

VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING OF
Wednesday, September 21, 2011

1. CALL TO ORDER

Chairman Debra Braselton called the meeting of the Zoning Board of Appeals to order on Wednesday, September 21, 2011 at 7:30 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

2. ROLL CALL

Present: Chairman Debra Braselton, Members Marc Connelly, Gary Moberly, Keith Giltner and John Callahan

Absent: Members Bob Neiman and Rody Biggert

Also Present: Director of Community Development/Building Commissioner Robb McGinnis and Village Clerk Christine Bruton

3. APPROVAL OF MINUTES

Member Connelly and Chairman Braselton suggested corrections to the minutes. Member Giltner moved **approval of the minutes of the Meeting of July 20, 2011, as amended**. Member Connelly seconded the motion.

AYES: Members Connelly, Moberly, Giltner, Callahan and Chairman Braselton

NAYS: None

ABSTAIN: None

ABSENT: Members Neiman and Biggert

Motion carried.

4. APPROVAL OF FINAL DECISION – V-05-11, 149 E. Ogden Avenue

Chairman Braselton asked if all members have reviewed the Final Decision and if they have any changes. There being none, Member Moberly moved to **approve the Final Decision for V-05-11, 149 E. Ogden Avenue**. Member Connelly seconded the motion.

AYES: Members Connelly, Moberly, Giltner, Callahan and Chairman Braselton

NAYS: None

ABSTAIN: None

ABSENT: Members Neiman and Biggert

Motion carried

5. RECEIPT OF APPEARANCES - None

6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE PUBLIC COMMENT OF A GENERAL NATURE - None

7. PRE-HEARING AND AGENDA SETTING

a) V-06-11, 433 S. Washington

Mr. Richard Olsen, architect for the applicant, addressed the Board. Given the current zoning and setback requirements on the parcel, the applicant is asking for corner side yard setback relief, to match the existing 27' foot setback of the current home instead of the required 43' feet off the south property line. The current house

predates the code, but it is a conforming lot. Ms. Linda Ritter, applicant, addressed the Board explaining that the existing house and three of the other houses are 26-27' from the sidewalk, but two pieces of property skew the measurements. They will orient the house toward 5th Street not Washington, the setback issue is on 5th Street not Washington. She also noted they are planning for a circular drive as is currently on the property; therefore there will be less paved space with the new design. It was clarified that she is not the current homeowner, but that she has signed an agreement to purchase the home contingent on the outcome of the public hearing. The public hearing on V-06-11 was set for October 19, 2011.

8. PUBLIC HEARINGS – None

9. NEW BUSINESS – None

10. UNFINISHED BUSINESS

a) Discussion of Public Hearing deliberation

Chairman Braselton opened discussion regarding the best timing for the Board to deliberate on each public hearing. Chairman Connelly suggested that in consideration of the citizens present, it would be better to deliberate immediately after each hearing. Member Moberly suggested that sometimes waiting to deliberate allows for additional thoughts. Paying technical witnesses and court reporter costs were considered. It was also noted that the Chairman can adjust the order of any agenda with consent of the Board. The Board agreed to revisit this matter when all Board members were present.

b) Discussion of Fence Variation Standards

Chairman Braselton introduced the matter stating that fence standards exist in the zoning code and the building code. The matter will be put over till next month to provide full Board input and to do research in the meantime as to how this section got into the building code. Chairman Braselton has made a list of the differences between the two sections which she will provide to all members.

11. ADJOURNMENT

With no further business coming before the Zoning Board of Appeals, Member Moberly made a motion to **adjourn the meeting of the Zoning Board of Appeals of September 21, 2011.** Member Giltner seconded the motion.

AYES: Members Connelly, Moberly, Giltner, Callahan and Chairman Braselton

NAYS: None

ABSTAIN: None

ABSENT: Members Neiman and Biggert

Motion carried.


Chairman Braselton declared the meeting adjourned at 7:54 p.m.

Christine M. Bruton
Village Clerk

Approved: _____

MEMORANDUM

TO: Chairman Haarlow and Members of the Zoning Board of Appeals

FROM: Robert McGinnis MCP 
Director of Community Development/Building Commissioner

DATE: September 15, 2011

RE: Zoning Variation – V-06-11 433 S. Washington St.

In this application for variation, the applicant requests relief from the corner side yard setback requirements set forth in section 3-110-D2 for the construction of a new single family home. The applicant is requesting a 16' reduction in the required corner side yard from 43.3' to 27.3'. It should be noted that this request is being generated due to the fact that because this is a conforming lot, the corner side yard setback is a function of block average. The lots on Fifth Street are fairly deep, moving the block average back further with a resulting substantial loss to setback on the subject lot.

This property is located in the R-4 Residential District in the Village of Hinsdale and is located on the northeast corner of Washington and Fifth Street. The property has a frontage of approximately 81', an average depth of 150', and a total square footage of approximately 12,150. The maximum FAR is approximately 4,116 square feet and the maximum allowable building coverage is 25% or approximately 3,037 square feet.

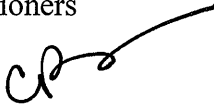
cc: Dave Cook, Village Manager
Zoning file V-06-11

MEMORANDUM

Date: October 14, 2011

To: Z.B.A. Chairman and Commissioners

From: Chris Bruton, Z.B.A. Secretary



Re: Fence Variation Standards

Per our last meeting, you will find attached Chairman Braselton's comparative listing of the fence standards as found in the zoning code and the building code. Additionally, you will see meeting minutes and adopted ordinances regarding fence variations and the Plan Commission.

