

ORDINANCE NUMBER 24 - 34

AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK
AND KANE COUNTIES, ILLINOIS AMENDING SECTIONS 157.207 AND 157.224 OF
THE ZONING ORDINANCE REGARDING CERTAIN SPECIAL USE AND VARIATION
PROCEDURES AND REQUIREMENTS

WHEREAS, the Village of East Dundee ("**Village**") is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, Village staff submitted a request for the consideration of amendments to Sections 157.207 and 157.224 of the Village of East Dundee Zoning Ordinance ("**Zoning Ordinance**") to clarify procedures, standards and requirements for special use and variation applications and approvals within the Village ("**Text Amendments**"); and

WHEREAS, the Planning, Zoning, and Historic Commission of the Village convened and held a public hearing on September 5, 2024 to consider the Text Amendments; and

WHEREAS, at the conclusion of the public hearing, the Planning, Zoning and Historic Commission made findings and recommended that the Village President and Board of Trustees of the Village ("**Corporate Authorities**") approve the Text Amendments, as set forth in this Ordinance; and

WHEREAS, the Corporate Authorities have received and considered the recommendation of the Planning, Zoning, and Historic Commission and find it to be in the best interests of the health, safety and welfare of its residents to approve Text Amendments;

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

SECTION 1: Incorporation. That each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

SECTION 2: Amendment to Section 157.207. Section 157.207, titled "Powers; Appeals; Procedure," of Chapter 157, titled "Zoning" of Title XV, titled "Land Usage," of the Village Code of the Village is hereby amended as set forth in ***Exhibit A*** to this Ordinance, with additions in **bold** and double-underlined and deletions ~~struck through~~.

SECTION 3: Amendment to Section 157.224. Section 157.224, titled "Special Uses," of Chapter 157, titled "Zoning" of Title XV, titled "Land Usage," of the Village Code

of the Village is hereby amended as set forth in **Exhibit B** to this Ordinance, with additions in **bold** and double-underlined and deletions ~~struck through~~.

SECTION 4: Severability. That if any Section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 5: Effect. That this Ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

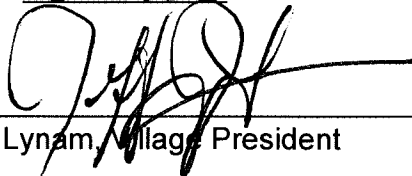
PASSED this 7th day of October 2024 pursuant to a roll call vote as follows:

AYES: Mahony, Kunze, Saviano, Treiber and Sauder

NAYES: 0


ABSENT: Brittina

APPROVED by me this 7th day of October 2024.



Jeffrey Lynam, Village President

ATTEST:



Katherine Diehl, Village Clerk

Published in pamphlet form this 7th day of October 2024, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on October 8, 2024.

EXHIBIT A

§ 157.207 POWERS; APPEALS; VARIATION PROCEDURE.

(A) (1) The ~~Zoning Board of Appeals~~ Planning, Zoning, and Historic Commission shall hear and decide appeals from an administrative order, requirement, or determination made by the Building Inspector under this chapter or under the Building Code or Subdivision Code.

(2) An appeal may be taken to the ~~Zoning Board of Appeals~~ Planning, Zoning, and Historic Commission by any person, firm or corporation, or by any office, department, board, bureau or commission, aggrieved by an administrative order, requirement, decision or determination under this chapter by the Building Inspector.

(3) An appeal shall be filed with the Village Clerk and promptly referred to the ~~Zoning Board of Appeals~~ Planning, Zoning, and Historic Commission for processing in accordance with the requirements of Illinois Statutes.

(B) (1) *Action by ~~the Zoning Board of Appeals~~ Planning, Zoning, and Historic Commission regarding processing variation requests.*

(a) The Planning, Zoning, and Historic Commission shall hear and issue recommendations to the Board of Trustees on variation requests. The ~~Zoning Board of Appeals~~ Planning, Zoning, and Historic Commission shall not recommend the adoption of a proposed variation until after it finds that the adoption of the variation is in the public interest and is not solely for the interest of the applicant. The ~~Zoning Board of Appeals~~ Planning, Zoning, and Historic Commission ~~Commission~~ may recommend the adoption of a variation as set forth within this chapter.

(b) A concurring vote of a majority of those members present at the meeting with a minimum of three concurring votes shall be required to recommend granting or denying an application for a variation.

(c) The report to the Village Board of the proceedings shall contain the number of Commissioners present and names of those voting for or against the motion.

