

ORDINANCE _____

**AN ORDINANCE APPROVING TEXT AMENDMENTS
TO THE LOMBARD ZONING ORDINANCE
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

(PC 07-11: Administrative Variations)

WHEREAS, the Village of Lombard maintains a Zoning Ordinance which is found in Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, Section 155.102 (E)(13) of the Zoning Ordinance directs the Director of Community Development to initiate a review of the provisions established within the Zoning Ordinance; and

WHEREAS, the Board of Trustees deem it reasonable to periodically review said Zoning Ordinance and make necessary changes; and

WHEREAS, as the Director has identified and recommends text amendments to the Zoning Ordinance as set forth herein; and

WHEREAS, a public hearing to consider text amendments to the Zoning Ordinance has been conducted by the Village of Lombard Plan Commission on March 19, 2007 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the text amendments described herein; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That Title 15, Chapter 155, Section 102 (C), of the Code of Lombard, Illinois is hereby amended to read in part, as follows:

§155.102 ADMINISTRATIVE BODIES AND DUTIES

The administrative duties and functions of the five administrative offices are as follows:

(C) Zoning Board of Appeals

The Zoning Board of Appeals of the Village of Lombard, as created by Ordinance 612 and any amendment thereto, has the authority and duties described below.

- (1) To hear appeals from any order, requirement, decision, or determination made by the Director of Community Development under this ordinance and prepare a recommendation to the Board of Trustees, as prescribed in Section 155.103(D), below;
- (2) To hear petitions for variations and prepare recommendations to the Village Board of Trustees regarding such petitions, as prescribed in Section 155.103 (C), below.
- (3) To hear and decide all matters referred to it or upon which it is required to pass under this ordinance.
- (4) Review and grant or deny, all applications for administrative variations as described in Section 155.103(C)(11), below.

SECTION 2: That Title 15, Chapter 155, Section 103 (C), of the Code of Lombard, Illinois is hereby amended to read in part, as follows:

(C) Variations

- (1) Intent
Variations shall be granted only where such Board makes findings of fact in accordance with the standards set forth in this Ordinance, and further, finds that the regulations in this Ordinance will impose practical difficulties or particular hardships to a petitioner in the way of carrying out the strict letter of the regulations of this ordinance.
- (2) Authority
 - (a) The Zoning Board of Appeals and the Board of Trustees may, after a public hearing, vary the regulations of this ordinance in harmony with its general purpose and intent.
 - (b) For variation requests for a site that has been previously granted a conditional use, and for which the conditional use is still in effect, the Plan Commission and the Board of Trustees may, after conducting a

public hearing, vary the regulations of this ordinance in harmony with its general purpose and intent.

- (c) For variation requests for signage and parking requirements for a site that has been previously granted a conditional use for a planned development, and for which the planned development is still in effect, the Plan Commission may, after conducting a public hearing, vary the regulations of this ordinance per Sections 155.504 (C) or 155.504 (D) in harmony with its general purpose and intent.

(3) Eligible Petitioners

An application for a variation may be made by any person, firm or corporation, or by any office, department, board, bureau or commission requesting or intending to request an application for a building permit. Any variation request for properties which have R6, O, B1, B2, B3, B4, B5, B5A or I District zoning and which meet the minimum lot area and width requirements for a planned development must be submitted to the Village as a request for a planned development, unless waived per Section 155.502(G).

(4) Filing for Applications

An application for a variation shall be filed with the Director of Community Development, who shall forward such application to the Zoning Board of Appeals or to the Plan Commission based upon Section 155.103(C)(2).

(5) Public Hearings

Public hearings conforming to State Statute and Section 155.103 (J), below, shall be required for all variation applications.

(6) Decisions

Unless otherwise noted in Section 155.103(C)(11), the Zoning Board of Appeals or the Plan Commission, whichever may be applicable, shall determine findings of fact based on the standards established in Section 155.103 (C) (7), below, and render recommendations to the Board of Trustees. The Board of Trustees shall consider the Zoning Board's or Plan Commission's findings of fact, which the board shall accept, accept with modifications, or issue new findings of fact. The Board of Trustees shall then render a final decision.

(7) Standards for Variations

The regulations of this ordinance shall not be varied unless findings based on the evidence presented are made in each specific case that affirm each of the following standards:

- (a) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be applied;
 - (b) The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification;
 - (c) The purpose of the variation is not based primarily upon a desire to increase financial gain;
 - (d) The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property;
 - (e) The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
 - (f) The granting of the variation will not alter the essential character of the neighborhood; and
 - (g) The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- (8) Restrictions on Variations
- The following restrictions shall apply to all variations.
- (a) No variation shall be authorized that would modify any definition;
 - (b) No variation shall be authorized that would vary uses between zoning districts, except use exceptions approved in a planned development;
 - (c) No variation shall be authorized that would result in a density increase from that permitted in a zoning district except in conjunction with a planned development;
- (9) Additional Restrictions

In the granting of a variation, additional conditions and restrictions may be placed upon the premises, which are necessary to comply with the standards listed above and the objectives of this ordinance.