cc: Mr. Robb McGinnis, Director of Community Development/Building Commissioner

Sec. 11-503 Variations (F – Standards for Variation)	9-12-13 Fences (J – Variation)
<p>1. <i>General Standard:</i> No variation shall be granted pursuant to this section unless the applicant shall establish that carrying out the strict letter of the provisions of this code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this subsection F.</p>	<p>Any person may petition to the zoning board of appeals for a variation from the provisions of this section. A petition for a variation shall include the following information: name, address, and telephone number of petitioner; a description of the requested variation; a site plan, drawn to scale, depicting the proposed fence and showing its location in relation to the lot lines of the lot on which the fence is placed, any structures on said lot, and all adjacent properties; existing elevations in the area in which the fence is placed and any proposed grade changes in said area; and such additional information as the zoning board of appeals may require. The zoning board of appeals shall grant a variation from the provisions of this section only upon finding that:</p>
<p>2. <i>Unique Physical Condition:</i> The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.</p>	<p>1) the petitioner is affected by unique circumstances which create a hardship justifying relief from the provisions of this section,</p>
<p>3. <i>Not Self-Created:</i> The aforesaid unique physical condition is not the result of any action or inaction of the owner, or of the owner's predecessors in title and known to the owner prior to acquisition of the subject property, and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this code, for which no compensation was paid.</p>	<p>2) the variation will not alter the essential character of the locality,</p>
<p>4. <i>Denied Substantial Rights:</i> The carrying out of the strict letter of the provision from which a</p>	<p>3) the variation will be in harmony with the general purpose and intent of this section</p>

variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision.	
5. <i>Not Merely Special Privilege</i> : The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.	4) the variation will set no unfavorable precedent either to the locality or to the village as a whole,
6. <i>Code And Plan Purposes</i> : The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this code and the provision from which a variation is sought were enacted or the general purpose and intent of the official comprehensive plan.	5) the variation will be the minimum necessary to afford relief to the petitioner
<p>7. <i>Essential Character Of The Area</i>: The variation would not result in a use or development on the subject property that:</p> <p>(a) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or</p> <p>(b) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or</p> <p>(c) Would substantially increase congestion in the public streets due to traffic or parking; or</p> <p>(d) Would unduly increase the danger of flood or fire; or</p> <p>(e) Would unduly tax public utilities and facilities in the area; or (f) Would endanger the</p>	6) the variation will not adversely affect the public safety and general welfare.

public health or safety.	
8. <i>No Other Remedy</i> : 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.	

Sec. 11-503. Variations:

- A. Authority:** The zoning board of appeals shall have the authority to grant variations from the provisions of this code, but only in compliance with the procedures set forth in subsection D of this section and in those specific instances enumerated in subsection E of this section and then only in accordance with each of the standards enumerated in subsection F of this section. The board of trustees shall have the authority to grant variations from the provisions of this code that are not specifically reserved with the zoning board of appeals pursuant to subsection E of this section in accordance with each of the standards set forth in subsections E2 and F of this section, but only after a public hearing before the zoning board of appeals pursuant to the requirements of section 11-301 of this article and a recommendation by the zoning board of appeals to grant or deny the requested variation. In such instances, the zoning board of appeals shall issue its recommendation within thirty five (35) days of the close of the public hearing in the manner and form specified by subsection 11-102H of this article. The failure of the zoning board of appeals to act within thirty five (35) days, or such further time to which the applicant may agree, shall be deemed to be a recommendation to deny the variation. If the zoning board of appeals does not approve, with at least four (4) affirmative votes, the requested variation, the board of trustees cannot approve the requested variation.
- B. Purpose:** The variation procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this code that create practical difficulties or particular hardships. When such difficulties or hardships are more appropriate for remedy, if at all, pursuant to other provisions of this article, the variation procedure is necessarily inappropriate.
- C. Parties Entitled To Seek Variations:** Applications for variations may be filed by the owner of, or person having a contractual interest in, the subject property.
- D. Procedure:**
1. **Application:** Applications for variations shall be filed in accordance with the requirements of section 11-301 of this article.
 2. **Public Hearing:** A public hearing shall be set, noticed, and conducted by the zoning board of appeals in accordance with section 11-303 of this article.
 3. **Action By Zoning Board Of Appeals:** Within thirty five (35) days following the close of the public hearing, the zoning board of appeals shall render its decision granting or denying the variation, in the manner and form specified by subsection 11-102H of this article. The failure of the zoning board of appeals to act within thirty five (35) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the variation.
- E. Authorized Variations:**
1. **Permitted Variations:** The zoning board of appeals may vary the provisions of this code only as provided in this subsection E1. The authority of the zoning board of appeals to vary the provisions of this code are subject to the prohibitions set forth in subsection E2 of this

section and proof by the applicant of each of the standards set forth in subsection F of this section.

Under no circumstances shall the list of permitted variations in this subsection E1 be construed as an entitlement, right, or claim for any applicant.

The zoning board of appeals may vary the provisions of this code in the following cases and in no others:

(a) To reduce the dimension of any required yard, setback, or building spacing, and to allow structures and uses to be located in any required yard in addition to, and to a greater degree than, those authorized by applicable district regulations.

(b) To reduce by not more than ten percent (10%) the required lot width or lot depth of any lot; provided, however, that no such variation shall permit either the development of more than one dwelling unit in addition to the number of dwelling units that could be developed in the absence of such a variation or any increase in the otherwise permitted maximum floor area ratio.

(c) To reduce by not more than ten percent (10%) the required lot area of any lot, and to reduce by fifteen percent (15%) the lot area of any lot meeting all of the following criteria: 1) the subject lot is a legal nonconforming lot of record created by plat or deed recorded before 1923; 2) the subject lot was vacant on January 1, 1991, or became vacant thereafter by reason of demolition or destruction of a precode structure that is not authorized to be rebuilt or replaced pursuant to subsection 10-104C of this code; 3) the subject lot has not, at any time after 1960, immediately abutted a vacant lot with the same owner as the subject lot when the combination of the vacant lot with the subject lot would have created a lot meeting the lot size standards then applicable to the subject lot; and 4) the subject lot has not immediately abutted any vacant lot since January 1, 1991. No variation pursuant to this subsection shall permit either the development of more than one dwelling unit in addition to the number of dwelling units that could be developed in the absence of such a variation or any increase in the otherwise permitted maximum floor area ratio.

(d) To increase by not more than ten percent (10%) the maximum allowable height of a structure in a nonresidential district, but only where necessary to accommodate variations in grade.