(2) *Action by the President and Board of Trustees.*

(a) The President and the Board of Trustees, upon receiving the recommendations of the Zoning Board of Appeals, may grant or deny any proposed variation in accordance with applicable state statutes or may refer it back to the ~~Zoning Board of Appeals~~ Planning, Zoning, and Historic Commission for further consideration.

(b) If an application for a proposed variation is not acted upon finally by the President and Board of Trustees within six months of the date upon which the application is received by the President and Board of Trustees, it shall be deemed to have been denied.

(3) *Authorized variations.*

(a) The ~~Zoning Board of Appeals~~ Planning, Zoning, and Historic Commission shall ~~decide~~ hold the public hearing and issue a recommendation on authorized variations of the provisions of this chapter in harmony with its general ~~purpose~~ purpose and ~~intent, and intent, and~~ shall grant ~~recommend~~ them

only in the specific instances where there are practical difficulties or particular hardship in the way of carrying out the strict letter of the regulations of this chapter.

(b) Any person, firm or corporation owning or having an interest in a lot or the Board of Trustees may apply for a variation.

(c)(4) Processing application for variance:

1. ~~An application for a variation shall be filed with the Village Clerk on a form prescribed by the President and Board of Trustees. The application shall be accompanied by the plans or data, or both, as specified by the Zoning Board of Appeals, and shall include a statement, in writing, by the applicant and adequate evidence showing that the proposed variation will conform to the standards set forth herein for variations. Copies of the application shall be forwarded by the Village Clerk to the Zoning Board of Appeals with the request to hold a public hearing.~~ The applicant shall provide an application for a variation request with the Village on an application prescribed by the Village, in a form acceptable to the Village Board. The application shall be accompanied by such plans or data, or both, as specified by the Village, and shall include a statement, in writing, by the applicant and adequate evidence showing that the proposed variance / variation will conform to the standards set forth herein for variations.

2. The Village, at the applicant's expense, shall give notices of the public hearing as follows:

~~a. To the persons to whom the current real estate tax bills are sent, if any, as shown on the record of the local real estate tax assessor of all lots lying within 250 feet of the property line of the lot for which the variation is sought. All notices shall be in writing and shall give the time, place and propose of the hearing and shall be mailed not more than 30 days nor less than 15 days in advance of the hearing. The notice shall be sent by certified mail, properly addressed as shown on the Tax Assessor's rolls and with sufficient postage affixed thereon with return receipt requested. The applicant shall file a sworn affidavit with copies of the notices with the Village Clerk showing the names and addresses of all notices the applicant has sent. The affidavit shall be conclusive presumption of giving of the notices.~~

~~b. The applicant, at its own expense, shall cause a notice of time, place and purpose of the hearing to be published in a newspaper per of general circulation within the village not more than 30 days nor less than 15 days in advance of the hearing.~~

~~c. The applicant shall erect a sign or signs on the subject property not less than 15 days before the scheduled public hearing by the Planning and Zoning Commission. The sign(s) shall have on their surface a statement that the property is subject to a public hearing concerning its use, the name of the village and a statement concerning where further information may be obtained from the village. The sign shall not be removed until the Village Board has taken final action on the application or until the application is withdrawn. There shall be one sign erected for every public street frontage and it shall be clearly visible from the adjacent or nearest public right of way. All signs shall be furnished by the village after receiving from the applicant at the time of application a \$100 deposit per sign. One hundred dollars per sign of the deposit(s) shall be returned to the applicant upon the timely return of the sign or signs in good condition. The initial placement of the sign on the property shall be the responsibility of the applicant and he or she shall submit an affidavit to the village affirming the date and location of placement of each required sign. Failure to post or maintain the sign shall not affect any action taken by the village.~~

