

Non-Administrative Zoning Variation Application Procedures and Checklist

The Planning and Zoning Board may recommend, and the City Council may grant, non-administrative variations from certain regulations of the Wheaton Zoning Ordinance. A variance may only be granted in instances listed in Article 5.78(3) of the Zoning Ordinance.

A. Procedures:

1. Pre-Application Meeting. The applicant meets with the Director of Planning & Economic Development (and Director of Engineering if applicable) to discuss the proposal.
2. File Application. The applicant files a complete application with the Director of Planning & Economic Development (see Section B for application requirements).
3. Staff Review. The Director of Planning & Economic Development reviews the application for completeness and schedules a Public Hearing before the Planning and Zoning Board (PZB). Hearings are scheduled 30 days in advance. The Director prepares public hearing notices and a Staff Report with a recommendation for the Public Hearing. Applicant will receive copies of these documents prior to the hearing.
4. Public Hearing. The PZB holds Public Hearings on the second and fourth Tuesday of each month at 7:00 p.m. in the City Council Chambers. The applicant's attendance is mandatory. The applicant must present testimony regarding the proposal and the public is allowed to comment. The applicant is responsible to present sufficient evidence to support the application, including addressing the Variation Standards in Section C.
5. PZB Recommendation. The PZB may either vote at the conclusion of the public hearing or at their next regular meeting.
6. City Council Review. The City Council receives a report of the Public Hearing and PZB recommendation at their next regular meeting. The applicant must attend this meeting to answer questions the City Council may have regarding the application. The Council directs the City Attorney to prepare an ordinance either approving or denying the application. The City Council reserves the right to send back any application for a new Public Hearing and review if the application is significantly modified. The City Council regularly meets on the first and third Monday of every month at 7:00 p.m.
7. Ordinance Approval. At their next regular meeting, the City Council votes on the ordinance. The applicant must attend this meeting. If it is approved, the ordinance becomes effective when it is signed and published. The legal notice publication, notification sign, court reporter, and ordinance recording fees must be paid before the City allows any action by the applicant.
8. Building Permit. After the ordinance is effective and all fees are paid, the applicant may apply for a Building Permit. The variance is valid for 12 months.

B. Application Checklist:

1. Application Form. Filled out by the applicant (form attached). _____
2. Fee. \$100 for residential variations, \$200 for non-residential variations. The application fee **does not** include the cost of the legal notice publication, court reporter, notification sign (\$40 per sign), and ordinance recording fees (\$30) which are due at a later date. _____
3. Narrative Statement. Document addressing the standards applicable to zoning variations by answering all 10 of the Variation Evidence factors as contained in Section C. **All standards must be individually addressed in a full-sentence, narrative format to explain why the variance is warranted.** A non-administrative variation application may be accepted only if the standards applicable to variations are addressed in a written narrative format. _____
4. Evidence of Ownership. Documentation of applicant's ownership of or interest in the property. A copy of a tax bill is sufficient. _____
5. Mailing Labels. A list of all adjacent property owners within 250 feet of the subject property (excluding public streets and alleys), typed onto stick on mailing labels. The list shall include the property identification number (P.I.N.), property owner's name, address, zip code, and trust or mortgage numbers if applicable. Information can be obtained at the DuPage County Assessor's Office, 421 N. County Farm Road, Wheaton, Illinois. _____
6. Sworn Affidavit. Signifying accuracy of list of adjacent property owners (form attached). _____
7. Plat of Survey. One copy of a current Plat of Survey of the property made by a registered Illinois Professional Land Surveyor, including all existing structures located on the property. _____
8. Site Plan. Ten (10) folded copies, plus one (1) reduced copy, of a Site Plan, showing the location and dimensions of the proposed improvements. This can be drawn on a copy of the Plat of Survey. _____
9. Building Plans. If the project involves a new building or building addition, include ten (10) folded copies, plus one (1) reduced copy of:
 - Preliminary floor plans (detailed architectural plans not required)
 - Elevation plans or design drawings_____
10. Supporting Materials. (Optional) Photographs or any other information deemed necessary by the applicant to support the application. This can also be submitted directly at the Public Hearing. _____

An application will not be accepted and processed until all the applicable items required above have been submitted with the application.

Depending upon the various meeting schedules, this process generally will be completed within 45 to 60 days of the date the applicant submits a complete application. Any questions pertaining to the application procedures should be directed to the Planning & Economic Development Department at (630) 260-2080.

C. Variation Standards:

The Planning and Zoning Board may recommend, and the City Council may grant, non-administrative variations from the certain regulations of the zoning ordinance when such variations are in harmony with the general purpose and intent of the zoning ordinance. A non-administrative variation may be granted by the City Council only if the applicant seeking the variation demonstrates and establishes the following:

1. Hardship. Practical difficulties prevent compliance with the strict application of the regulations of the zoning ordinance, or a particular hardship would result from compliance with the strict application of the requirements of the zoning ordinance; and
2. Essential Character of the Neighborhood. The variation, if granted, will not alter the essential character of the area or neighborhood.

Variation Evidence. For purposes of demonstrating and establishing the above standards applicable to zoning variations, the applicant must address each of the following:

1. The particular physical surroundings shape or topographical condition of the property involved prevents compliance with the strict application of the regulations of the zoning ordinance rather than causing a mere inconvenience if there is compliance with the strict application of the regulations of the zoning ordinance.
2. The purpose of the variation is not based primarily upon a desire to enhance the monetary value of the property.
3. The alleged practical difficulty or particular hardship has not been created by any person presently having any interest, whether financial, beneficial, legal or other, in the property or by the applicant.
4. The granting of the variation will not be detrimental to the public welfare, injurious, in any way whether economic, aesthetic or otherwise, to other property or improvements in the neighborhood or inconsistent with the general character of the area or neighborhood.
5. The proposed variation will not:
 - a. impair an adequate supply of light and air to adjacent property;
 - b. substantially increase the hazard from fire or other dangers to the property or adjacent property;
 - c. otherwise impair the public health, safety or general welfare;
 - d. diminish or impair property values within the neighborhood;
 - e. unduly increase traffic congestion in the public streets and highways;
 - f. create a nuisance;

- g. result in an increase in public expenditure.
- 6. A denial of the requested variation would potentially allow for the creation of a more adverse or unintended use, improvement or consequence because the regulations of the Zoning Ordinance would allow alternative construction which would potentially have a more negative impact on the character of the neighborhood than the construction of the improvement pursuant to the requested variation.
- 7. The variation is the minimum variation that will make possible the reasonable use of the land, building or structure.
- 8. In the case of an existing Planned Unit Development, the granting of the variation will not significantly compromise the character and concept of the planned unit development.
- 9. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zoning district.
- 10. That denial of the variation would unreasonably deprive the property owner of the use and enjoyment of the property.

No single factor recited above shall be controlling or determinative. All applicable factors shall be weighed and evaluated in an overall determination of whether the standards applicable to zoning variations have been satisfied.

AFFIDAVIT

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, _____, being first duly sworn, do hereby state under oath that to the best of my knowledge the attached list is a true, correct, and complete list of property owners within a 250 foot radius of the property legally described on the attached application for rezoning, special use permit, planned unit development, variation, or other zoning amendment.

X _____

Subscribed and sworn to before me

this _____ day of _____

20____.

Notary Public