(e) To reduce by not more than twenty percent (20%), or one space, whichever is greater, the minimum number of off street parking spaces or loading spaces otherwise required.

(f) To vary the number of parking or loading spaces required in connection with a change of use or an increase in use intensity.

(g) To increase by not more than twenty percent (20%) the maximum distance that required parking is permitted to be located from the zoning lot of the use for which such parking is provided.

(h) To allow an increase in height by not more than twenty percent (20%) of the maximum allowable height for the illumination of residential recreational facilities.

(i) To allow the moving of a precode structure to an extent or in a manner not permitted by subsection 10-104E of this code.

(j) To allow the otherwise prohibited restoration of a partially damaged or destroyed precode structure or structure devoted to a nonconforming use.

(k) To vary the bulk, yard, and space requirements when a zoning lot, whether vacant or legally used, is reduced in size, by reason of the exercise of the right of eminent domain by an authorized governmental body or by reason of a conveyance made under the specific threat of an eminent domain proceeding, so that the remainder of said zoning lot, or any structure or use on said zoning lot, does not conform with one or more of such bulk, yard, or space requirements of the district in which said zoning lot is located.

(l) To allow, for a period not to extend beyond four (4) years following the effective date of this code:

(i) The storage in a parking area in a residential district of more than the maximum number of class I or II vehicles specified in subsection 9-101D4(e) of this code; or

(ii) The storage in a parking area in any required yard in a residential district of class II vehicles; or

(iii) The storage in a parking area in a residential district of no more than one class III vehicle; or

(iv) The provision of buffers and landscaping for class II vehicles other than those required by subsection 9-107D of this code.

Every variation granted pursuant to this subsection E1(l) shall run only to the applicant, as a personal privilege, and only with respect to the specific vehicle that is the subject of the application.

(m) To increase by not more than twenty percent (20%) the maximum floor area ratio permitted in the R-1 single-family residential district for any proposed development that was the subject of a variation application filed with the village and approved by the zoning board of appeals after January 1, 1989, but before the effective date of this code.

(n) To increase by not more than ten percent (10%) the maximum floor area ratio permitted in the B-2 central business district.

(o) To increase by not more than ten percent (10%) the maximum building coverage permitted in the B-2 central business district.

(p) To increase the maximum elevation permitted in the R-1, R-2, R-3 and R-4 single-family residential districts.

(q) To increase by not more than fifteen percent (15%) the maximum allowable height of a personal wireless services antenna support structure that is of a tower design.

(r) To allow the front of a single-family dwelling to be developed to face a frontage other than the frontage it is required to face pursuant to subsection 3-110I of this code.

(s) To reduce by more than ten percent (10%) the required lot width and area of any lot created concurrent with and as part of the terms of an annexation agreement for the land of which the lot is a part. No variation pursuant to this subsection shall permit either the development of more than one dwelling unit in addition to the number of dwelling units that could be developed in the absence of such a variation or any increase in the otherwise permitted maximum floor area ratio.

(t) To increase the maximum floor area ratio not more than the minimum amount required to authorize construction on property in the R-1, R-2, R-3, or R-4 districts of a four hundred forty (440) square foot detached garage accessory to an existing single-family detached dwelling on the subject property, but only to replace an existing attached garage and only if all of the following criteria are met: 1) the existing garage is the only garage on the subject property, 2) the existing garage is unusable as a garage, in the determination of the director of public services based on reasonable evidence provided by the applicant, because of flooding outside of the reasonable control or correction of the subject property owner, 3) the proposed detached garage will not exceed a total floor area of four hundred forty (440) square feet and will comply with every other applicable provision of this code, 4) the floor area ratio and building coverage of the subject property has not been increased by expansion of the single-family dwelling for at least ten (10) years prior to the date of application for the variation.

2. *Prohibited Variations:* Notwithstanding any other provision of this section, no variation shall be granted that:

(a) Is intended as a temporary measure only; or

(b) Is greater than the minimum variation necessary to relieve the particular hardship or practical difficulty demonstrated by the applicant.

✱ F. *Standards For Variations:*

1. *General Standard:* No variation shall be granted pursuant to this section unless the applicant shall establish that carrying out the strict letter of the provisions of this code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this subsection F.

2. *Unique Physical Condition:* The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

3. *Not Self-Created*: The aforesaid unique physical condition is not the result of any action or inaction of the owner, or of the owner's predecessors in title and known to the owner prior to acquisition of the subject property, and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this code, for which no compensation was paid.

4. *Denied Substantial Rights*: The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

5. *Not Merely Special Privilege*: The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.

6. *Code And Plan Purposes*: The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this code and the provision from which a variation is sought were enacted or the general purpose and intent of the official comprehensive plan.

7. *Essential Character Of The Area*: The variation would not result in a use or development on the subject property that:

(a) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or

(b) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or

(c) Would substantially increase congestion in the public streets due to traffic or parking; or

(d) Would unduly increase the danger of flood or fire; or

(e) Would unduly tax public utilities and facilities in the area; or

(f) Would endanger the public health or safety.

8. *No Other Remedy*: 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. *Variation Less Than Requested*: A variation less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief

requested.

H. *Conditions On Variations:* The zoning board of appeals, or the board of trustees as the case may be, may impose such specific conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of this code upon the premises benefited by a variation as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variation. Violation of any such condition or limitation shall be a violation of this code and shall constitute grounds for revocation of the variation.

I. *Affidavit Of Compliance With Conditions:* Whenever any variation authorized pursuant to this section is made subject to conditions and limitations to be met by the applicant, the applicant shall upon meeting such conditions file an affidavit with the village manager so stating.

J. *Effect Of Grant Of Variation:* The grant of a variation shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approval that may be required by the codes and ordinances of the village including, but not limited to, a certificate of zoning compliance, a building permit, a certificate of occupancy, subdivision approval, and site plan approval.

K. *Limitations On Variations:* Subject to an extension of time granted by the village manager pursuant to subsection 11-101K of this article, no variation from the provisions of this code shall be valid for a period longer than one year unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a certificate of occupancy is issued and a use is commenced within that period.

