, which typically measures 60 to 70 decibels. To the human ear, it is noted that a 10-decibel drop can seem like half as much noise.

Our fence runs along the west side of our property and is not across from any other residential homes, but rather the Cook County Forest Preserve. In addition there is full plant foliage for much of the year and the fences- ours and neighboring (some of which are taller) are quite indiscernible. We are asking for relief from the current fence height restrictions, and thank you for your consideration.

Specific Responses to Standards for Granting of Zoning Variations

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that district.

Response: Our request to increase the fence height from 6' to 8' is in an effort to increase privacy and lessen the effects of significant vehicle traffic along Hibbard Road to the 160 Westview Rd property. In so doing, the property value could potentially increase.

2. The plight of the owner is due to unique circumstances. Such circumstances must be associated with the characteristics of the property in question, rather than being related to the occupants.

Response: There is significant vehicle (and pedestrian) traffic along Hibbard Road which goes along the property's western border. The high amounts of road noise from vehicles, bike groups along with foot traffic have created the unique circumstance in question. In addition, the fence is lower than some neighboring fences. Increased fence height would provide both privacy, lessen road noise and better match heights of fencing on neighboring properties

3. The variation, if granted, will not alter the essential character of the locality.

Response: It is our belief that should our fence height variation be granted, there will be no effect on the essential character of the locality. We believe that while our fence, along with the neighboring fences are quite concealed by bushes, better consistence in the fence heights actually would enhance the character of the locality.

4. An adequate supply of light and air to adjacent property will not be impaired.

Response: An increase in fence height along our western border would in no way impair supply of light or air to either adjacent properties (150 and 170 Westview Rd).

5. The hazard from fire and other damages to the property will not be increased.

Response: There would be no hazard from fire or any other damages to the property with an increased fence height.

6. The taxable value of the land and buildings throughout the village will not diminish.

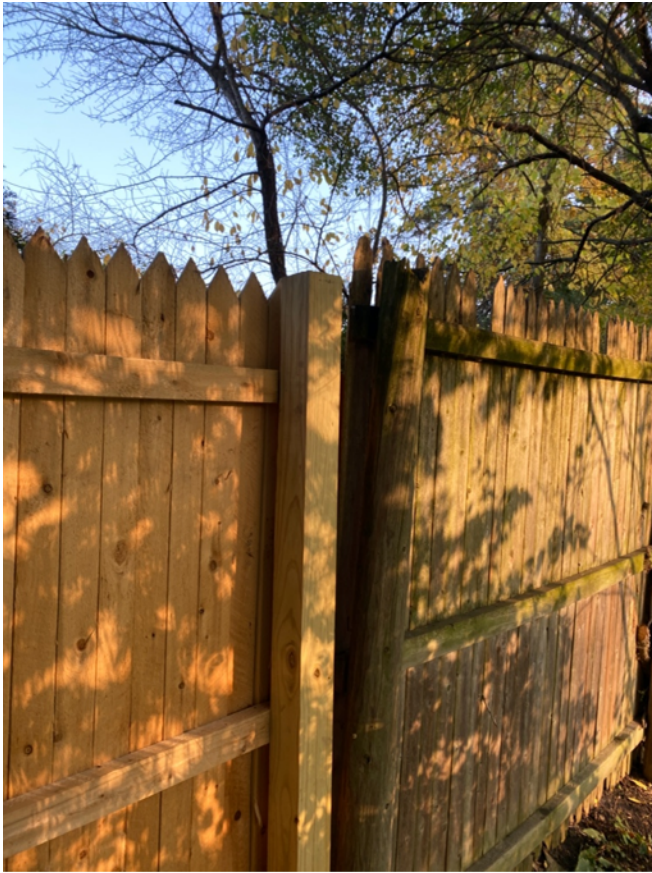
Response: The taxable value of the land and buildings throughout the village will not diminish with an increase in fence height on this property.

7. The congestion in the public street will not increase.

Response: An increase in fence height will not increase congestion on Hibbard Road which borders the property on the west, or on Westview Road which borders the property on the east.

8. The public health, safety, comfort, morals and welfare of the inhabitants of the Village will not otherwise be impaired.

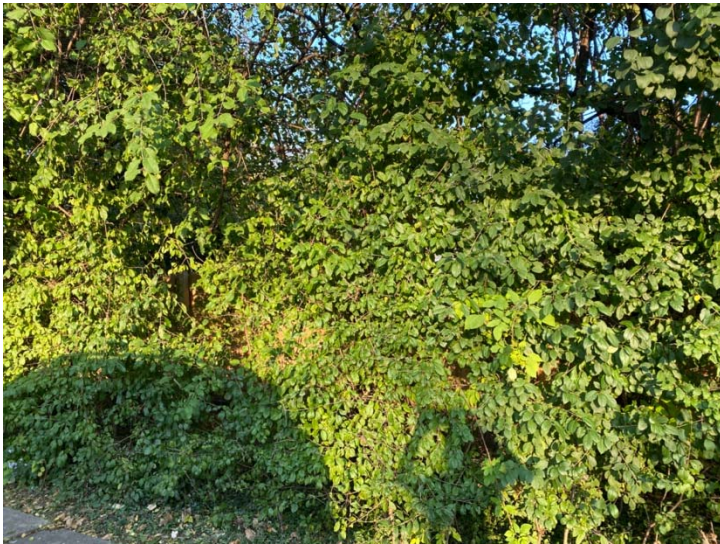
Response: An increase in fence height will not impair the public health, safety, comfort, morals and welfare of the inhabitants of the Village.



View 1: 160 Westview Rd from Hibbard Road, showing owner's fence on the left next to neighboring, taller fence.



View 2: 160 Westview Rd. Owners Fence to the left; Neighboring, taller fence to the right.



View 3: 160 Westview Road looking east at property/fence from Hibbard Road with foliage cover.



View 4: Front View of 160 Westview Road looking west from Westview Road.

PLAT OF SURVEY

OF

LOT 3 IN BLOCK "A" OF BROADMEADOW PROPERTIES, BEING A SUBDIVISION OF THE SOUTH TWO THIRDS OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 7, 1936, AS DOCUMENT NO. 11862729, IN COOK COUNTY, ILLINOIS.

PIN: 05-20-314-003-0000

TOTAL LAND AREA: 23,019 SQ.FT.

COMMONLY KNOWN AS: 160 WESTVIEW ROAD, WINNETKA, ILLINOIS 60093

SCALE: 1 INCH = 25 FEET

BLOCK "A"

LOT 2

ROAD

(66' R.O.W.)
ASPHALT PAVEMENT

WESTVIEW

CONC. CURB

CONC. WALK

ASPHALT PAVEMENT

CONC. CURB

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ATTACHMENT B
RESOLUTION NO. ZBA-8-2020
VILLAGE OF WINNETKA
ZONING BOARD OF APPEALS
APPROVAL OF ZBA CASE NO. 20-32-V – 160 WESTVIEW ROAD

WHEREAS, Thomas and Suzanne Lyman (collectively, the “Applicants”) are the owners of the property commonly known as 160 Westview Road, Winnetka, Illinois, and legally described in **Exhibit A** attached to and, by this reference, made part of this Resolution (***“Subject Property”***); and

WHEREAS, the Subject Property is located in the R-2 Single Family Residential District; and

WHEREAS, the Subject Property is improved with a single family residence with an attached garage and a fence; and

WHEREAS, the Applicants desire to replace the existing fence along the west front lot line of the Subject Property (***“Proposed Improvement”***); and

WHEREAS, pursuant to Section 17.30.130 of the Winnetka Zoning Ordinance (***“Zoning Ordinance”***), the maximum permitted height for a fence along the front lot line is 6.5 feet above natural grade; and

WHEREAS, the Applicants desire to replace the existing fence along the west front lot line with a new fence on the Subject Property measuring 8 feet in height above natural grade, a violation of Section 17.30.130 of the Zoning Ordinance; and

WHEREAS, the Applicants filed an application for a variation from Section 17.30.130 of the Zoning Ordinance to permit the Proposed Improvement with a height of 8 feet above natural grade (***“Requested Variation”***); and

WHEREAS, a public notice for the Requested Variation was duly published on October 22, 2020 in the “Winnetka Talk” and notice was mailed to the owners of record of all properties within 250 feet of the Subject Property as required by the Zoning Ordinance; and

WHEREAS, in accordance with social distancing requirements, Governor Pritzker’s Executive Order 2020-59 and Senate Bill 2135, a virtual public hearing was held by the Winnetka Zoning Board of Appeals during a virtual meeting held on November 9, 2020 for the purpose of considering the Requested Variation with the final decision being rendered at the Zoning Board of Appeal’s Regular Meeting on November 9, 2020; and

WHEREAS, the Zoning Board of Appeals has considered the evidence presented, as follows:

1. Application for the Requested Variation submitted by the Applicants, dated October 12, 2020, including all attachments as well as all subsequent additions and revisions to these application materials and attachments; and
2. All written and oral testimony concerning the Requested Variation.