- a. To the persons to whom the current real estate tax bills are sent, if any, as shown on the record of the local real estate tax assessor of all properties lying within 250 feet of the property line of the lot/PIN for which the variation is sought.
 - b. All notices shall be in writing and shall give the time, place, and purpose of the public hearing and shall be mailed not more than 30 days nor less than 15 days in advance of the hearing. The notice shall be sent by First-Class mail, properly addressed as shown on the tax assessor's rolls and with sufficient postage affixed thereon. The applicant shall file a sworn affidavit with copies of the notices with the Village showing the names and addresses of all notices sent. The affidavit shall be conclusive presumption of giving of the notices.
 - c. A notice of the time and place of the public hearing will be published in a newspaper of general circulation in the Village at least fifteen (15) days and no greater than thirty (30) days prior to the hearing. Such notice shall contain the address or location of the property where the request is sought, as well as a brief description of the nature of the request.
 - d. The Village, at the applicant's expense, shall post and maintain on forms no smaller than 11 inches by 17 inches on a white background for a period of not less than ten (10) days prior to the hearing the notice thereof as furnished by the Village. The notice showing the time, place, and purpose of the public hearing shall be posted on the property for which the variance and/or special use is sought as follows:
 - a. On an improved and/or unimproved lot: A visible sign not more than 15 feet from the front lot line.
 - e. Upon receipt in proper form of the application referred to above, the Planning, Zoning, and Historic Commission shall hold at least one public hearing on the proposed variation. However, the Planning, Zoning, and Historic Commission may continue from time-to-time the hearing without further notices being published.
3. Within 45 days after the close of the public hearing, the Planning, Zoning, and Historic Commission shall make written findings of fact, when required, and shall submit the same, together with its recommendations to the Village President and Board of Trustees. The recommendation shall be consistent with the purpose and intent of this chapter and shall specify, in a conclusion or statement, any stipulations, restrictions or conditions on the variation, which the Commission deems necessary to assure compliance with this chapter and the protection of the public health, safety, comfort, morals or welfare. The Planning, Zoning, and Historic Commission shall not recommend that a variation be approved unless it finds that the proposed variation conforms to the standards set forth both in this chapter and, if any, in the district regulations.

_____d. Supplemental or additional notices may be distributed, published or posted as the Zoning Board of Appeals may, by rule, prescribe from time to time.

~~_____e. Upon receipt in proper form of the application and statement referred to above, the Zoning Board of Appeals shall hold at least one public hearing on the proposed variation. However, the Zoning Board of Appeals may continue, from time to time, the hearing without further notices being published.~~

~~(C) (1) The Zoning Board of Appeals shall not vary the provisions of this chapter, as authorized in this section, unless it shall find The Planning, Zoning, and Historic Commission shall make variation findings-of-fact based upon the evidence presented to it in each specific case with respect to the following:~~

~~(a) 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;~~

~~(b) The plight of the owner is due to unique circumstances; and~~

~~(c) The variation, if granted, will not alter the essential character of the locality.~~

~~(2) For the purpose of supplementing the above findings-of-fact standards, the ~~Zoning Board of Appeals~~ Planning, Zoning, and Historic Commission, in making its decision whenever they are practical difficulties or particular hardship, shall also take into consideration the extent to which the following facts favorable to the applicant, have been established by the evidence that:~~

~~(a) The particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the regulations were strictly enforced;~~

~~(b) The conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification;~~

~~(c) The purpose of the variation is not based exclusively upon a desire to make more money out of the property;~~

~~(d) The alleged difficulty or hardship has not been created by any person presently having an interest in the property;~~

~~(e) The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; or~~

~~(f) 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.~~

~~(3) The ~~Zoning Board of Appeals~~ Planning, Zoning, and Historic Commission may require such conditions and restrictions upon the premises benefitted by a variation as may be necessary to comply with the standards set forth in this section or reduce or minimize the injurious effect of the variation upon other property in the neighborhood and to implement the general purpose and intent of this chapter.~~

~~—(D) Variations from the regulations of this chapter may be granted by the Zoning Board of Appeals only in accordance with the standards set forth in this section and only in the following instances and no others:~~

~~—(1) To permit yards, spacing between buildings, and other required open spaces to have less width or depth than required by the district regulations, but not the elimination of required yard, spacing between buildings and other required open space;~~

- ~~—(2) To permit the use of a lot not of record on the effective date of this chapter for the use otherwise prohibited solely because of the insufficient area of the lot;~~
- ~~—(3) To permit parking lots to be illuminated later than 30 minutes after close of business;~~
- ~~—(4) To reduce the required number of parking spaces to the extent of not more than 20% of the required number;~~
- ~~—(5) To increase by not more than 25% the maximum distance that required parking spaces are permitted to be located from the use served;~~
- ~~—(6) To permit the same off street parking spaces to qualify as required spaces for two or more uses; provided that the maximum use of the facility by each uses does not take place during the same hours or on the same days of the week;~~
- ~~—(7) To allow any permitted non-residential use in a residence district to exceed the floor area ratio imposed by the applicable regulations;~~
- ~~—(8) To allow a principle building to be constructed across a lot line; and~~
- ~~—(9) To permit the required lot area in any district to fall below the minimum set forth in a district in an amount not to exceed 3% of the required minimum lot area.~~

(1981 Code, Art. XII, C3) (Ord. passed 12- -1986; Am. Ord. 90-10, passed 6-4-1990; Am. Ord. 05-16, passed 8-1-2005; Am. Ord. 22-11, passed 4-4-2022)

EXHIBIT B

§ 157.224 SPECIAL USES.