A variation shall be deemed to authorize only the particular construction or development for which it was issued and shall automatically expire and cease to be of any force or effect if such construction or development shall be removed and not replaced within six (6) months following such removal. (Ord. O2010-51, 10-19-2010)

9-12-3: FENCES:

A. Definitions: For the purposes of this section, the definitions of terms contained in the Hinsdale zoning ordinance shall apply to those terms as used in this section. Other terms are hereby defined as follows:

FENCE: Any structure, other than an enclosed building, forming a barrier or boundary between lots, between a lot and any street or alley, or between portions of a lot or lots.

MAINTENANCE: Incidental repairs to less than fifty percent (50%) of the total area of an existing fence.

REPLACE: The reconstruction of a fence due to damage, destruction, or alteration of fifty percent (50%) or more of the total area of an existing fence. "Maintenance" as defined in this section shall not be included.

WINGWALL: Architectural features of a structure that can appear to be a fence or wall, extending beyond the exterior face of a structure typically made of the same materials as the structure to which they are attached.

B. General Prohibition: No fence shall be built, installed, erected, enlarged, extended, maintained, replaced, or allowed to exist in violation of the provisions of this section. Any fence so built, installed, erected, enlarged, extended, replaced, or maintained, except as provided in subsection K of this section, shall be removed by the owner thereof.

C. Permit Required: No person shall build, install, erect, enlarge, replace, or extend a fence or part thereof without obtaining in advance a permit therefor and paying the fee provided in section 9-1-4 of this title. An application under this section shall be made to the building commissioner and shall include a sketch plan describing the proposed fence and showing, to the extent necessary to establish compliance with the requirements of this section, its location in relation to: 1) the lot lines of the lot on which the fence is placed, 2) any structures on said lot, and 3) any structures on adjacent properties, and depicting any proposed grade changes in said area.

D. Construction Standards; General: All fences shall be built, installed, erected, reconstructed, restored, replaced, or extended in a good and workmanlike manner. No structural components of a fence, other than the structural components of a brick or stone fence, shall exceed six inches (6") in width. All fences shall be securely anchored in the ground. All fences shall be built, installed, erected, reconstructed, restored, replaced, or extended so that all posts and other structural components, and the unfinished side of the fence, if any, shall face into the lot on which the fence is placed. Fences shall be constructed of wood, aluminum, wrought iron, brick, stone, or polyvinyl chloride (PVC). Welded wire and plastic fabric type fencing are prohibited unless otherwise authorized on a temporary basis pursuant to a permit issued by the village for demolition or to construct a new principal structure in accordance with subsection 9-1-7F of this title.

E. Construction Standards; Height: No fence or part thereof shall be permitted in excess of the following height limits:

1. Residential districts and lots used for residential purposes:

- | | |
|---|--------|
| a. Front yard, except for subsections E1d and E1e of this section (solid fences shall be limited to 24 inches in height as measured from the natural grade as set forth in subsection H3 of this section) | 3 feet |
| b. Corner side yard, except for subsections E1d and E1e of this section | 4 feet |
| c. Any other yard, except for subsections E1d and E1e of this section | 6 feet |
| d. Within 10 feet of and parallel to a lot line of any lot used for nonresidential purposes | 8 feet |
| e. Within 10 feet of and parallel to a lot line abutting the Illinois Tri-State Toll Road, Route 83, 55th Street, or Ogden Avenue rights of way | 8 feet |

2. Nonresidential districts and lots used for nonresidential purposes:

- a. Front yard: Eight feet (8');
- b. Corner side yard: Eight feet (8');
- c. Any other yard: Eight feet (8');

provided, however, the maximum allowable fence height provided for in this subsection E2 shall be reduced to a maximum height of not less than four feet (4') along any lot line abutting a lot used for residential purposes, if determined by the building commissioner to be necessary for purposes of promoting pedestrian and vehicular traffic safety.

3. Exceptions to subsections E1 and E2 of this section:

- | | |
|--|-------------------------------|
| a. Chainlink fences wherever located | 4 feet |
| b. Any fence governed by the provisions of section 7-1D-4 or 7-1D-5 of this code | 2 feet |
| c. Any post or other principal vertical support component | 6 inches above maximum height |

F.Measurement Of Height: The height of all fences shall be measured from the existing natural

grade on which the fence is located, as determined by the building commissioner, to the top of the fence.

G.Maintenance: All fences shall be maintained in good condition.

H.Prohibited Fences: Notwithstanding any provision of this code to the contrary, the following prohibitions apply to all fences in the village:

1. No fence shall be permitted in violation of sections 7-1D-4 to 7-1D-5 of this code.
2. No chainlink, stockage, or cinder block fence shall be permitted in any front yard or any corner side yard.
3. No "solid fence", as defined herein, shall be permitted that exceeds twenty four inches (24") in height as measured from the natural grade in any front yard or any corner side yard. A "solid fence" is a fence in which the open spaces, when viewed at a right angle to the vertical fence plane, constitute less than one-third (1/3) of the total fence contour. The "total fence contour" is the entire square foot area within and between the outside vertical outline of the fence. The "open spaces" are areas within the "total fence contour", which, when viewed at right angles to the vertical fence plane, allow clear visibility through said fence plane.
4. No chainlink fence shall contain strips or slats of any kind between or among the links.
5. No barbed wire fences shall be permitted; provided, however, that no more than three (3) strands of barbed wire may be used on the top of fences enclosing public utility facilities.
6. No electrically charged fences shall be permitted.
7. No wingwall may encroach into a required yard.

I.Protective Fences: Any school, church, hospital, or library may petition to the zoning board of appeals for a permit to construct a protective fence that would not conform to the requirements of subsection E of this section or the requirements of subsection H1 of this section insofar as such requirements relate to chainlink fences; provided, however, that under no circumstances shall any fence be permitted under this subsection on a lot zoned in the AA or A residence districts of the Hinsdale zoning ordinance which is used for residential purposes except in conformance with all the requirements of this section. The zoning board of appeals shall approve such petition only upon the finding that: 1) the fence is justified in light of the seriousness of the risk posed to the safety of persons and the fence will mitigate that risk; 2) the fence will not alter the essential character of the locality; 3) the fence will be in harmony with the general purpose and intent of this section; 4) the fence will set no unfavorable precedent either to the locality or to the village as a whole; 5) the fence will be the minimum size and type necessary to accomplish its intended purpose; and 6) the fence will not adversely affect the public safety and general welfare.