WHEREAS, the Zoning Board of Appeals has determined that the Requested Variation does satisfy the standards for a variation provided in Sections 17.60.040 and 17.60.050 of the Winnetka Zoning Ordinance; and

WHEREAS, the Zoning Board of Appeals has determined that the requested variation to exceed the maximum permitted height of a fence does satisfy the standards for variations provided in Sections 17.60.040 and 17.60.050 of the Winnetka Zoning Ordinance; and

WHEREAS, the Zoning Board of Appeals has determined that it will serve and be in the best interest of the Village and its residents to grant the application for the fence height variation in accordance with, and subject to, the conditions, restrictions, and provisions of this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Appeals of the Village of Winnetka, Cook County, Illinois, that:

SECTION 1. RECITALS. The foregoing recitals are incorporated into, and made part of, this Resolution as the findings of the Zoning Board of Appeals.

SECTION 2. APPROVAL OF VARIATION. Subject to and contingent upon the conditions, restrictions, and provisions set forth in Section Three of this Resolution, the requested maximum fence height variation from Section 17.30.130 of the Zoning Ordinance to permit the installation of a fence along the west front lot line of the Subject Property is hereby granted, in accordance with and pursuant to Chapter 17.60 of the Zoning Ordinance and the home rule powers of the Village.

SECTION 3. CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Winnetka Zoning Ordinance or any other rights the Applicants may have, the approval granted in Section Two of this Resolution is hereby expressly subject to and contingent upon compliance with each and all of the following conditions:

- A. Compliance with Plans. Except for minor changes and site work approved by the Director of Community Development in accordance with all applicable Village standards, the development, use, operation, and maintenance of the Subject Property, shall comply with those certain plans attached hereto as **Exhibit B**.
- B. Compliance with Regulations. The construction, development, use, operation, and maintenance of the Proposed Improvement and the Subject Property must comply with all applicable Village codes and ordinances, as the same may be amended from time to time, except to the extent specifically provided otherwise in this Resolution.

SECTION 4. RECORDING; BINDING EFFECT. A copy of this Resolution will be recorded in the office of the Cook County Recorder of Deeds. This Resolution and the privileges, obligations, and provisions contained herein will inure solely to the benefit of, and be binding upon, the Applicants and their respective heirs, personal representatives, successors and assigns.

SECTION 5. FAILURE TO COMPLY WITH CONDITIONS. Upon the failure or refusal of the Applicants to comply with any or all of the conditions, restrictions, or provisions of this Resolution, the approval granted in Section Two of this Resolution will, at the sole discretion of the Zoning Board of Appeals, by Resolution duly adopted, be revoked and become null and void; provided, however, that the Zoning Board of Appeals may not so revoke the approval granted in Section Two of this Resolution unless it first provides the Applicants with two months advance written notice of the reasons for

revocation and an opportunity to be heard at a regular meeting of the Zoning Board of Appeals. In the event of revocation, the development and use of the Subject Property will be governed solely by the applicable regulations of the Winnetka Zoning Ordinance, including, without limitation, the fence height requirement set forth in Section 17.30.130 of the Winnetka Zoning Ordinance. Further, in the event of such revocation, the Village Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances.

SECTION 6. AMENDMENTS. Any amendments to the Requested Variation granted in Section Two of this Resolution may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Winnetka Zoning Ordinance.

SECTION 7. EFFECTIVE DATE.

A. This Resolution will be effective only upon the occurrence of all of the following events:

1. Passage by the Zoning Board of Appeals in the manner required by law; and
2. The filing by the Applicants with the Village Clerk of an Unconditional Agreement and Consent, in the form of **Exhibit C** attached to and, by this reference, made a part of this Resolution, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Resolution and to indemnify the Village for any claims that may arise in connection with the approval of this Resolution.

B. In the event that the Applicants do not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 7.A.2 of this Resolution, within 30 days after the date of final passage of this Resolution by the Zoning Board of Appeals, the Zoning Board of Appeals will have the right, in its sole discretion, to declare this Resolution null and void and of no force or effect.

ADOPTED this 9th day of November, 2020, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

Signed:

Matthew Bradley, Chairperson

Countersigned:

Village Clerk

EXHIBIT A
LEGAL DESCRIPTION OF SUBJECT PROPERTY

Lot 3 in Block "A" in Broadmeadow Properties, being a subdivision of the South 2/3 of the Southwest Quarter of the Southwest Quarter of Section 20, Township 42 North, Range 13, East of the Third Principal Meridian, according to the Plat thereof recorded August 7, 1936 as Document No. 11862729, in Cook County, Illinois.

Commonly known as 160 Westview Road, Winnetka, Illinois.

Parcel Index Number: 05-20-314-003-0000

EXHIBIT B

PLAN

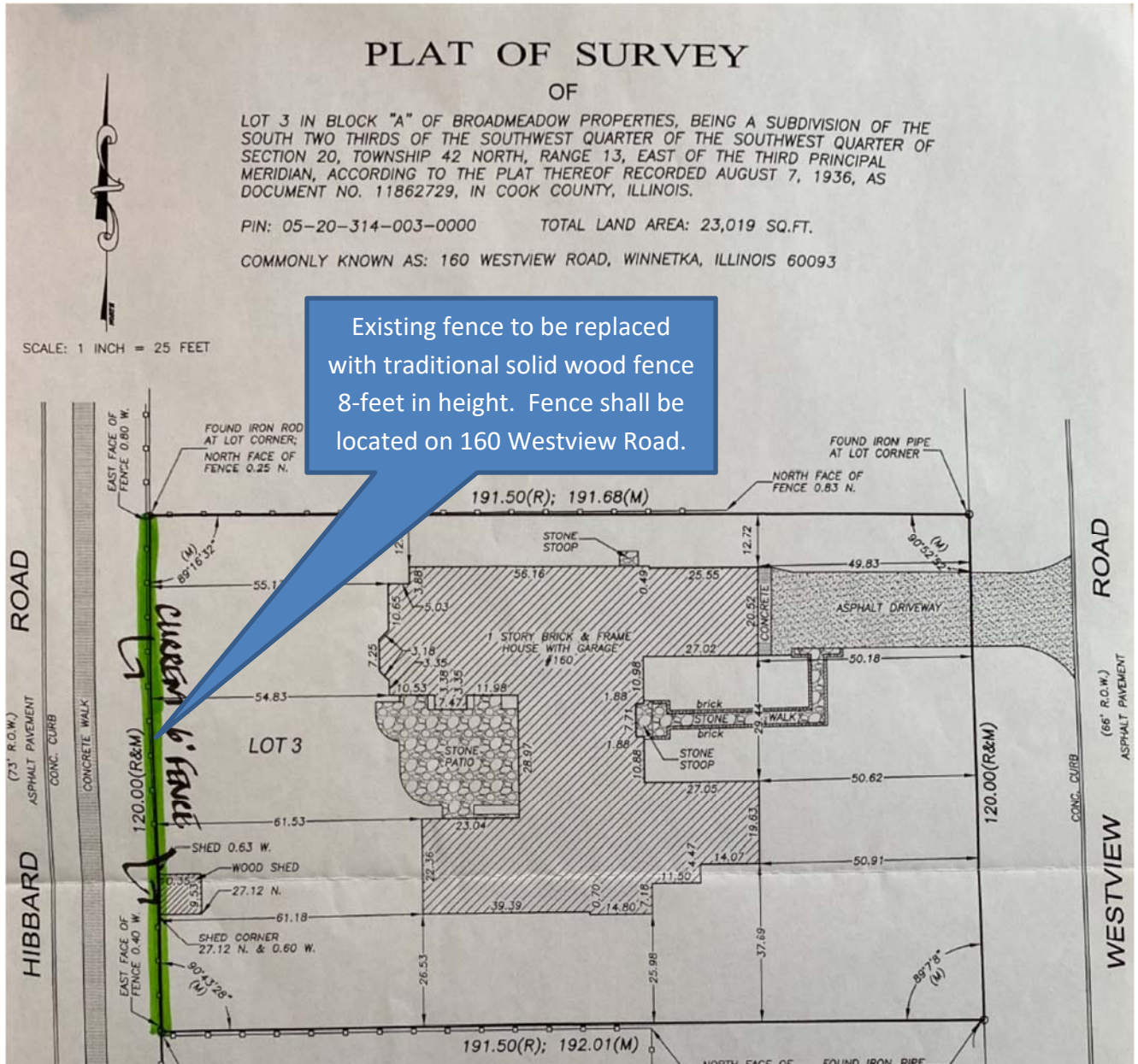


EXHIBIT C

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Winnetka, Illinois ("**Village**");

WHEREAS, Thomas and Suzanne Lyman (collectively, "**Owners**") are the owners of record of that certain real property located at 160 Westview Road, Winnetka, Illinois ("**Property**"); and

WHEREAS, Resolution No. ZBA-8-2020, adopted by the Winnetka Zoning Board of Appeals on November 9, 2020 ("**Resolution**"), grants a variation to allow a fence measuring 8 feet in height above natural grade along the west front lot line on the Subject Property; and

WHEREAS, Section 7.A.2 of the Resolution provides, among other things, that the Resolution will be of no force or effect unless and until the Owners have filed, within 30 days following the passage of the Resolution, their unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Resolution;

NOW, THEREFORE, the Owners do hereby agree and covenant as follows:

1. The Owners hereby unconditionally agree to accept, consent to, and abide by each and all of the terms, conditions, limitations, restrictions, and provisions of the Resolution.
2. The Owners acknowledge that public notices and virtual public hearings have been properly given and held with respect to the adoption of the Resolution, have considered the possibility of the revocation provided for in the Resolution, and agree not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.
3. The Owners acknowledge and agree that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's granting of the variation, and that the Village's approval of the variation does not, and will not, in any way, be deemed to insure the Owners against damage or injury of any kind and at any time.
4. The Owners hereby agree to hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village's adoption of the Resolution granting the variation for the Property.