(A) *Purpose.*

(1) The development and execution of this chapter is based upon the division of the village into districts, within which districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform.

(2) It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use of the particular location.

(3) The special uses fall into two categories:

(a) Uses publicly operated or traditionally affected with a public interest; or

(b) Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

(B) *Initiation.* Any person ~~having~~ having a freehold interest in land, a possessory interest entitled to exclusive possession, a contractual interest which may become a freehold interest or an exclusive possessory interest and which is specifically enforceable, may file an application to use the land for one or more of the special uses provided for in this chapter in the zoning district in which the land is located.

(C) *Processing application for special use.*

(1) ~~The applicant shall provide a~~ An application for a special use ~~shall be filed with the Village Clerk on an application form prescribed by the Village President and Board of Trustees and in a form acceptable to the Village Board.~~ The application shall be accompanied by such plans or data, or both, as specified by the ~~Village Plan Commission~~, and shall include a statement, in writing, by the applicant and adequate evidence showing that the proposed special use will conform to the standards set forth herein for special uses. ~~Copies of the application shall be forwarded by the Village Clerk to the Plan Commission with the request to hold a public hearing.~~

(2) ~~The applicant shall give notices of the public hearing as follows~~ The Village, at the applicant's expense, shall give notices of the public hearing as follows:

(a) To the persons to whom the current real estate tax bills are sent, if any, as shown on the record of the local real estate tax assessor of all ~~lots~~ properties lying within 250 feet of the property line of the ~~lot~~ property for which the ~~variation~~ special use is sought.

(b) All notices shall be in writing and shall give the time, place, and purpose of the public hearing and shall be mailed not more than 30 days nor less than 15 days in advance of the hearing. The notice shall be sent by ~~certified~~ First-Class mail, properly addressed as shown on the tax assessor's rolls and with sufficient postage affixed thereon ~~with return receipt requested~~. The applicant shall file a sworn

affidavit with copies of the notices with the Village Clerk showing the names and addresses of all notices the applicant has sent. The affidavit shall be conclusive presumption of giving of the notices.

- (c) The notice of the time and plane of the public hearing will be published in a newspaper of general circulation in the Village at least fifteen (15) days and no greater than thirty (30) days prior to the hearing. Such notice shall contain the address or location of the property where the request is sought, as well as a brief description of the nature of the request.
 - (d) The Village, at the applicant's expense, shall post and maintain on forms no smaller than 11 inches by 17 inches on a white background for a period of not less than ten (10) days prior to the hearing the notice thereof as furnished by the Village. The notice of the public hearing shall be posted on the property for which the special use is sought as follows:
 - a. On an improved and/or unimproved lot: A visible sign not more than 15 feet from the front lot line.
 - (e) Upon receipt in proper form of the application referred to above, the Planning, Zoning, and Historic Commission shall hold at least one public hearing on the proposed special use. However, the Planning, Zoning, and Historic Commission may continue from time-to-time the hearing without further notices being published.
- (3) Within 45 days after the close of the public hearing, the Planning, Zoning, and Historic Commission shall make written findings of fact, when required, and shall submit same, together with its recommendations to the Village President and Board of Trustees. The recommendation shall be consistent with the purpose and intent of this chapter and shall specify, in a conclusion or statement, any stipulations, restrictions or conditions, including but not limited to the operation of the special use, which the Commission deems necessary to assure compliance with this chapter and the protection of the public health, safety, comfort, morals or welfare. The Planning, Zoning, and Historic Commission shall not recommend that a special use be approved unless it finds that the proposed special use conforms to the standards set forth both in this chapter and, if any, in the district regulations.
- (4) A concurring vote of a majority of those members present at the meeting with a minimum of three concurring votes shall be required to recommend granting or denying an application for a special use. The report to the Village Board of the proceedings shall contain the number of Commissioners present and names of those voting for or against the motion.
- (5) The Planning, Zoning, and Historic Commission shall make special use findings of fact based upon the evidence presented to it in each specific case with respect to the following:
- (a) The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

- (b) The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (c) Adequate utilities, access roads, drainage or necessary facilities have been or will be provided.
- (d) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (e) The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the President and Board of Trustees pursuant to the recommendations of the ~~Plan Commission~~ **Planning, Zoning, and Historic Commission**.