* J.Variations: Any person may petition to the zoning board of appeals for a variation from the provisions of this section. A petition for a variation shall include the following information: name, address, and telephone number of petitioner; a description of the requested variation; a site plan, drawn to scale, depicting the proposed fence and showing its location

in relation to the lot lines of the lot on which the fence is placed, any structures on said lot, and all adjacent properties; existing elevations in the area in which the fence is placed and any proposed grade changes in said area; and such additional information as the zoning board of appeals may require. The zoning board of appeals shall grant a variation from the provisions of this section only upon finding that: 1) the petitioner is affected by unique circumstances which create a hardship justifying relief from the provisions of this section, 2) the variation will not alter the essential character of the locality, 3) the variation will be in harmony with the general purpose and intent of this section, 4) the variation will set no unfavorable precedent either to the locality or to the village as a whole, 5) the variation will be the minimum necessary to afford relief to the petitioner, and 6) the variation will not adversely affect the public safety and general welfare. Every grant of a variation shall be based on written findings of fact evidencing compliance with the foregoing standards and specifying the reasons for granting the variation.

K. Nonconforming Fences: All fences heretofore lawfully constructed and not in conformity with the provisions of this section shall be deemed nonconforming fences and may exist and may be maintained; provided, however, that no such maintenance shall expand any existing nonconformity or create any new nonconformity. No nonconforming fence shall be enlarged or extended in any manner except in accordance with the provisions of this section.

L. Swimming Pools: Nothing in this section shall be construed to alter or limit the provisions of the international residential code related to fences designed to enclose swimming pools.

M. Exemptions: The provisions of this section shall not apply to fences owned or maintained by the village or to fences constructed and maintained by any other governmental body or agency for the principal purpose of reducing noise. (Ord. O2008-46, 8-12-2008)

VILLAGE OF HINSDALE
ZONING AND PUBLIC SAFETY COMMITTEE MINUTES
Monday, January 23, 2006
Memorial Hall
7:30 p.m.

Chairman Coleman Tuggle called the meeting to order at 7:30 p.m. on Monday, January 23, 2006, in Memorial Hall of the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois.

Present: Chairman Coleman Tuggle, Jean Follett, Cindy Williams

Absent: Michael K. Smith

Also Present: Interim Village Manager David Cook, Public Services Director Dan Schoenberg, Police Chief Bradley Bloom, Fire Chief Patrick Kenny, Gene Callahan, Nancy Chapa, Dan O'Neil, Nancy Cox, Verlee Copeland, Joyce Skoog, Chuck Armstrong, Dee Dee Miller, Hadley Pihl, Julie Crnovich, Bob Rieland, Eric Martin (*Doings*), Seth Ufheil (*Suburban Life*)

Minutes – December 29, 2005

Trustee Smith moved to approve the minutes of December 29, 2005. Trustee Williams seconded the motion. Motion carried.

Fire and Police Departments' Monthly Reports

The committee reviewed the monthly reports that summarized departmental activities. Chief Kenny briefly updated the committee on the Police and Fire Departments' efforts to work collaboratively with School district 181 and District 86 to update their school crisis plans. Chief Kenny further indicated that he had participated in a county-wide training effort attended by school superintendents and administrators to discuss the development of school crisis plans and the new state requirements on emergency drills.

Chief Bloom reported that the Police Department will be conducting "lockdown" drills with the grade schools in February and March. The drills simulate a violent armed offender in the school. Additionally, Chief Bloom summarized the department's efforts in conducting customer service surveys with residents with whom officers have had contact. The surveys conducted twice per year are randomly sent to every fifth person with whom an officer has had contact. To date over 100 surveys were returned, and the results very positive. Survey results were incorporated into the officers' performance evaluations. In addition, the department conducted compliance tobacco checks in December and two businesses failed the check and sold cigarettes to the undercover police agent. Chief Bloom indicated that the clerks in violation were issued citations and will appear in Downers Grove Field Court. Chief Bloom indicated that the present tobacco ordinance does not allow for license suspension only revocation. Chairman Tuggle requested that staff look into adding provisions that allow for suspension.

HPC 01-2006 – Landmark Designation – 4 Washington Circle

The Committee reviewed a unanimous recommendation of the Historic Preservation Commission to designate the single-family residence at 4 Washington Circle as an historic landmark. This residence is a 1929 Tudor style building.

Board adopt, "An Ordinance Amending the Planned Development for Adventist Hinsdale Hospital Related to Decommissioning and Removal of Incinerators at 120 N. Oak Street." Trustee Follett seconded. Motion carried.

✱ **Municipal Code Amendment to Section 9-12-3J – Authority for Fence Variations**

Mr. Schoenberg reported that the Plan Commission is reviewing a planned development at the L'Marquis apartment site and could not consider a waiver for the fence regulations under the current code. Under today's rules, only the ZBA can consider fence waivers. It was the consensus of the Committee that it is logical for the Plan Commission to consider fence as part of a plan development.

Trustee Follett moved to recommend the Board adopt, "An Ordinance Amending Section 9-12-3 of the Hinsdale Municipal Code to Allow Modifications of Fence Regulations as a Part of an Approved Planned Development." Trustee Williams seconded. Motion carried.

Parking Task Force Update and Recommendations

Mr. Schoenberg reported that the experimental valet parking was not well used. It was not recommended to be continued. However, there has been positive feedback for the 30-minute duration meters and the increased duration parking along the fringes of the town. Staff recommended continuing this experiment while the Solutions Exploration Group for parking does its work. The current experiment ends mid February.