[SIGNATURES ON FOLLOWING PAGE]

Dated: _____, 2020.

ATTEST

By: _____

Name: _____

OWNERS

By: _____

Suzanne Lyman

By: _____

Thomas Lyman

RESOLUTION NO. ZBA-8-2020
VILLAGE OF WINNETKA
ZONING BOARD OF APPEALS
DENIAL OF ZBA CASE NO. 20-32-V – 160 WESTVIEW ROAD

WHEREAS, Thomas and Suzanne Lyman (collectively, the “Applicants”) are the owners of the property commonly known as 160 Westview Road, Winnetka, Illinois, and legally described in **Exhibit A** attached to and, by this reference, made part of this Resolution (***“Subject Property”***); and

WHEREAS, the Subject Property is located in the R-2 Single Family Residential District; and

WHEREAS, the Subject Property is improved with a single family residence with an attached garage and a fence; and

WHEREAS, the Applicants desire to replace the existing fence along the west front lot line of the Subject Property (***“Proposed Improvement”***); and

WHEREAS, pursuant to Section 17.30.130 of the Winnetka Zoning Ordinance (***“Zoning Ordinance”***), the maximum permitted height for a fence along the front lot line is 6.5 feet above natural grade; and

WHEREAS, the Applicants desire to replace the existing fence along the west front lot line with a new fence on the Subject Property measuring 8 feet in height above natural grade, a violation of Section 17.30.130 of the Zoning Ordinance; and

WHEREAS, the Applicants filed an application for a variation from Section 17.30.130 of the Zoning Ordinance to permit the Proposed Improvement with a height of 8 feet above natural grade (***“Requested Variation”***); and

WHEREAS, a public notice for the Requested Variation was duly published on October 22, 2020 in the “Winnetka Talk” and notice was mailed to the owners of record of all properties within 250 feet of the Subject Property as required by the Zoning Ordinance; and

WHEREAS, in accordance with social distancing requirements, Governor Pritzker’s Executive Order 2020-59 and Senate Bill 2135, a virtual public hearing was held by the Winnetka Zoning Board of Appeals during a virtual meeting held on November 9, 2020 for the purpose of considering the Requested Variation with the final decision being rendered at the Zoning Board of Appeal’s Regular Meeting on November 9, 2020; and

WHEREAS, the Zoning Board of Appeals has considered the evidence presented, as follows:

1. Application for the Requested Variation submitted by the Applicants, dated October 12, 2020, including all attachments as well as all subsequent additions and revisions to these application materials and attachments; and
2. All written and oral testimony concerning the Requested Variation.

WHEREAS, the Zoning Board of Appeals has determined that the Requested Variation **does not** satisfy the standards for a variation provided in Sections 17.60.040 and 17.60.050 of the Winnetka Zoning Ordinance because (i) the Requested Variation is not in harmony with the general purpose and intent of the Winnetka Zoning Ordinance; (ii) the Subject Property can yield a reasonable return if it is permitted to be used only under the conditions allowed for the R-2 Single Family Residential District; and (iii) the plight of the Applicants is not due to unique circumstances; and

WHEREAS, the Zoning Board of Appeals has determined that it will not serve and be in the best interest of the Village and its residents to approve the Requested Variation; and

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Appeals of the Village of Winnetka, Cook County, Illinois, that:

SECTION 1. RECITALS. The foregoing recitals are incorporated into, and made part of, this Resolution as the findings of the Zoning Board of Appeals.

SECTION 2. DENIAL OF VARIATION. In accordance with and pursuant to Chapter 17.60 of the Winnetka Zoning Ordinance and the home rule powers of the Village, the Zoning Board of Appeals denies the Requested Variation for the Subject Property.

SECTION 3. EFFECTIVE DATE. This Resolution will be effective upon passage by the Zoning Board of Appeals in the manner required by law.

ADOPTED this 9th day of November, 2020, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

Signed:

Matthew Bradley, Chairperson

Countersigned:

Village Clerk

EXHIBIT A
LEGAL DESCRIPTION OF SUBJECT PROPERTY

Lot 3 in Block "A" in Broadmeadow Properties, being a subdivision of the South 2/3 of the Southwest Quarter of the Southwest Quarter of Section 20, Township 42 North, Range 13, East of the Third Principal Meridian, according to the Plat thereof recorded August 7, 1936 as Document No. 11862729, in Cook County, Illinois.

Commonly known as 160 Westview Road, Winnetka, Illinois.

Parcel Index Number: 05-20-314-003-0000



MEMORANDUM VILLAGE OF WINNETKA

COMMUNITY DEVELOPMENT DEPARTMENT

TO: ZONING BOARD OF APPEALS
FROM: DAVID SCHOON, COMMUNITY DEVELOPMENT DIRECTOR
DATE: NOVEMBER 2, 2020
SUBJECT: ZONING BOARD OF APPEALS TRAINING

On November 9, 2020, Village staff and the Assistant Village Attorney Ben Schuster will hold a training session with the Zoning Board of Appeals. The agenda for the training includes the following:

- A. Zoning Board of Appeals Powers & Duties (Chapter 3.44: Zoning Board of Appeals – Attachment A)
 - a. Variation Process (Chapter 15.60: Variations – Attachment B)
 - b. Special Use Process (Chapter 15.56: Special Uses - Attachment C)
 - c. Appeals of Zoning Administrator Decisions (Section 17.72.010: Appeal & Review – Attachment D)
 - d. Appeals of Building Officials Decisions (Chapter 15.72 – Appeals – Attachment E)
- B. Conduct of Meetings.
 - a. Open Meetings Act
 - b. Procedures for Conducting Meetings
 - c. Freedom of Information Act
 - d. Board Ethics

The purpose of this training session is to go over the Board's current roles and responsibilities and the conduct of meetings.

ATTACHMENTS

Attachment A: Chapter 3.44: Zoning Board of Appeals

Attachment B: Chapter 15.60: Variations

Attachment C: Chapter 15.56: Special Uses

Attachment D: Section 17.72.010 – Appeal & Review (of Zoning Administrator's Decisions)

Attachment E: Chapter 15.71: Appeals (of the Building Officer's Decisions)

Chapter 3.44

ZONING BOARD OF APPEALS

Sections:

- 3.44.010 Creation of Board
- 3.44.020 Members; Terms; Qualifications; Officers
- 3.44.030 Removal; Vacancies
- 3.44.040 Meetings; Quorum; Hearings
- 3.44.050 Powers and Duties

Section 3.44.010 Creation of Board

There is created the Zoning Board of Appeals for the Village. For purposes of the Administrative Appeal process established pursuant to Chapter 15.72 of this code, the Zoning Board of Appeals shall also be known as the Building and Zoning Board of Appeals.

(MC-5-2009, Amended, 05/05/2009; MC-8-2007, Amended, 06/05/2007)

Section 3.44.020 Members; Terms; Qualifications; Officers

A. Members; Terms. The Board shall consist of seven members appointed by the Village President and confirmed by the Village Council. Each member of the Board shall serve for a term of five years and until a successor has been appointed.

B. Qualifications. All members of the Board shall be residents of the Village.

C. Officers. The Village President shall designate one of the members of the Board to serve as Chairperson of the Board. The Chairperson shall hold that office until his or her successor is appointed. Such Chairperson or, in his or her absence, the acting Chairperson, may administer oaths and compel attendance of witnesses.

(MC-8-2007, Amended, 06/05/2007)

Section 3.44.030 Removal; Vacancies

A. Removal. The Village President, with the approval of the Village Council, shall have the power to remove any members of the Board for cause and after a public hearing.

B. Vacancies. Vacancies on the Board shall be filled for the unexpired term of the member whose place has become vacant, in the manner provided in this chapter for the appointment of a member.

(MC-8-2007, Amended, 06/05/2007)

Section 3.44.040 Meetings; Quorum; Hearings

A. Meetings and Procedures. All meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. All meetings of the Board shall be open to the public and shall be conducted in accordance with the Open Meetings Act and Chapter 3.02 of this code. The Board shall keep minutes of its proceedings and record the vote of each member upon every question, or, if absent or failing to vote, indicate such fact. The Board shall also keep records of its examinations and other official actions.

B. Quorum. A majority of the of the members of the Board shall constitute a quorum for the conduct of business.

C. Hearings. No hearing shall be conducted without a quorum of the Board being present. Any absent member who certifies that he or she has read the record of the proceedings before the Board may vote upon any question before the Board.

(MC-8-2007, Amended, 06/05/2007)

Section 3.44.050 Powers and Duties

A. Rules of procedure. The Board shall adopt and publish its own rules of procedure for all matters under its jurisdiction, Such rules of procedure shall be consistent with the provisions of this chapter, Title 17 of this code and state statutes.

