

10-5-4: VARIATIONS:

- A. Minor and Major Variations: Two forms of variations to the requirements of the Zoning Title may be considered:
1. Minor Variations: May be granted for insignificant departures from the regulations of the Zoning Title, which would result in no discernible affects on other properties and improvements in the vicinity of the subject property.
 2. Major Variations: May be granted for a departure from the regulations of the Zoning Title that merit review in hearing and require approval as stated in subsection E. A major variation may be granted only when it is shown by the applicant that a minor variation or lesser form of relief would not alleviate the alleged hardship.
- B. Minor Variations Provisions:
1. Up to a five percent reduction in the front or rear yard required by this Zoning Title, where the variation is the only variation required for the structure or use.
 2. The use of a lot or lots for a use otherwise prohibited solely because of insufficient area or width of the lot or lots, if the respective area or width of the lot or lots is not less than ninety five percent of the required area and width. The percentage set forth in this subsection is not to be reduced by any other percentage for minimum lot width, depth or area set forth in this Zoning Title.
 3. A reduction of the applicable off-street parking or loading facilities required by not more than one parking space or loading space.
 4. An increase of the maximum floor area of any use by not more than two percent beyond the limitations of the applicable regulations.
 5. An increase of the maximum building height by not more than five percent beyond the limitations of the applicable regulations.
- C. Major Variation Provisions:
1. Any reduction in the front, side or rear yard required by this Zoning Title which is not dealt with in subsection B above.
 2. A reduction of the applicable off-street parking or loading facilities, where proposed use and other practical uses have been shown not to necessitate the number of parking spaces required by this Zoning Title.
 3. An increase in the maximum distance that required parking spaces are permitted to be located from the use served.
 4. The use of the same off-street parking facility to qualify as required facilities for two or more uses, provided the substantial use of such facility by each use does not take place at approximately the same hours of the same days of the week.
 5. An extension in the period of time that a nonconforming use may continue or remain.

6. Any zoning requirements which are not covered under minor variations in this Section.

D. Procedures for Minor Variations:

1. Upon acceptance of a completed application for a minor variation, the Zoning Administrator shall cause a notice of the requested variance to be sent to all owners of property within two hundred fifty feet of the subject property. Such notice shall indicate the nature and location of the requested minor variation and shall invite written comment regarding the merits or potential impact of the variation to be given to the Zoning Administrator within fifteen days of the date of the notice.
2. If, after fifteen days, the Zoning Administrator, after considering the application and the written comments, if any, shall:
 - a. Make a finding that the requested minor variation does not pose a threat to health, safety, welfare or enjoyment on the subject site or on other property within the Village, and is appropriate to the reasonable use of the property and surrounding properties; and shall issue the minor variation as requested.
 - b. Make a finding that the requested minor variation poses a threat to health, safety, welfare or reasonable enjoyment on the subject site or on the property within the Village, or is not appropriate to the reasonable use of the property or surrounding properties; and shall deny the minor variation as requested.
3. If the Zoning Administrator denies a minor variation, the applicant may appeal such decision as set forth in Section [10-5-6](#) of this Chapter.

E. Procedures for Major Variations:

1. Upon acceptance of a completed application for a major variation, the Zoning Board of Appeals shall hold a public hearing thereon at such time and place in the Village as it shall determine. Notice of such public hearing, indicating the requested variance, shall be published at least fifteen days and not more than thirty days in advance of such hearing in a newspaper of general circulation in the Village. Said notice shall be sent to all owners of property within two hundred fifty feet of the subject property.
2. No major variation shall be made by the Board of Trustees without a hearing by the Zoning Board of Appeals, nor without a written report or recommendation thereof having been made by the Zoning Board of Appeals to the Board of Trustees, and every such report shall be accompanied by findings of facts specifying the reasons for the recommendation.
3. Upon the recommendation of the Zoning Board of Appeals, the Board of Trustees, without further public hearing, may adopt or deny any major variation or may refer the report back to the Zoning Board of Appeals for further consideration. Any such variation which fails to receive the approval of four members of the Zoning Board of Appeals shall not be passed except by the favorable vote of two-thirds of the Board of Trustees. In making any such variation, the Board of Trustees shall be governed by the same considerations, restrictions and standards as apply to the Zoning Board of Appeals.
4. Advance written notice of the first meeting of the Village Board where a major variation application will be considered shall be provided by regular mail to the owners of record of the property which is the subject of the application (if different from the applicant), and the owners of all property within two hundred fifty feet of the subject property, not less than seven days prior to

the date of the first Village Board meeting. This requirement is enacted to assure the most complete public notice possible for the proposed major variation, it is not required by State law. Accordingly, any failure to comply with this subsection shall not invalidate, impair or otherwise affect any major variation subsequently granted following such meeting.

- F. Standards for Major Variations: A major variation shall be recommended by the Zoning Board of Appeals only if it makes findings, based upon the evidence presented to it, that each of the following standards has been met:
1. The physical surroundings, shape, or topographical conditions of the specific property involved will bring a specific hardship upon the owner as distinguished from an inconvenience if the strict letter of the regulations were to be carried out;
 2. The aforesaid unique physical condition did not result from any action of any person having an interest in the property, but was created by natural forces or was the result of governmental action, other than the adoption of this Zoning Title, for which no compensation was paid;
 3. The conditions upon which the petition for variation is based may not be applicable generally to other property within the same zoning classification;
 4. The purpose of the variation is not based predominantly upon a desire for economic gain;
 5. The granting of the variation shall not be detrimental to the public welfare or unduly injurious to the enjoyment, use, or development value of other property or improvements in the neighborhood in which the property is located; or,
 6. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood;
 7. That the granting of the variation would not unduly tax public utilities and facilities in the area;
 8. That there is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.
- G. Conditions on Variations: The Zoning Board of Appeals may impose specific conditions, which relate to the purposes and objectives of this Zoning Title, upon the premises benefitted by a variation. Such conditions shall be expressly set forth in the ordinance granting the variation. Violation of any such condition or limitation shall be a violation of this Zoning Title and shall constitute grounds for revocation of the variation.
- H. A Variation is Not a Zoning Amendment: Nothing herein contained shall be construed to give or grant to the Zoning Board of Appeals the power or authority to alter or change the Zoning Title, such power and authority being reserved to the Board of Trustees; however, the Zoning Board of Appeals may make recommendations to the Board of Trustees with respect to any alteration or change of this Zoning Title in such specific cases as may properly come before the Zoning Board of Appeals.
- I. Status of Variation Granted: Subject to an extension of time not to exceed sixty days granted by the Village Administrator, no order of the Board of Trustees permitting a variation from the provisions of

this Zoning Title shall be valid for a period longer than nine months, unless such use or structure is initiated within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for erection or alteration is obtained within such period of nine months and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

1. A variation shall be deemed to authorize only the particular construction or development which was applied for. A variation shall automatically become null and void if such construction or development is removed and not replaced within nine months following such removal.

J. Filing Fees: There shall be charged a filing fee, as may be adjusted from time to time by the Village Board, for each application for a change of any property from one use district to another use district or for each application for allowance of variation from the provisions of this Zoning Title as applicable to any property. (Ord. 2640, 5-23-95)