Trustee Follett moved to recommend the Board extend the temporary parking changes to meters and time zones in the central business district for a 90-day period commencing February 19, 2006. Trustee Williams seconded. Motion carried.

The Committee reviewed recent ideas identified by the Parking Task Force to improve parking deficiencies. Ideas included:

- (1) Lowering rates,
- (2) Creating a one-month permit instead of the current six-month permit, and
- (3) Linking business licenses and parking.

It was the consensus of the Committee that these ideas should be forwarded to the Solution Exploration Group for their consideration.

Also discussed were creating extra parking spaces on Third Street between Lincoln and Garfield Streets and on Second Street next to the SBC building. Angle parking in the north parkways can substantially increase the number of spaces, but may require the removal of some parkway trees. The draft fiscal year 06-07 budget will include dollars for this work. The actual decision to proceed with the project will depend on the recommendations of the parking SEG.

Trustee Follett asked that the parking group and Board evaluate reassigning parking adjacent to the Middle School which is now monopolized by school visitors.

Budget Review Fiscal Year 2006-07

Mr. Cook introduced the new fiscal year budget highlighting the different programs. Further discussion of the Fire Department, Police Department and Community Development Programs will be discussed next month.

Clerk. Trustee Orler asked Village Manager Cook when he expected payment from the Metra grant for the Chestnut Street property purchase, and he replied about mid April. Seconded by Trustee Tuggle. Passed on roll call. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None.

CHANGES TO THE TEMPORARY LIQUOR CODE PROVISIONS

Trustee Johnson advised that the ACA is planning to discuss more permanent changes to the liquor code and urged all who are interested to come voice their opinions at the next ACA meeting on March 6th. Three issues will be discussed:

1. Having alcohol by the glass without a meal at full service restaurants and wine boutiques
2. Allowing alcohol by the glass for special promotions
3. The option of having a liquor commission as opposed to a liquor commissioner as we have now

ZONING AND PUBLIC SAFETY COMMITTEE

NEXTEL CELLULAR ANTENNA

President Woerner advised that the Nextel Communications request for a zoning approval for a cellular antenna was off the agenda for today because Nextel has withdrawn that the request. They expect to file a new application soon. Trustee Smith asked if the application would be heard before the plan commission, and President Woerner said he will check into the process but expects it would be heard by the Plan Commission. Trustee Williams requested that the public be informed of the date and time of the meeting so that they can attend. Village Manager Cook promised to clarify the new meeting date as soon as they receive the application and said that staff is looking at new software giving the Village the ability to put people on an automatic notification system via e-mail for news on issues they have requested. Trustee Smith asked if invoking Rule 7 forces a vote on the issue, and Attorney Burkland advised that a vote was unnecessary.

FENCE REGULATIONS

Trustee Tuggle said that under the current fence ordinance variances can only be approved by the ZBA, and the ZBA can only grant one for relief of hardship, not aesthetics or economic hardship. The Plan Commission does not currently have jurisdiction over fences when they review site plans, so they have asked that fences be included within their jurisdiction for planned developments only. ZPS recommends an amendment to the fence ordinance preserving the

AFTR - BEARS APRIL 2006

ZBA procedures, but allowing the Plan Commission to modify fence regulations in the context of planned developments.

Trustee Tuggle moved to Adopt an Ordinance amending Section 9-12-3J of the Hinsdale Municipal Code to allow modifications of fence regulations as part of an approved plan development. Seconded by Trustee Follett. Passed on roll call vote. Trustees Tuggle, Williams, Smith, Orlor, Johnson and Follett voted Aye. Nays: None. (O2006-12 see Ord. Bk. #23).

NEXT MEETING

Trustee Tuggle urged interested citizens to attend the next ZPS meeting next Monday night when the L'Marquis renovation project will be discussed.

ENVIRONMENT AND PUBLIC SERVICE

REPORT FROM DRAINAGE AND WOODLANDS IMPROVEMENT TASK FORCE

President Woerner introduced Chairman Mike Romano and Member Bill Seith from the Drainage and Woodlands Improvements Task Force to give a status report. They explained that they have held three meetings, surveyed residents, and met with Village Engineer Schoenberg regarding the drainage problems in the Woodlands. They stated that the severity of drainage problems vary greatly throughout the area. They also said that new pipes to address the drainage solution might damage the trees that line the street. The task force feels that the problems are very complex and beyond their expertise so they are requesting that the Board approve a Request for Proposal to engineering firms to define the problem and to recommend solutions. They would like the engineer to:

- 1) Determine the path by which water is traveling
- 2) Detail the topography of the area to determine where the water is going to
- 3) Identify options to solve the problem

The Task Force would then work with the engineer to come up with a recommendation for approval by the EPS.

Trustee Smith asked where the drainage problems are located. Mr. Romano stated that drainage worsens as one goes downhill. Mr. Seith said engineering is needed now to sell a solution to residents. Trustee Follett suggested that the engineer should look at not only public solutions, but also private ones such as the use of permeable driveways. Trustee Johnson asked if it pays to repair the pavement now. Trustee Tuggle requested that the task force keep the neighborhood in the loop about solutions and was assured that they would. Trustee Orlor suggested looking at a phased solution and also capitalizing the solution, rather than just expensing it.