(Prior code § 22.16 (part))

B. Powers and duties. In addition to the foregoing duty, the Board shall have the following powers and duties:

1. To conduct hearings, enter findings and render decisions on applications for zoning variations and special uses, as provided in Title 17 of this code;

2. To hear and decide certain appeals as provided in Chapter 17.72 of this code;

3. To perform such other duties and functions in the administration of the Winnetka Zoning Ordinance, as provided in Title 17 of this code;

4. To hear and consider appeals from certain orders, requirements, decisions or determinations of any Building Officer

as provided in Chapter 15.72 of this code, for which purposes the Board shall be known as the Building and Zoning Board of Appeals;

5. To make recommendations to the Village Council from time to time regarding the administration of and possible amendment to this Code; and

6. To perform such other duties as the Village Council may direct from time to time.

(MC-2-2019, Amended, 04/25/2019; MC-5-2009, Amended, 05/05/2009; MC-8-2007, Amended, 06/05/2007)

VARIATIONS

Sections:

- 17.60.010 Zoning Variations.
- 17.60.015 Jurisdiction of the Zoning Administrator; Decision by Written Ruling.
- 17.60.020 Jurisdiction of the Zoning Board of Appeals; Decisions by Resolution.
- 17.60.030 Jurisdiction of the Village Council; Variations by Ordinance.
- 17.60.035 Types of Zoning Variations; Table of Final Decision Making Authority.
- 17.60.040 Variation Procedures: Standard and Major Variations.
- 17.60.045 Variation Procedures: Minor Variations.
- 17.60.050 Standards for Granting Variations.
- 17.60.060 Effect of Denial of Application.
- 17.60.070 Review of Final Decisions.

Section 17.60.010 Zoning Variations.

The Village Council or, if so authorized, the Zoning Board of Appeals, may determine and vary the application of the regulations of the Winnetka Zoning Ordinance, Title 17 of this Code, in harmony with the general purpose and intent of said regulations, subject to the standards and procedures set forth in this chapter, provided that use variations shall not be permitted.

(MC-2-2004, Amended, 04/06/2004; MC-5-2000, Amended, 10/03/2000, Subsections D and E amended)

(MC-6-2005, Amended, 09/20/2005; MC-2-2004, Amended, 04/06/2004; MC-5-2000, Amended, 10/03/2000, Subsections D and E amended)

Section 17.60.015 Jurisdiction of the Zoning Administrator; Decision by Written Ruling.**A. Initial Review of Applications for Zoning Variations.**

1. Minor Variations. The Zoning Administrator shall have the authority to review all applications for minor zoning variations and to consider the merits of complete applications in accordance with the procedures established by section 17.60.050 of this chapter.

2. Standard and Major Variations. The Zoning Administrator shall have the authority to review all standard and major variations and to forward completed applications for such variations to the Zoning Board of Appeals, along with the Zoning Administrator's zoning analysis of the application. The zoning analysis may also include the Zoning Administrator's comments and recommendations on the merits of such applications.

B. Administrative Proceedings on Minor Zoning Variations. The Zoning Administrator shall conduct the administrative proceedings on all applications for minor variations, pursuant to the procedures established by section 17.60.050 of this chapter, and shall enter written findings of fact based on the record.

C. Final Decision-making Authority for Minor Variations. Subject to the standards and limitations set forth in this chapter, the Zoning Administrator shall have the authority to make final decisions granting variations from the terms of this title in cases for which the applicant seeks one or more of the types of relief that is listed in the Table of Decision-making Authority set forth in Section 17.60.035 (D) of this chapter as being within the final decision-making authority of the Zoning Administrator.

D. Form of Decision; Written Order Required. All final decisions of the Zoning Administrator on minor variations shall be made by written order. The written order shall comply with the applicable procedures of section 17.60.045 and standards of section 17.60.050 of this chapter.

(MC-6-2005, Added, 09/20/2005)

Section 17.60.020 Jurisdiction of the Zoning Board of Appeals; Decisions by Resolution.

A. Hearings on All Standard and Major Zoning Variations. The Zoning Board of Appeals shall conduct a public hearing on all applications for zoning variations for standard and major variations and shall enter written findings of fact based on the record. The Zoning Board of Appeals shall not conduct any hearings on minor variations, except as necessary to consider an appeal from a decision of the Zoning Administrator on an application for a minor variation, as provided in section 17.72.010 of this title.

B. Advisory Decision-making Authority. Except as provided in the following subsection C, the decisions of the Zoning Board of Appeals on all zoning variation applications shall be advisory to the Village Council. In addition, notwithstanding anything in Subsection C to the contrary, the Board's decisions shall be advisory to the Village Council in all of the following

instances:

1. Applications for variations that are related in any way to a special use, including all WTSP and planned developments.
2. Applications for more than one variation where any one of such variations falls within the final decision-making authority of the Village Council.
3. Applications for any variation for any new principal building.

C. Final Decision-making Authority for Standard Variations. Subject to the standards and limitations set forth in this Chapter, including the limitations in the foregoing subsection B, the Zoning Board of Appeals shall have the authority to make final decisions granting variations from the terms of this title in cases for which the applicant seeks one or more of the types of relief that is listed in the Table of Decision-making Authority set forth in Section 17.60.035 (D) of this chapter as being within the final decision-making authority of the Zoning Board of Appeals.

D. Form of Decision; Resolution Required. All decisions of the Zoning Board of Appeals, whether advisory or final, shall be made by resolution. The resolution shall comply with the applicable procedures of Section 17.60.040 and standards of Section 17.60.050 of this Chapter.

(MC-2-2004, Amended, 04/06/2004)

(MC-8-2005, Amended, 12/20/2005, Subsection (B) amended; MC-6-2005, Amended, 09/20/2005; MC-2-2004, Amended, 04/06/2004)

Section 17.60.030 Jurisdiction of the Village Council; Variations by Ordinance.

A. Final Decision-making Authority. The Village Council reserves for itself the authority to make the final decision to grant or deny any and all variations that have not been delegated to the Zoning Board of Appeals in Section 17.60.010 of this chapter, and any and all variations related to the following types of applications and uses, regardless of whether any of such variations have been delegated to the Zoning Board of Appeals in Section 17.60.010:

1. Application for variations that are related in any way to a special use, including all WTSP and planned developments.
2. Applications for more than one variation where any one of such variations falls within the final decision-making authority of the Village Council.
3. Applications for any variation for any new principal building.

B. Form of Decision; Ordinance Required. All variations granted by the Village Council shall be granted by ordinance. The ordinance shall comply with the applicable procedures and standards set forth in Sections 17.60.040 and 17.60.050 of this chapter.

(MC-2-2004, Amended, 04/06/2004; MC-5-2000, Amended, 10/03/2000, Adds new Subsection C)

(MC-8-2005, Amended, 12/20/2005, Subsection (A) amended; MC-6-2005, Amended, 09/20/2005; MC-2-2004, Amended, 04/06/2004; MC-5-2000, Amended, 10/03/2000, Adds new Subsection C, Effect of Denial of Application)

Section 17.60.035 Types of Zoning Variations; Table of Final Decision Making Authority.

A. Minor Variations. For purposes of this Chapter, a minor variation is a variation that is within the final decision-making authority of the Zoning Administrator. Except as limited by Sections 17.60.020 and 17.60.030 of this chapter, or unless the Village Council otherwise delegates final decision-making authority to the Zoning Board of appeals or reserves final decision-making authority for itself, the Zoning Administrator shall have the authority to make final decisions to grant or deny zoning variations in the cases identified and marked with the letters "ZA" in the Table of Decision-Making Authority set forth in subsection D of this section.

B. Standard Variations. For purposes of this Chapter, a standard zoning variation or a standard variation is a variation that is within the final decision-making authority of the Zoning Board of Appeals. Except as limited by Section 17.60.030 of this chapter, or unless the Village Council otherwise reserves final decision-making authority for itself, the Zoning Board of Appeals shall have the authority to make final decisions to grant or deny zoning variations in the cases identified and marked with the letters "ZBA" in the Table of Decision-Making Authority set forth in subsection D of this section.

C. Major Variations. For purposes of this Chapter, a major variation is a variation for which the Village Council has retained final decision-making authority, as indicated in the Table of Decision-Making Authority set forth in subsection D of this Section, and as set forth in full detail in Section 17.60.030 of this chapter.

D. Table of Final Decision-Making Authority. The final decision-making authority of the Zoning Administrator, the Zoning Board of Appeals and the Village Council, for minor variations, standard variations and major variations, respectively, shall be as indicated in the following table, subject to the Village Council's reservation of final decision-making jurisdiction as provided in section 17.60.030 of this chapter.