(D) The ~~Plan Commission~~ **Planning, Zoning, and Historic Commission** may recommend that there be in part of the area of a planned development and for the duration of the development, specified uses not permitted by the use regulations of the district in which the development is located, provided that the Plan Commission shall find that:

1. The uses permitted by the exceptions are necessary or desirable and are appropriate with respect to the primary propose of the development;
2. The uses permitted by the exception are not of such a nature or so located as to exercise a detrimental influence on the surrounding neighborhood;
3. Not more than 20% of the ground area or of the gross floor area of the development shall be devoted to the uses permitted by the exception;
4. In an industrial planned development, the additional uses allowed by exception shall conform with the performance standards of the district in which the development is located; and
5. The use exceptions so allowed are reflected by the appropriate zoning district symbols and so recorded on the zoning district map.

E. The ~~Plan Commission~~ **Planning, Zoning, and Historic Commission** may recommend that there be in a planned development exceptions to the bulk regulations set forth herein iii the district regulations applicable to the district in which the planned development is located, provided that the ~~Plan Commission~~ **Planning, Zoning, and Historic Commission** shall find:

1. The exception shall be solely for the purpose of promoting a unified site plan no less beneficial to the residents or occupants of the development as well as the neighboring property than would be obtained by the bulk regulations of this chapter for buildings developed on separate lots;
2. The overall floor area ratio, when applicable, would not exceed by more than 15% the floor area ratio regulation of this chapter for the district in which it is located;
3. In the part of the planned development containing only residential uses, the minimum lot area per dwelling unit may be less than required by district regulations applicable to the district in with the planned development is located, provided there is contained within the planned development permanent open areas having sufficient area to maintain at least the required lot area per dwelling for the district

where it is located, when related to the total area within the planned development exclusive of areas in rights-of-way of thoroughfares, streets and alleys; (The open areas shall be perpetuated, by properly recorded covenants extending over the life of the planned development, for use only by the residents of the planned development or dedicated to the village for park, playground or other open public uses.)

4. In ~~part~~ part of a planned development devoted to residential uses, the Plan Commission may recommend and the President and Board of Trustees may approve access to a dwelling by a driveway or pedestrian walk easement; off-street parking facilities for the dwelling when located not more than 180 feet from the dwelling served; and spacing between buildings of lesser widths or depths than required by district regulations for the district in which the planned development is located provided;

5. The protective covenants are recorded which perpetuate during the period of the special use, access easements and off-street parking spaces for use by the residents of the dwellings served;

6. The spacing between buildings shall be consistent with the application of recognized site planning principles for securing a unified development and due consideration is given to the openness normally afforded by intervening streets and alleys; (Spacing between principal buildings within a part of a planned development where subsequent transfer of ownership is contemplated shall be equivalent to such spacing as would be required between buildings by district regulations for the district in which it is located.)

7. The yards along the periphery of the development shall be not less in width or depth than required for permitted uses in the district regulations applicable to the district in which the planned development is located.

(F) ~~(D)~~ *Action by the President and Board of Trustees.*

(1) Prior to the granting of any special use, the President and Board of Trustees shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in this subchapter. In all cases in which special uses are granted, the President and Board of Trustees shall require such evidence and guarantees as it may deem necessary as proof of the conditions stipulated in connection therewith are being and will be complied with.

(2) The President and Board of Trustees may grant or deny any application for a special use permit after receiving the recommendations of the Planning, Zoning, and Historic Commission, including the stipulations of additional conditions and guarantees, when they are deemed necessary for the protection of the public interest.

(3) No application for a special use which has been denied wholly or in ~~part~~ part by the President and Board of Trustees shall be resubmitted for a period of six months from the date of the order or denial.

(4) In any case, where a special use permit has been granted and a building permit has not been obtained within 18 months after the date of granting thereof, then without further action by the Plan Commission and the President and Board of Trustees, the special use permit approval shall automatically be terminated and cancelled and be null and void. In the event that an occupancy certificate is not issued

within five years after the special use permit has been granted, the special use permit shall automatically terminate.