



LINCOLN ZONING ORDINANCE VARIATION PROCEDURE

1. The applicant completes and files an application for an appeal with the Zoning Enforcement Officer, furnishing a legal description of the property and pays a fee of \$120.00. A variance is a relaxation of the strict terms of the Zoning Ordinance in order to provide relief to the property owner or occupant upon whom the Zoning Ordinance imposed undue hardship or difficulty. Usually variance applications request relief from required lot size or widths, setbacks, or minimum yards.
2. The Zoning Enforcement Officer establishes a time and date for a public hearing before the Lincoln Zoning Board of Appeals. The Board generally meets the third Wednesday of the month at 6:30 P.M.
3. The Zoning Enforcement Officer reviews the application to ensure all necessary information is included then places a legal notice in the newspaper 15 to 30 days prior to the hearing date which informs the public of the proposed rezoning and indicates the time, date, and location of the hearing.
4. Simultaneously, the applicant must serve written notice by registered mail at least 15 days prior to the hearing to all owners, as recorded in the office of the County Collector, of all property within 150 feet of the tract, excluding, however, streets and alleys. The notice will be prepared by the Zoning Enforcement Officer and shall state the nature of the petitioner's request. The receipts of the registered letters must be filed with the Zoning Enforcement Officer.
5. A public hearing is held before the Zoning Board of Appeals at a time, place, and date, designated by the legal notice. The petitioner should appear before the Board to explain his or her proposed project. After hearing testimony on the project, the Board decides whether to grant or deny the appeal for a variance. If the Board approves the variance, the applicant must still obtain a building permit from the Zoning Enforcement Officer before proceeding with construction.
6. If the Board does not approve the amendment, the petitioner may appeal the decision in a court of law under the "Administrative Review Act" approved on May 8, 1945 and as amended.



VARIANCE PETITION

Zoning Board of Appeals
Lincoln, Illinois

Date:

Name & Address of Applicants:

Name & Address of Owner:

Legal Description:

Names & Addresses of Property Owners to be Notified:

Brief Summary of Section to be Varied and Request:

CLEARLY EXPLAIN THE VARIANCE REQUEST. PROVIDE QUANTITATIVE DETAILS, IF APPLICABLE, REGARDING LOT DIMENSIONS, SETBACKS, PARKING AREAS, DRIVEWAYS, LIGHTING, LANDSCAPING, INCLUDING FENCES AND OTHER PERTINENT INFORMATION. SKETCHES, PHOTOS, AND OTHER APPROPRIATE EVIDENCE SHOULD BE INCLUDED. ATTACH ADDITIONAL PAGES IF NECESSARY.

EXPLAIN WHICH SECTION OF SECTIONS 2-7-3 (A) THROUGH 2-7-3 (C) ALLOWS THE ZONING BOARD OF APPEALS TO GRANT THIS PETITION, IN YOUR OPINION. SEE ATTACHED SECTION 2-7-3.

I (We) certify that all the above statements and the statements contained in any papers or plans submitted herewith are true to the best of my (our) knowledge and belief.

Signature of Applicant _____ Date _____

_____ Date _____

Signature of Owner _____ Date _____

CHAPTER 7

ZONING BOARD OF APPEALS

SECTION:

- 2-7-1: Organization
- 2-7-2: Appeals
- 2-7-3: Jurisdiction
- 2-7-4: Appeals To Court

2-7-1: ORGANIZATION: A board of appeals is hereby established in accordance with the provisions of the statute applicable thereto. The zoning board of appeals shall consist of seven (7) members appointed by the mayor and confirmed by the city council to serve respectively for the following terms: one for one year, one for two (2) years, one for three (3) years, one for four (4) years, one for five (5) years, one for six (6) years and one for seven (7) years. The successors to each such member shall be appointed to serve for a term of five (5) years. Vacancies in office shall be filled for the unexpired term of the member whose place has become vacant. The mayor may remove any member of the board for cause and after public hearing.

Regular meetings of the board shall be held at such time and place within the city as the board may determine. Special meetings may be held at the call of the chairman or as determined by the board. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of appeals shall be open to the public. Such board shall keep minutes of its proceedings showing the vote of each member on every question. If any member is absent or fails to vote, the minutes shall indicate such facts. The board shall adopt its own rules of procedure not in conflict with the statute or this code. (1960 Code, Sec. 12.08.120)

2-7-2: APPEALS: Appeals to the board of appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the city. Such appeal shall be taken within twenty (20) days from

be shown in order to grant a variation. Instances in which the zoning board of appeals may grant variations include, but are not limited to, the following:

1. To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown of record.
2. To permit the reconstruction of a nonconforming building which has been destroyed or damaged to an extent of more than fifty percent (50%) of its value by fire or act of God or the public enemy, where the board finds some compelling public necessity requiring a continuance of the nonconforming use, but in no case shall such a permit be issued if its primary function is to continue a monopoly.
3. To make a variance by reason of exceptional narrowness, shallowness or shape of a specific piece of property of record, or by reason or exceptional topographical conditions, the strict application of any provision of this chapter would result in peculiar and exceptional practical difficulties or particular hardship upon the owner of such property and amount to a practical confiscation of property, as distinguished from a mere inconvenience to such owner, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the general purpose and intent of the comprehensive plan as established by the regulations and provisions contained in the zoning regulations.
4. To interpret the provisions of the zoning regulations where the street layout actually on the ground varies from the street layout as shown on the district map fixing the several districts.
5. To waive the parking requirements in the business or industrial districts whenever the character or use of the building is such as to make unnecessary the full provision of parking facilities or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or convenience.
6. To permit a building to be erected, reconstructed, altered or enlarged so that the building lines will extend the distance specified in the zoning regulations into side yards or into front yards provided that such variance may not be granted:

(a) Unless there is a building in the block which extends beyond the distance from the front street line specified in the zoning regulations, in which case the building line may be permitted to

a variation, in a specified case, after an application for a permit has been made to the enforcing officer and after duly advertised public hearing held by the board as prescribed by statute. The notice of hearing shall contain the address or location of the property for which the variation or other ruling by the board is sought, as well as a brief description of the nature of the appeal. The applicant shall pay, to the city treasurer, at the time of the filing of the appeal for the variance, an amount, as determined by the city code enforcement officer, to cover the cost of publication and postage. The zoning board of appeals may, at the time the decision is rendered, remit all or part of the appeal fee, as the board may deem fair. (Ord. 635, 6-19-2006)

2-7-4: **APPEALS TO COURT:** All final administrative decisions of the board of appeals rendered under the terms of the zoning regulations shall be subject to the judicial review pursuant to the provisions of the "administrative review act", approved May 8, 1945, and all amendments and modifications thereof, and the rules adopted pursuant thereto¹. (1960 Code, Sec. 12.08.120)

1. 735 ILCS 5/3-101 et seq.