Table of Final Decision-Making Authority		
Nature of Variation	Zoning District	
	R-1, R-2, R-3, R-4, R-5	B-1, B-2, C-1, C-2, D

To reduce a required front yard setback for any principal building	ZA: No more than 25% ZBA: Above 25%, but no more than 50% Council: Over 50%	ZA: None. ZBA: No more than 20% Council: Over 20%
To reduce a required side yard setback for any principal building	ZA: No more than 25% ZBA: Above 25%, but no more than 50% Council: Over 50%	ZA: None. ZBA: No more than 20% Council: Over 20%
To reduce a required rear yard setback for any principal building	ZA: No more than 25% ZBA: Above 25%, but no more than 50% Council: Over 50%	ZA: None. ZBA: No more than 20% Council: Over 20%
To reduce a required corner yard setback for any principal building	ZA: No more than 25% ZBA: Above 25%, but no more than 50% Council: Over 50%	ZA: None. ZBA: No more than 20% Council: Over 20%
To reduce a required side yard setback for any detached residential garage	ZA: No more than 25% ZBA: Above 25%, but no more than 50% Council: Over 50%	ZA: None. ZBA: No more than 20% Council: Over 20%
To reduce any other required setback for any residential garage	ZA: None ZBA: No more than 20% Council: Over 20%	ZA: None. ZBA: No more than 20% Council: Over 20%
To reduce a required side yard setback for any accessory structure other than a garage	ZA: No more than 25% ZBA: Over 25% to and including 100%	ZA: None. ZBA: No more than 20% Council: Over 20%
To alter the required fourth-story setback required by Section 17.46.025 of this code	N.A.	ZBA only
To exceed roofed lot coverage limitations	ZA: None ZBA: No more than 20% Council: Over 20%	ZA: None. ZBA: No more than 20% Council: Over 20%
To exceed impermeable surface limitations	ZA: None ZBA: No more than 20% Council: Over 20%	ZA: None. ZBA: No more than 20% Council: Over 20%
To allow a zoning lot with a pre-FAR principal use to exceed maximum building size (gross floor area) limitations	ZA: None ZBA: No more than 10% Council: Over 10%	Council only
To allow a zoning lot with a post-FAR principal use to exceed maximum building size (gross floor area) limitations	Council only.	Council only
To exceed maximum building height limitations for a building (vertical height in feet only)	ZA: None ZBA: No more than 20% Council: Over 20%	Council only
To exceed maximum height for accessory buildings and structures other than fences (vertical height in feet only)	ZA: None ZBA: All requests	ZA: None ZBA: No more than 20% Council: Over 20%
To increase the height of a fence	ZA: None ZBA: All requests, provided that the maximum height allowed pursuant to a variation shall be no more than 10 feet	ZA: None ZBA: All requests, provided that the maximum height allowed pursuant to a variation shall be no more than 10 feet
To reduce the lot area of a zoning lot below the applicable minimum lot area	ZA: None ZBA: No more than 5% below the applicable minimum	ZA: None ZBA: No more than 5% below the applicable minimum
To allow a structural change to	ZA: All requests	ZA: None

add, move or enlarge a door or window in a legally nonconforming building wall, subject to all of the following conditions: - No change in the plane of the wall; - Door or window is in a side or rear building wall; and - Door or window faces a side or rear yard of an adjoining property	ZBA: None	ZBA: All requests
To replace a legally nonconforming open porch, deck or patio attached to a pre-FAR principal building, subject to the following conditions: - The new porch, deck or patio must occupy the same footprint as the original; - There shall be no increase in gross floor area, roofed lot coverage or impermeable surface area if property currently meets or exceeds applicable limitations	ZA: All requests ZBA: None	ZA: All requests ZBA: None
To vary the building line articulation requirements for additions to single family residential buildings	ZA: Unarticulated distance of no more than 50 feet ZBA: Unarticulated distance over 50 feet	Not applicable.
To allow the one-for-one replacement of legal non-conforming accessory structures or portions of a principal structure, provided the following conditions are met: - the degree of nonconformity in the setbacks will be reduced; and - the proposed replacement will have the same footprint and will not increase the gross floor area, roofed lot coverage or impermeable surface	ZA: All requests ZBA: None	Council only
To vary the width limitations for attached garages	ZA: All requests ZBA: None	Not applicable
To vary the width limitations for front-facing garage doors	ZA: All requests ZBA: None	Not applicable

(MC-3-2009, Amended, 04/28/2009; MC-6-2005, Added, 09/20/2005)

Section 17.60.040 Variation Procedures: Standard and Major Variations.

A. Hearing Required. A hearing before the Zoning Board of Appeals is required for all standard and major zoning variations. The Zoning Board of Appeals shall fix a reasonable time for hearings on applications for zoning variations. However, if the application for variation involves the alteration of an exterior feature of a landmark designated under Chapter 15.64 of the Winnetka Village Code, the hearing shall be fixed for a date not less than sixty (60) days from the date of the filing of the application, so as to allow the Landmark Preservation Commission to complete its review of the plans and make its determination of the appropriateness of the proposed work, as required by Section 15.64.60 of this Code.

B. Notice of Hearing.

1. Publication of Notice. Notice of the time and place of the public hearing shall be published not more than thirty (30) days nor less than fifteen (15) days before the hearing in one or more newspapers published in the Village, or, if no newspaper is published in the Village, then in one or more newspapers with a general circulation within the Village and

which is published within Cook County, Illinois. This notice shall contain the particular location for which the variation is requested as well as a brief statement of the nature of the proposed variation.

2. Notice to Certain Property Owners. Concurrently with the filing of an application for variation, the applicant shall furnish a list of the names and addresses of the owners of record of the property which is the subject of such application and all persons to whom the latest general real estate tax bills were sent for all property situated within two hundred fifty (250) feet of the subject property. Written notice of the time and place of such public hearing shall be sent by the Village by first class mail postage prepaid to each person whose name appears on such list, at the address shown on such list, not less than ten (10) days prior to the date of such public hearing; provided, however, that the failure of any such person to receive such written notice shall not invalidate, impair or otherwise affect any such variation subsequently granted following such public hearing.

C. Evidence Required at Hearing. The Zoning Board of Appeals shall require evidence on the following issues:

1. that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that district;
2. that the plight of the owner is due to unique circumstances;
3. that the variation, if granted, will not alter the essential character of the locality;
4. that an adequate supply of light and air to adjacent property will not be impaired;
5. that the hazard from fire and other damages to the property will not be increased;
6. that the taxable value of land and buildings throughout the Village will not diminish;
7. that the congestion in the public street will not increase; and
8. that the public health, safety, comfort, morals and welfare of the inhabitants of the Village will not be otherwise impaired.

D. Recommendation by the Zoning Board of Appeals. The Zoning Board of Appeals shall not recommend that the Village Council grant a variation unless the Zoning Board of Appeals makes an affirmative finding, based on evidence in the record or in a public document, that each of the foregoing eight conditions is met in connection with the variation application. The findings of the Zoning Board of Appeals shall comply with Section 17.60.050.

(MC-2-2004, Amended, 04/06/2004)

(MC-6-2005, Amended, 09/20/2005; MC-2-2004, Amended, 04/06/2004)

Section 17.60.045 Variation Procedures: Minor Variations.

A. Administrative Hearing Required. The Zoning Administrator shall conduct an administrative hearing on all minor variation applications. The Zoning Administrator shall fix a reasonable time for such hearings; provided that, if the application for variation involves the alteration of an exterior feature of a landmark designated under chapter 15.64 of the Winnetka Village Code, the hearing shall be fixed for a date not less than sixty (60) days from the date of the filing of the application, so as to allow the Landmark Preservation Commission to complete its review of the plans and make its determination of the appropriateness of the proposed work, as required by Section 15.64.60 of this code.

B. Notice of Hearing.

1. Publication of Notice. Notice of the time and place of the public hearing shall be posted on the Village's web site. Newspaper publication of the notice shall not be required.

2. Notice to Certain Property Owners. The Zoning Administrator shall prepare a list of the names and addresses of the owners of record of the property for which the variation is sought, and of all persons to whom the latest general real estate tax bills were sent for all property situated within two hundred fifty (250) feet of the subject property (the "notification list"). Not less than ten (10) days before the scheduled date of the administrative hearing, the Zoning Administrator shall issue written notice of the time and place of the administrative hearing to each person whose name appears on the notification list, at the address shown on that list. The notices shall be sent by first class mail, with postage prepaid. The failure of any person on the notification list to receive such written notice shall not invalidate, impair or otherwise affect any variation that is described in the notice and is granted by the Zoning Administrator after the administrative hearing.

C. Evidence Required at Hearing. The Zoning Administrator shall require the applicant to present evidence on the same issues as are described in subsection C of section 17.60.040 of this chapter.

D. Decision by the Zoning Administrator. The Zoning Administrator shall not grant a minor variation without making an affirmative finding, based on evidence in the record or in a public document, that each of the eight issues set forth in subsection C section 17.60.040 is met in connection with the variation application. The findings of the Zoning Administrator shall comply with Section 17.60.050.

(MC-6-2005, Added, 09/20/2005)

Section 17.60.050 Standards for Granting Variations.

A. Findings of Fact Required. Every variation, whether made by the Zoning Administrator, the Zoning Board of Appeals, or by an ordinance of the Village Council after a hearing before the Board, shall be accompanied by findings of fact and shall

refer to any exhibits containing plans and specifications for the proposed variation, which findings and exhibits shall remain a part of the permanent records of the Board. The findings of fact shall specify the reason or reasons for granting the variation.

B. Separate Statement of Conclusions or Relief. The terms of the relief granted shall be specifically set forth in a conclusion or statement separate from the findings of fact of the Board or ordinance.

C. Variation Standards for Zoning Board of Appeals and Zoning Administrator. The Zoning Board of Appeals shall not grant a standard variation, and the Zoning Administrator shall not grant a minor variation, unless the Board or the Zoning Administrator, as the case may be, makes an affirmative finding, based on evidence in the record or in a public document, that the variation requested is in harmony with the general purpose and intent of the Zoning Ordinance and that each of the eight conditions on which evidence is required pursuant to Section 17.60.050 of this Code has been met in connection with the variation application.