VILLAGE OF HINSDALE

ORDINANCE NO. 02006-12

AN ORDINANCE AMENDING SECTION 9-12-3
OF THE HINSDALE MUNICIPAL CODE
TO ALLOW MODIFICATIONS OF FENCE REGULATIONS
AS PART OF AN APPROVED PLAN DEVELOPMENT

WHEREAS, pursuant to Subsection 11-603H of the Hinsdale Zoning Code, the Board of Trustees of the Village of Hinsdale has the authority to vary many regulations of the Zoning Code and the Hinsdale Municipal Code as those regulations apply to approved planned developments, subject to certain standards and limitations set for in Subsection 11-603H; and

WHEREAS, the provisions of Section 9-12-3 of the Municipal Code regulating fences include a variation procedure through the Hinsdale Zoning Board of Appeals, but Section 9-12-3 does not provide for a procedure for the Board of Trustees to grant modifications in a manner similar to Subsection 11-603H of the Zoning Code; and

WHEREAS, the Board of Trustees finds that it would be useful and appropriate for the Board of Trustees to have the ability to modify the provisions of Section 9-12-3 relating to fences when the Board of Trustees is considering whether to approve a planned development pursuant to Section 11-603 of the Zoning Code; and

WHEREAS, the Board of Trustees thus has determined that it is in the best interests of the Village to amend Section 9-12-3 to allow the Board of Trustees to grant modifications to fence regulations as they apply to an approved a planned development, so long as such modifications are subject to the same standards and limitations as are included in Subsection 11-603H of the Zoning Code for planned developments; and

WHEREAS, the Zoning and Public Safety Committee of the Village of Hinsdale Board of Trustees, at a public meeting on January 23, 2006, considered the Municipal Code amendment set forth in this Ordinance and recommended approval of the amendment; and

WHEREAS, the President and Board of Trustees find that the amendment set forth in this Ordinance is appropriate and in the best interests of the Village and its residents;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Hinsdale, DuPage and Cook Counties and State of Illinois, as follows:

Section 1. Recitals. The foregoing recitals are incorporated into this Ordinance by this reference as findings of the President and Board of Trustees.

Section 2. Amendment of Section 9-12-3 of the Hinsdale Municipal Code. Subsection J, titled "Variations," of Section 9-12-3, titled "Fences," of the Hinsdale Municipal Code shall be, and it is hereby, amended as follows:

9-12-3: FENCES:

* * *

J. Variations; Modifications:

1. Variations: *[this paragraph unchanged]* Any person may petition to the Zoning Board of Appeals for a variation from the provisions of this Section. A petition for a variation shall include the following information: name, address, and telephone number of petitioner; a description of the requested variation; a site plan, drawn to scale, depicting the proposed fence and showing its location in relation to the lot lines of the lot on which the fence is placed, any structures on said lot, and all adjacent properties; existing elevations in the area in which the fence is placed and any proposed grade changes in said area; and such additional information as the Zoning Board of Appeals may require. The Zoning Board of Appeals shall grant a variation from the provisions of this Section only upon finding that (i) the petitioner is affected by unique circumstances which create a hardship justifying relief from the provisions of this Section, (ii) the variation will not alter the essential character of the locality, (iii)

the variation will be in harmony with the general purpose and intent of this Section, (iv) the variation will set no unfavorable precedent either to the locality or to the Village as a whole, (v) the variation will be the minimum necessary to afford relief to the petitioner, and (vi) the variation will not adversely affect the public safety and general welfare. Every grant of a variation shall be based on written findings of fact evidencing compliance with the foregoing standards and specifying the reasons for granting the variation.

2. Modifications: The Board of Trustees may modify the regulations of this Section 9-12-3 as they apply to an approved planned development, in accordance with the authority, standards, and limitations set forth in Subsection 11-603H of the Hinsdale Zoning Code.

Section 3. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law.

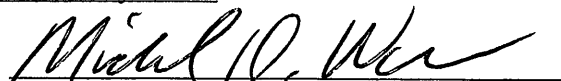
PASSED this 21st day of February 2006.

AYES: TRUSTEES TUGGLE, WILLIAMS, SMITH, ORLER, JOHNSON AND FOLLETT.

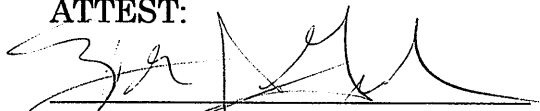
NAYS: NONE

ABSENT: NONE

APPROVED this 21st day of February 2006.


Michael Woerner, Village President

ATTEST:


Village Clerk



P:\data\ord&res\pc\2006\municipalcodeamendment\february\pc
3526575_v1

ADMINISTRATION AND COMMUNITY AFFAIRS

ACCOUNTS PAYABLE

Trustee Johnson moved the approval and payment of the Accounts Payable for the period of June 15, 2006 through July 13, 2006, in the aggregate amount of \$1,134,818.74 as set forth on the list provided by the Village Treasurer, of which a permanent copy is on file with the Village Clerk. Seconded by Trustee Tuggle. Passed on roll call. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None.

OTHER ADMINISTRATION AND COMMUNITY AFFAIRS BUSINESS

Trustee Johnson said that the committee had discussed the following issues:

Trustee Johnson said there was a presentation on the Brook Park project and the committee had some concerns about being over budget and about spending public funds for private clubs' use. She anticipates it will be on the agenda again next month.

She said the committee is working on finding a replacement for retired Director of Parks and Recreation Kotula. Candidates have brought a fresh perspective on what is being done in other communities, including some non-athletic, adult recreation uses for parkland.

ZONING AND PUBLIC SAFETY

President Woerner said they would be voting on each item separately since there were only two in attendance at the last ZPS meeting.

Item #1: Trustee Tuggle moved to Adopt a resolution granting subdivision plat approval for the Hamptons of Hinsdale Development (previously known as the L'Marquis Development) located at 5711-5743 South Grant Street and 5838 South Washington Street. Seconded by Trustee Follett. Passed on roll call vote. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None. (R2006-20 see Res. Bk. #V).

Item #2: Trustee Tuggle moved to Adopt a resolution approving vacation of existing easement for Part of Lots 13, 14, 15 and 16 in Braingar Hinsdale Farms and Lot 3 of D.D. Davis Assessment Plat, Section 13, Township 38 North, Range 11, East of the Principal Meridian in DuPage County, Illinois (5711-5743 South Grant Street and 4838 South Washington Street in the Hamptons of Hinsdale. Seconded by Trustee Follett. Passed on roll call vote. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None. (R2006-19 see Res. Bk. #V).

Item #3: Trustee Tuggle moved to **Adopt a resolution granting subdivision plat approval for 114 South Stough Street.** Seconded by Trustee Follett. Passed on roll call vote. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None. (R2006-21 see Res. Bk. #V)

Item #4: Trustee Tuggle moved to **Adopt an Ordinance approving site plans and exterior appearance plans for modifications to a commercial building at 40 East Hinsdale Avenue.** Seconded by Trustee Follett. Passed on roll call vote. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None. (O2006-52 see Ord. Bk. #23).