(10) Revocation

Where a variation has been granted pursuant to the provisions of this ordinance, such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

(11) Administrative Variations

(a) Intent

Variations may be granted by the Zoning Board of Appeals under this subsection, without approval by the Board of Trustees, for relief from bulk and sign area requirements which are no more than twenty-five percent (25%) of the associated underlying district regulation. Variation applications under this subsection shall follow the public hearing procedures set forth within this Section. The Zoning Board of Appeals shall have the authority to grant or deny a petition for such a variation. Variations shall be granted only if the Zoning Board of Appeals makes findings of fact in accordance with the standards set forth in this Section. Further, written notice of a variation granted under this subsection shall be recorded by the office of the DuPage County Recorder.

(b) Authority

- (1) The Zoning Board of Appeals, after a review of an application for an administrative variation under this subsection, may grant or deny such variations. The concurring vote of four (4) members of the Zoning Board of Appeals is necessary to grant a variation under this subsection.
- (2) In the granting of a variation, additional conditions and restrictions may be placed upon the premises, which are necessary to comply with the standards listed above and the objectives of this Chapter. If the petitioner does not concur with any of the conditions or restrictions of approval, the petitioner may appeal said decision pursuant to Section 155.103 (C)(11)(c) below.

- (3) Notwithstanding the provisions of subsection (1) above, if the premises in relation to which the variation is being requested has been previously granted a conditional use, and the conditional use is still in effect, the Plan Commission and the Board of Trustees may, after conducting a public hearing, vary the regulations of this Chapter in harmony with its general purpose and intent, as provided in Section 155.103(C)(6).
- (4) In cases where a requested variation exceeds the jurisdiction of the Zoning Board of Appeals to grant an administrative variation as set forth in subsection (a) above, the Zoning Board of Appeals shall make recommendations to the Village Board of Trustees. as provided in Section 155.103(C)(6).

(c) Appeals of Decisions of the Zoning Board of Appeals

- (1) Denial or grant with unfavorable conditions or restrictions: A petitioner has the right to appeal to the President and Board of Trustees if his/her petition for an administrative variation has been denied or granted with unfavorable conditions or restrictions by the Zoning Board of Appeals. The petitioner shall submit a letter to the Village Clerk, no later than thirty (30) days after the Zoning Board of Appeals' decision, requesting that an appeal of that decision be placed upon the agenda of the Village Board of Trustees. In cases where the Zoning Board of Appeals denies a variation or grants a variation with conditions or restrictions, such decision shall not be reversed, adopted or passed, except by the favorable vote of four (4) concurring Trustees.
- (2) Grant of Variation: An objector, as described in subsection (3) below, has the right to appeal to the Village Board of Trustees if a petition for an administrative variation, with or without conditions or restrictions, has been granted by the Zoning Board of Appeals. The objector shall submit a letter to the Village Clerk, no later than five (5) days after the Zoning Board of Appeals' decision, requesting that an appeal of that decision be placed upon the agenda of the Board of Trustees. In cases where the Zoning Board of Appeals grants such a variation, such grant shall not be reversed, except by the favorable vote of four (4) concurring Trustees.
- (3) Notice Requirements For An Appeal: In the event that a petitioner files a letter of appeal with the Village Clerk pursuant

to subsection (1) above, or an objector files a letter of appeal with the Village Clerk pursuant to section (2) above, the Village Clerk shall schedule said appeal for the first Village Board of Trustees meeting occurring at least twenty one (21) days following the filing of said notice of appeal and shall notify the Director of Community Development of said appeal. The Department of Community Development shall serve each objector, in the event of a petitioner's appeal, and the petitioner in addition to each objector, in the event of an objector's appeal, with a copy of the letter of appeal and the date of the Village Board of Trustees meeting at which said appeal will be heard. For purposes of determining who is entitled to said notice, the Department of Community Development shall only be required to notify, as objectors, those persons whose names and addresses appear in the records of the Zoning Board of Appeals relative to the petitioner's variation application. Village staff shall furnish the Village Board of Trustees with an affidavit setting forth the names and addresses of the persons who appeared as objectors at the proceedings before the Zoning Board of Appeals. Said affidavit shall state that written notice of the appeal request has been personally served upon the persons named in said affidavit at least seven (7) days prior to the date upon which the Village Board of Trustees is to hear said appeal request, or that said notices have been mailed to said persons at least fourteen (14) days prior to the date upon which the Village Board of Trustees is to hear said appeal request. Where such service is by United States mail, same shall be by certified or registered mail with return receipt requested and a copy of said receipt shall be affixed to the affidavit and made a part thereof. The affidavit shall be determined to be proper by the Village Attorney before proceeding on the appeal.

SECTION 3: That Title 15, Chapter 802, of the Code of Lombard, Illinois is hereby amended to read in part, as follows:

155.802 Rules and Definitions

VARIATION, ADMINISTRATIVE is a variation from bulk and sign area requirements that do not exceed twenty-five percent (25%) of the underlying district regulation.

SECTION 4: That this ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Ordinance No. _____

Re: PC 07-11

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Passed on first reading this ____ day of _____, 2007.

First reading waived by action of the Board of Trustees this ____ day of _____, 2007.

Passed on second reading this ____ day of _____, 2007.

Ayes: _____

Nays: _____

Absent: _____

Approved this ____ day of _____, 2007.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this ____ day of _____, 2007.

Brigitte O'Brien, Village Clerk