D. Variation Standards for Village Council. The Village Council shall have the discretion to grant variations, without further public hearing, upon finding that the variation requested is in harmony with the general purpose and intent of the Zoning Ordinance and in accordance with general or specific rules contained in this chapter, and upon finding that there are practical difficulties or particular hardships in the way of carrying out the strict letter of any of the provisions or regulations of the Zoning Ordinance; provided that, the passage of any ordinance granting a variation or application for variation that failed to receive a recommendation of approval by the Zoning Board of Appeals shall require the favorable vote of four Village Trustees.

E. Property for which a zoning variation has been granted shall not be used in violation of the specific terms of the findings of fact and grant of variation as set forth in the written order of the Zoning Administrator, the resolution of the Board, or ordinance of the Village Council, as the case may be, unless its usage is changed by further findings of fact of the Zoning Administrator, the Board or the Village Council, in an additional order, resolution or ordinance, as the case may be.

(Prior code § 22.16 (part))

(MC-2-2004, Amended, 04/06/2004)

(MC-6-2005, Amended, 09/20/2005; MC-2-2004, Amended, 04/06/2004)

Section 17.60.060 Effect of Denial of Application.

If, for any reason, the Village Council denies an application for variation that is within its final decision-making jurisdiction or if, for any reason, the Zoning Board of Appeals denies an application for variation that is within its final decision-making jurisdiction, the application shall not be resubmitted in substantially the same form and/or content within one year of the date of such denial.

(MC-2-2004, Amended, 04/06/2004)

(MC-6-2005, Amended, 09/20/2005; MC-2-2004, Amended, 04/06/2004)

Section 17.60.070 Review of Final Decisions.

A. Review of Final Decisions of the Zoning Administrator. Final decisions of the Zoning administrator on minor variations shall be subject to review by the Zoning Board of Appeals pursuant to the appeals procedures established in Section 17.72.010 of this title.

B. Review of Final Decisions of the Zoning Board of Appeals. Final administrative decisions of the Zoning Board of Appeals on standard variations shall be subject to judicial review pursuant to the provisions of the Illinois "Administrative Review Law," as set forth in Article II of the Illinois Code of Civil Procedure, 735 ILCS 5/3-1-3, *et seq.*, and any amendments thereto. Final decisions of the Zoning Board of Appeals on major variations are advisory and shall not be subject to appeal to the Council or to judicial review.

(Prior code § 22.16 (part))

C. Review of Final Decisions of the Village Council. Final legislative decisions of the Village Council on major variations and any other variations that are subject to the Village Council's final decision-making authority shall be subject to judicial review in the manner established by applicable Illinois law.

(MC-6-2005, Amended, 09/20/2005; MC-2-2004, Amended, 04/06/2004)

SPECIAL USES

Sections:

- 17.56.010 Purpose.
- 17.56.020 Nonessential Public Uses.
- 17.56.030 Application.
- 17.56.040 Notice of Public Hearing.
- 17.56.050 Written Protest.
- 17.56.060 Zoning Board of Appeals Proceedings.
- 17.56.065 Plan Commission Proceedings.
- 17.56.067 Concurrent Application for a Special Use and Planned Development Approval
- 17.56.070 Village Council Proceedings.
- 17.56.080 Effect of Village Council Denial of Special Use.
- 17.56.090 Limitations on Special Uses.
- 17.56.100 Special Use Permit Deemed Null and Void.
- 17.56.110 Certain Uses Deemed Lawful Special Uses.
- 17.56.120 Standards for Granting of Special Use Permits.

Section 17.56.010 Purpose.

It is recognized that there are special types of uses which because of their specific characteristics in relationship to uses permitted by right in a particular district, or the services which they provide, cannot be properly permitted by right in a particular district without consideration, in each case, of the impact of such uses upon neighboring land, or of the public need for such uses at a particular location.

(MC-8-2005, Amended, 12/20/2005; MC-10-2001, Amended, 11/20/2001; MC-5-2000, Amended, 10/03/2000; MC-9-2010, Amended, 01/4/2011)

Section 17.56.020 Nonessential Public Uses.

Nonessential public uses, as determined by the Village Council, may be permitted as special uses in all districts within the Village, subject to complying with the procedures and standards of this chapter.

(MC-9-2010, Added, 1/4/2011)

Section 17.56.030 Application.

A. Who May File. An application to use land or structures for one or more of the special uses listed in the district regulations may be filed by any person, including the Village, having a proprietary interest in the premises described in the application.

B. Filing and Contents of Application. Any application for a special use permit shall be filed with the Department of Community Development on forms furnished by the Village. The application shall be accompanied by the following:

1. A nonrefundable fee, in the amount set from time to time by resolution of the Village Council;
2. A written statement describing the proposed special use; and
3. Such evidence and documentation as the Director of Community Development may determine is necessary to show that the proposed special use will conform to the standards set forth both in this chapter and, if any, in the district regulations; and
4. Such other information and documentation as the Director of Community Development may determine is necessary to establish that the applicant is the owner of the property that is the subject of the application and has met all applicable statutory ownership disclosure requirements.

C. Upon receipt of a completed application for a special use permit, the Director of Community Development shall place the application on the agenda for public hearing at the first regularly scheduled meeting of the Board of Appeals, the Plan Commission, and the Planned Development Commission, in accordance with their respective jurisdictions pursuant to Sections 17.56.060, 17.56.065 and 17.56.067 of this Zoning Ordinance, subject to the issuance of notice as required by Section 17.56.040.

(MC-2-2019, Amended, 04/25/2019; MC-9-2010, Added, 01/4/2011; MC-3-2015, Amended, 04/9/2015)

Section 17.56.040 Notice of Public Hearing.

A. Publication of Notice. Except as otherwise provided in this Section 17.56.040.A, notice shall be given of the time and place of the hearing, not more than thirty (30) nor less than fifteen (15) days before the hearing, by publishing a notice at least once in one or more newspapers published in the Village, or, if no newspaper is published in the Village, then in one or more newspapers with a general circulation within the Village. The notice shall contain the following information:

1. The number designation of the petition;
2. The scheduled date of the hearing;
3. The scheduled location of the hearing;
4. The scheduled time of the hearing;
5. The purpose of the hearing;
6. The name and address of the legal and beneficial owner of the property for which the special use is requested.

Publication of notice in accordance with this Section 17.56.040.A is not required for any public hearing regarding an application for a special use permit for a property located within the C-2 Retail Overlay District; provided, however, that publication of notice in accordance with this Section 17.56.040.A is required for all public hearings regarding an application for a special use permit for a planned development, whether or not the proposed planned development is located within the C-2 Retail Overlay District.

B. Posting of Notice on Subject Property. A sign or signs conforming to the size, set back, and number restrictions established by the Village Sign Ordinance for real estate signs, and posted at the same time and containing the same information as required by paragraph 1 of this subsection for the published notice of public hearing shall be posted by the Village on the property for which the special use permit is being requested. Such sign shall be removed within one day following the date of the initial public hearing on the special use application, provided that the sign may remain on the property if further hearings are required.

(C) Mailed Notice. Concurrently with the filing of an application, the applicant shall furnish the Village with a list of the names and addresses of all persons to whom the latest general real estate tax bills were sent for all property situated within: (1) two hundred fifty (250) feet of the property which is the subject of the proposed special use, if the subject property is located within a zoning district other than the C-2 Retail Overlay District; or (2) five hundred (500) feet of the property which is the subject of the proposed special use, if the subject property is located within the C-2 Retail Overlay District. Written notice of the time and place of such public hearing shall be sent by the Village by first class mail, postage pre-paid, to each person whose name appears on such list, at the address shown, not less than ten (10) days prior to the date of such public hearing. The failure of any person to receive the written notice issued pursuant to this paragraph shall not affect the jurisdiction of any body authorized to conduct a hearing or otherwise consider the application for special use. Nor shall the failure of such person to receive such written notice invalidate, impair or otherwise affect the subsequent grant or denial of any special use permit following such public hearing.

(D) Website Notice. The Village must, not more than thirty (30) nor less than fifteen (15) days before any public hearing on an application for a special use permit for a property located within the C-2 Retail Overlay District, post on the Village website notice of the time and place of the public hearing; provided, however, that this Section 17.56.040.D does not apply to applications for a special use permit for a planned development, whether or not the proposed planned development is located within the C-2 Retail Overlay District. The notice posted on the Village website must contain the same information that must be included in published notices pursuant to Section 17.56.040.A of this Zoning Ordinance.

(MC-9-2010, Added, 01/4/2011; MC-3-2015, Amended, 04/9/2015)

Section 17.56.050 Written Protest.

A. Filing of Protest. Any owner of property located within two hundred fifty (250) feet of the subject property may file a written protest objecting to the special use application. The written protest shall be directed to the Village Council and shall be submitted on forms provided by the Village and shall be signed and acknowledged, in accordance with the definitions provided in Sections 17.04.030(A)(3.5) and 17.04.030(S)(4.5) of this title. The written protest shall be submitted no later than 5:00 p.m. on the date of the first meeting of the Village Council at which the special use application is on the agenda for consideration; provided, that the filing of a written protest after the close of the Board of Appeals hearing on the special use application shall not create a right either to reopen the evidentiary record or to remand the application to the Board for further evidentiary proceedings.