Item #5: Trustee Tuggle moved to **Adopt an ordinance approving a special use permit and site plans for alterations to the existing parking lot associated with the nursing home facility at 600 West Ogden Avenue.** . Seconded by Trustee Follett. Passed on roll call vote. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None. (O2006-53 see Ord. Bk. #23).

Item #6: Trustee Tuggle moved to **Adopt an ordinance approving a special use permit and site plan for outdoor seating accessory to a permitted eating place at 500 East Ogden Avenue.** Seconded by Trustee Follett. Passed on roll call vote. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None. (O2006-54 see Ord. Bk. #23).

Item #7: Trustee Tuggle moved to **Adopt an ordinance amending Title 7 (Public Ways and Properties), Chapter 1 (Streets and Sidewalks), Article B (Excavations), Section 3 (Insurance and Deposit Requirements), Subsection B (Deposits) of the Code of the Village of Hinsdale.** Seconded by Trustee Follett. Passed on roll call vote. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None. (O2006-55 see Ord. Bk. #23).

Item #8: Trustee Tuggle moved to **Approve an ordinance amending parking meter rates, duration and hours of enforcement.** Seconded by Trustee Follett. Passed on roll call vote. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None. (O2006-56 see Ord. Bk. #23).

Item #9: Trustee Tuggle moved to **Approve an ordinance amending Title 9 (Building Regulations), Chapter 9 (International Fire Code), Section 2 (Amendments, Revisions, and Changes) of the Village Code to increase the fees for reinspections to \$75.00 for a second reinspection and \$100.00 for a third or subsequent reinspection.** Seconded by Trustee Follett. Passed on roll call vote. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None. (O2006-57 see Ord. Bk. #23).

Item #10: Trustee Tuggle moved to **Approve an ordinance repealing and rescinding Ordinance No. 02006-12 and amending Title 9 (Building Regulations), Chapter 12 (Miscellaneous Provisions), Section 3 (Fences), Subsection J (Variations: Modifications) of the Village Code of Hinsdale.** Seconded by Trustee Follett. Passed on roll call vote. Trustees Tuggle, Williams, Smith, Orler, Johnson and Follett voted Aye. Nays: None. (O2006-58 see Ord. Bk. #23).

✱

VILLAGE OF HINSDALE

ORDINANCE NO. 02006-58

**AN ORDINANCE REPEALING AND RESCINDING
ORDINANCE NO. 02006-12 AND AMENDING TITLE 9 (BUILDING
REGULATIONS, CHAPTER 12 (MISCELLANEOUS PROVISIONS),
SECTION 3(FENCES), SUBSECTION J (VARIATIONS; MODIFICATIONS)
OF THE VILLAGE CODE OF HINSDALE**

WHEREAS, on February 21, 2006, the Board of Trustees adopted Ordinance 02006-12, entitled "An Ordinance Amending Section 9-12-3 of the Hinsdale Municipal Code to Allow Modifications of Fence Regulations as Part of an Approved Plan Development;" and

WHEREAS, it is the intent of the Board of Trustees by adoption of this Ordinance, to duly repeal and rescind Ordinance No. 02006-12 and amend Title 9 (Building Regulations), Chapter 12 (Miscellaneous Provisions), Section 3 (Fences) of the Village Code of Hinsdale pursuant to said repeal.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Hinsdale, DuPage and Cook Counties, Illinois, as follows:

Section 1. Recitals Incorporated. The recitals set forth above are incorporated herein as though fully set forth.

Section 2. Repeal and Rescission of Ordinance No. 02006-12. Ordinance Number 02006-12, entitled "An Ordinance Amending Section 9-12-3 of the Hinsdale Municipal Code to Allow Modifications of Fence Regulations as Part of an Approved Plan Development," is hereby repealed and rescinded in its entirety.

Section 3. Village Code Amended. Title 9 (Building Regulations), Chapter 12 (Miscellaneous Provisions), Section 3 (Fences), Subsection J (Variations; Modifications) of the Village Code of Hinsdale is amended by deleting the overstricken language to read as follows:

9-12-3: FENCES:

*

*

*

*

J. ~~Variations; Modifications:~~

~~1. Variations:~~ Any person may petition to the Zoning Board of Appeals for a variation from the provisions of this Section. A

petition for a variation shall include the following information: name, address, and telephone number of petitioner; a description of the requested variation; a site plan, drawn to scale, depicting the proposed fence and showing its location in relation to the lot lines of the lot on which the fence is placed, any structures on said lot, and all adjacent properties; existing elevations in the area in which the fence is placed and any proposed grade changes in said area; and such additional information as the Zoning Board of Appeals may require. The Zoning Board of Appeals shall grant a variation from the provisions of this Section only upon finding that (i) the petitioner is affected by unique circumstances which create a hardship justifying relief from the provisions of this Section, (ii) the variation will not alter the essential character of the locality, (iii) the variation will be in harmony with the general purpose and intent of this Section, (iv) the variation will set no unfavorable precedent either to the locality or the Village as a whole, (v) the variation will be the minimum necessary to afford relief to the petitioner, and (vi) the variation will not adversely affect the public safety and general welfare. Every grant of a variation shall be based on written findings of fact evidencing compliance with the foregoing standards and specifying the reasons for granting the variation.

~~2. Modifications: The Board of Trustees may modify the regulations of this Section 9-12-3 as they apply to an approved planned development, in accordance with the authority, standards, and limitations set forth in Subsection 11-603H of the Hinsdale Zoning Code.~~

Section 4. Severability and Repeal of Inconsistent Ordinances. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law.

PASSED this 18th day of July, 2006.

AYES:

NAYES:

ABSENT:

APPROVED this _____ day of _____, 2006.

Michael D. Woerner, Village President

ATTEST:

Barbara Johanson Grigola
Village Clerk

Z:\PLS\Village of Hinsdale\Ordinances\repeal Ord 02006-12.doc