B. Effect of Written Protest. In the event twenty (20) percent of the owners of property located within two hundred fifty (250) feet of the subject property have submitted a written protest as provided in Section 17.56.050(A), the granting of a special use permit by the Village Council shall require the favorable vote of four (4) Trustees.

(MC-9-2010, Added, 01/4/2011)

Section 17.56.060 Zoning Board of Appeals Proceedings.

A. Jurisdiction. Except as provided in Section 17.56.065.A, 17.56.067, 17.58.080 and 17.58.100 of this Zoning Ordinance, the Zoning Board of Appeals shall conduct public hearings regarding all special use applications received by the Village.

B. Evidentiary Hearing. The Board of Appeals shall receive evidence and sworn testimony on behalf of the applicant and

any other interested persons, in the manner provided by rules of the Board. For purposes of this subsection, interested persons shall include any person who is entitled to receive mail notice pursuant to subsection C of Section 17.56.040 and any person entitled to submit a written protest pursuant to Section 17.56.050. The Board of Appeals shall have the authority to require that the applicant submit such additional plans and data as the Board of Appeals may determine are necessary to establish that the application meets and complies with all applicable provisions of the Zoning Ordinance.

C. Findings and Recommendation. Within thirty (30) days following the close of the public hearing, the Board of Appeals shall forward a written copy of its findings of fact, minutes, and recommendation to the Village Council. The recommendation shall be consistent with the purpose and intent of this title and shall specify, in a conclusion or statement, any stipulations, restrictions or conditions, including but not limited to the operation of the special use, which the Board deems necessary to assure compliance with this title and the protection of the public health, safety, comfort, morals or welfare. The Board of Appeals shall not recommend that a special use be approved unless the Board finds that the proposed special use conforms to the standards set forth both in this chapter and, if any, in the district regulations.

D. Administrative Guidelines. The Board of Appeals, in the exercise of its authority to establish appropriate rules and procedures, may adopt administrative guidelines pertaining to the design and operation of one or more special use types. If adopted, such guidelines shall not be construed as requirements to be met in order to obtain a special use permit but rather shall serve as an aid to the Board of Appeals in determining whether the standards set forth in this chapter and, if any, in the district regulations have been met by a particular special use within the particular context in which it is proposed.

E. Applications for WTSF. Any recommendation of the Board that an application for a special use for a WTSF be denied or be subject to certain conditions, shall be supported by specific findings of fact, consistent with the guidelines, requirements and considerations established in Chapter 17.52, upon which the negative recommendation is based. No such recommendation shall be based on environmental concerns related to electronic emissions from a WTSF.

(MC-2-2019, Amended, 04/25/2019; MC-9-2010, Added, 01/4/2011; MC-3-2015, Amended, 04/9/2015)

Section 17.56.065 Plan Commission Proceedings.

A. Jurisdiction. Except as provided in Sections 17.56.067, 17.58.080 and 17.58.100, the Plan Commission shall conduct public hearings regarding all special use applications received by the Village and shall have exclusive jurisdiction to conduct public hearings regarding special use applications received by the Village for properties located within the C-2 Retail Overlay District. No board or commission of the Village other than the Plan Commission shall, before the Village Council's review and decision in accordance with Section 17.56.070 of this Zoning Ordinance, conduct a public hearing, hold a meeting, or otherwise review special use applications for properties located within the C-2 Retail Overlay District; provided, however, that the Planned Development Commission shall, in accordance with Section 17.56.067 and Chapter 17.58 of this title, conduct public hearings regarding all applications for a planned development and applications for special uses that are filed concurrently with an application for a planned development, whether or not the proposed planned development is located within the C-2 Retail Overlay District.

B. Evidentiary Hearing. The Plan Commission shall receive evidence and sworn testimony on behalf of the applicant and any other interested persons, in the manner provided by rules of the Plan Commission. For purposes of this subsection, interested persons shall include any person who is entitled to receive mail notice pursuant to subsection C of Section 17.56.040 and any person entitled to submit a written protest pursuant to Section 17.56.050. The Plan Commission shall have the authority to require that the applicant submit such additional plans and data as the Plan Commission may determine are necessary to establish that the application meets and complies with all applicable provisions of this Zoning Ordinance.

C. Findings and Recommendation. The Plan Commission shall forward a written copy of its findings of fact, minutes, and recommendation to the Village Council for consideration by the second regular meeting of the Village Council following the close of the public hearing. The recommendation shall be consistent with the purpose and intent of this title and shall specify, in a conclusion or statement, any stipulations, restrictions or conditions, including but not limited to the operation of the special use, which the Plan Commission deems necessary to assure compliance with this title and the protection of the public health, safety, comfort, morals or welfare. The Plan Commission shall not recommend that a special use be approved unless the Plan Commission finds that the proposed special use conforms to the standards for the approval of special uses within the C-2 Retail Overlay District set forth in Sections 17.44.020.B.2.b and 17.56.120 of this Zoning Ordinance.

(MC-2-2019, Amended, 04/25/2019; MC-3-2015, Added, 04/9/2015)

Section 17.56.067 Concurrent Application for a Special Use and Planned Development Approval.

A. Jurisdiction. The Planned Development Commission shall conduct public hearings regarding all special use applications received by the Village concurrently with an application for approval of a planned development or an amendment to a planned development, and shall have exclusive jurisdiction to conduct public hearings regarding such special use applications.

B. Public Hearing. The Planned Development Commission shall receive evidence and sworn testimony on behalf of the applicant and any other interested persons, in the manner provided by rules of the Planned Development Commission. For purposes of this subsection, interested persons shall include any person who is entitled to receive mail notice pursuant to subsection C of Section 17.56.040 and any person entitled to submit a written protest pursuant to Section 17.56.050. The Planned Development Commission shall have the authority to require that the applicant submit such additional plans and data as the Planned Development Commission may determine are necessary to establish that the application meets and complies with all applicable provisions of this Zoning Ordinance.

C. Findings and Recommendation. The Planned Development Commission shall forward a written copy of its findings of fact, minutes, and recommendation to the Village Council for consideration by the second regular meeting of the Village Council following the close of the public hearing. The recommendation shall be consistent with the purpose and intent of this title and shall specify, in a conclusion or statement, any stipulations, restrictions or conditions, including but not limited to the operation of the special use, which Planned Development Commission deems necessary to assure compliance with this title and the protection of the public health, safety, comfort, morals or welfare. The Planned Development Commission shall not recommend that a special use be approved unless the Planned Development Commission finds that the proposed special use conforms to the standards for the approval of special uses set forth in Section 17.56.120 or in Section 17.44.020.B.2.b for approval of special uses within the C-2 Retail Overlay District, if applicable.

(MC-2-2019, Added, 04/25/2019)

Section 17.56.070 Village Council Proceedings.

A. Village Council Deliberations. Within thirty (30) days after receiving the findings of fact, minutes, and recommendation of the Board of Appeals and the Plan Commission, in accordance with their respective jurisdictions pursuant to Sections 17.56.060 and 17.56.065 of this Zoning Ordinance, the application for special use permit shall be placed on the Village Council's agenda for consideration.

B. Village Council Decision; Vote Required. By a majority vote of the Village Council, the Village Council, in the exercise of its discretion, may grant, deny or modify the special use application, or may return the matter to the Board of Appeals or the Plan Commission, in accordance with their respective jurisdictions pursuant to Sections 17.56.060 and 17.56.065 of this Zoning Ordinance, for further consideration and findings. Notwithstanding the foregoing, if the requisite number of protests have been submitted in accordance with Section 17.56.050, the favorable vote of four (4) Trustees shall be required for the Village Council to grant a special use permit.

C. Stipulation, Conditions or Restrictions on Special Use. The Village Council, in all cases, may apply such stipulations, conditions or restrictions as it deems necessary to assure the protection of the public health, safety, comfort, morals or general welfare, and compliance with the standards as set forth in this chapter and, if any, in the district regulations. The Village Council may also require such evidence and guarantees as it may deem necessary to assure compliance with such stipulations, conditions or restrictions. In addition, the Village Council may provide that all such stipulations, conditions and restrictions may be modified or revised from time to time by the Village Council following public notice and hearing, the procedure being that as specified in this chapter for general special use application. Violation of any such stipulation, condition and restriction, when made a part of the terms under which the special use is granted, shall be deemed a violation of the provisions and regulations of this title.

(MC-9-2010, Added, 01/4/2011; MC-3-2015, Amended, 04/9/2015)

Section 17.56.080 Effect of Village Council Denial of Special Use.

No application for special use that is denied by the Village Council for any reason shall be resubmitted in substantially the same form and/or content within one year of the date of such denial.

(MC-9-2010, Added, 01/4/2011)

Section 17.56.090 Limitations on Special Uses.

Except as otherwise specifically provided in a special use permit, no special use shall be enlarged or extended by structural alteration of a building or other structure, unless the procedure specified in this chapter for a general special use application shall have first been complied with and a special use permit granted.

(MC-9-2010, Added, 01/4/2011)

Section 17.56.100 Special Use Permit Deemed Null and Void.

A. A special use permit shall become null and void if the construction or occupancy for which the permit was granted has not been actively pursued within one year and completed and occupied within eighteen (18) months following the date of Village Council approval, except that such time limits may be extended by the Village Council, at its discretion, following a written request to do so.

B. A special use permit shall become null and void if the special use for which the permit was granted ceases for more than six (6) consecutive months.

(MC-9-2010, Added, 01/4/2011)

Section 17.56.110 Certain Uses Deemed Lawful Special Uses.

A permitted use legally existing prior to an amendment to this title, which as a result of such amendment is considered a use subject to the issuance of a special use permit, shall be considered a lawful special use.

(MC-9-2010, Added, 01/4/2011)

Section 17.56.120 Standards for Granting of Special Use Permits.

A. General Standards for the Granting of Special Use Permits. No special use permit shall be granted unless it is found:

1. That the establishment, maintenance and operation of the special use will not be detrimental to or endanger the public health, safety, comfort, morals or general welfare;

2. That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity which are permitted by right in the district or districts of concern, nor substantially diminish or impair property values

in the immediate vicinity;

3. That the establishment of the special use will not impede the normal and orderly development or improvement of other property in the immediate vicinity for uses permitted by right in the district or districts of concern;
4. That adequate measures have been or will be taken to provide ingress and egress in a manner which minimizes pedestrian and vehicular traffic congestion in the public ways;
5. That adequate parking, utilities, access roads, drainage and other facilities necessary to the operation of the special use exist or are to be provided;
6. That the special use in all other respects conforms to the applicable regulations of this and other Village ordinances and codes. In the event that the application for special use permit involves a request for variation from the terms of this title, such request, subject to required notification procedures, may be considered at the same public hearing at which the proposed special use is reviewed by the Board of Appeals.

B. Additional Standards for Granting Special Uses for Antenna Arrays in the C-1 and C-2 Zoning Districts. In addition to the standard set forth in this section for consideration of special use permit applications, no special use for a WTSF in the WTSF Overlay District of the C-1 and C-2 Zoning Districts shall be granted unless it is found:

1. That the location of antennas on existing structures in the C-1 or C-2 Zone is a matter of absolute engineering necessity in order to operate the applicant's network;
2. That locating its antenna array on the western edge of the golf course, at 1390 Willow Road, on the landfill or on the golf netting poles is not technically feasible and there is no replacement site available on the smokestack of the Water and Electric Plant or on the monopole at the Public Safety Building;
3. If a roof-mounted antenna array is being proposed, that there are no feasible locations for a wall-mounted array or for an antenna array using concealed facilities within three hundred (300) feet of the proposed roof-mounted array; and
4. If a wall-mounted antenna array is being proposed, that there are no feasible locations for an antenna array to use concealed facilities within three hundred (300) feet of the proposed wall-mounted array.

Any application that meets the foregoing standards and the requirements of Chapter 17.52 shall be deemed to have satisfied subsections (A)(1) through (5) of this Section 17.56.120. (MC-195-97 §§ 15--17, 1997; prior code § 22.13)

C. Additional Standards for Granting Special Uses for Planned Developments. All planned developments shall be subject to the standards and requirements of Chapter 17.58 of this Code.

D. Additional Standards for Granting Special Uses for Properties Located within the C-2 Retail Overlay District. In addition to the standards set forth in Section 17.56.120.A of this Zoning Ordinance, no special use for a property located within the C-2 Retail Overlay District shall be granted unless it is found that the standards set forth in Section 17.44.020.B.2.b of this Zoning Ordinance are satisfied.

(MC-9-2010, 01/4/2011; MC-3-2015, Amended, 04/9/2015)

Section 17.72.010 Appeal and review.

A. The Board shall hear and decide appeals from and may review any order, requirement, decision or determination made by the Zoning Administrator. An appeal to the Board may be taken from any decision or action of the Zoning Administrator by any person aggrieved by such decision or action. Such appeal shall be taken within forty-five (45) days of the decision or action complained of by filing, with the Zoning Administrator and with the Board, a notice of appeal specifying the grounds of appeal. The Zoning Administrator shall transmit to the Board all the papers constituting the record upon which was based the decision or action appealed from.

1. An appeal shall stay all proceedings in furtherance of the decision or action appealed from, unless the Zoning Administrator certifies to the Board, after the notice of appeal has been filed, that by reason of the facts stated a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In such event the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a circuit court on application and on notice to the Zoning Administrator, and on due cause shown.

2. The Board shall fix a reasonable time for the hearing of the appeal and give due notice to the person taking the appeal and decide the appeal within a reasonable time. Any party may appear at the hearing in person, by agent or by attorney.

3. The Board, in its discretion and based on the record made before it, may reverse or affirm in whole or in part, or may modify the Zoning Administrator's order, requirement, decision or determination, and, for purposes of this paragraph, the Board shall have and may exercise all of the powers of the Zoning Administrator as to the subject matter of the appeal.

4. The Board's final decision shall be in writing and shall set forth the reasoning and factual basis for its decision. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator.

B. Review Under Administrative Review Act. All final administrative decisions of the Board under this section shall be subject to judicial review pursuant to the provisions of the state "Administrative Review Act" approved May 8, 1945, and all amendments pursuant to such Act.

(Prior code § 22.16 (part))

(MC-6-2005, Amended, 09/20/2005)

APPEALS

Sections:

- 15.72.010 Administrative Appeals.
- 15.72.020 Application for Appeal.
- 15.72.030 Effect of Appeal.
- 15.72.040 Hearing and Decision on Appeal.
- 15.72.050 Review by the Village Council.

Section 15.72.010 Administrative Appeals.

The Building and Zoning Board of Appeals created in Section 3.44.010(A) of this code shall hear and decide appeals from and may review any order, requirement, decision or determination made by any Building Officer under any of the following provisions of this title: Sections 15.32.080(G), 15.44.080, 15.08.010, 15.44.120 and 15.44.130 and Chapter 15.54. The Building and Zoning Board of Appeals shall follow the procedures set forth in Chapter 3.44 of this code and in any rules or regulations adopted by the Board pursuant to Chapter 3.44.

(MC-5-2010, § 7, Amended 10/19/2010; MC-5-2009, Amended, 05/05/2009)

Section 15.72.020 Application for Appeal.

Any person affected by a decision of a Building Officer shall have the right to appeal that decision to the Building and Zoning Board of Appeals created by Section 3.44.010 of this code. An application for appeal shall be filed within twenty-one (21) days of the Building Officer's decision from which relief is sought and shall be based on a claim that the true intent of this code or the rules legally adopted under this code have been incorrectly interpreted, that the provisions of this code do not fully apply, or that an equivalent form of construction is to be used. An application may also be filed with the Building and Zoning Board of Appeals within twenty-one (21) days of the Building Officer's decision regarding a property maintenance violation of the requirements of Chapter 15.08 of the Village Code from which relief is sought requesting a reasonable extension of time to correct a violation based upon a showing of extreme financial hardship.

(MC-5-2019, Amended, 06/4/2019; MC-5-2009, Amended, 05/05/2009)

Section 15.72.030 Effect of Appeal.

An appeal shall stay all proceedings in furtherance of the decision or action from which the appeal is taken, unless the Building Officer from whose action or decision the appeal is taken certifies to the Board, after receiving the notice of appeal, that by reason of facts stated in the certification a stay would, in the opinion of the Director, cause imminent peril to life or property. In such event, the proceedings shall not be stayed except by a restraining order which may be granted by the Board or by a Judge of the Circuit Court of Cook County on application of the party seeking the stay and upon notice to the Building Officer from whose decision or action the appeal is taken, and on due cause shown.

(MC-5-2009, Amended, 05/05/2009)

Section 15.72.040 Hearing and Decision on Appeal.

The Building and Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and shall give due notice to the person taking the appeal and to the Building Officer. Any party may appear at the hearing in person, by agent or by attorney. The Building and Zoning Board of Appeals shall decide the appeal within a reasonable time. The Building and Zoning Board of Appeals may vary the application of any provision of the above-listed sections of Title 15 of this code to any particular case when, in its opinion, the interpretation of the Building Officer should be modified and reversed. A decision of the Building and Zoning Board of Appeals to vary the application of any provision of the code or to modify an order of the Building Officer, shall specify in what manner such variation or modification is made, the conditions upon which it is made, and the reasons for such variation or modification. The Building and Zoning Board of Appeals shall in every case reach its decision to affirm, modify or reverse without unreasonable or unnecessary delay. Every final decision of the Building and Zoning Board of Appeals shall be in writing and shall indicate the vote upon the decision.

(MC-5-2009, Amended, 05/05/2009)

Section 15.72.050 Review by the Village Council.

Any decision of the Building and Zoning Board of Appeals affirming, modifying or reversing any order, requirement, decision or determination made by a Building Officer may be appealed to the Village Council by any person who participated in the appeal before the Building and Zoning Board of Appeals. The written request for appeal shall be made in writing and shall be submitted to the Building and Zoning Board of Appeals within seven days of its decision. The Village Council shall render its decision without unreasonable or unnecessary delay within thirty (30) days of the day of such written appeal, and its decision in the matter shall be final.

(MC-5-2009, Amended, 05/05/2009; prior code § 23.37)