

CHAPTER 5

USE VARIANCES AND SPECIAL PERMITS

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10-5-1: GENERAL: The Board of Zoning Appeals may, in the procedure set forth in this Chapter, grant and use variances from the operations of the this Title, for the buildings, structures, and in this Chapter, provided, in each case, that:

- A. The special permit or variance is in substantial harmony with the purpose and intent hereof as declared in Section 10-1-2.
- B. The special permit or variance substantially complies with the specific requirements therefor as set forth in this Chapter and for the district in which the use is located.
- C. Satisfactory evidence is presented to the Board that the present or proposed situation of the building, structure, development or use is reasonably necessary for the convenience and welfare of the public and/or of the owner, or is reasonably necessary to avoid a hazard to the safety of persons or property.

In granting any special permit or variance, the Board may impose (in addition to other requirements) conditions for the reasonable protection of the immediate neighborhood or the Village from the adverse effects of the use or building involved. Such conditions for the reasonable protection of the immediate neighborhood or the Village shall not extend beyond the requirements of the State of Illinois and the United States, and any rules or regulations adopted hereunder.

10-5-2: SITE LOCATION:

- A. The site location of any building, structure, or use permitted by a special permit or use variance shall have a compatible relationship to the established street system and shall be such as to impose no greater traffic burden on streets than the streets can reasonably bear.
- B. The site of any building, structure or use permitted by a special permit or variance may be

located partly outside the Village limits, provided that applicable requirements of the Village relative to utility permits and extensions and to annexation are complied with, and provided further, as to such part of the site outside the Village limits, that the Madison County Zoning and/or other requirements are complied with.

10-5-3: HEARING ON APPLICATION:

A. The Board of Zoning Appeals shall hear the application (or any modified application) in accordance with its usual procedure. The Board may: (1) Grant the application, with or without modification; (2) deny the application; or (3) refer the application back to the applicant for recommended modification. If the application is granted, a copy of the final plan shall be placed on the file within the Village, clearly noting all conditions of approval and the date approved for issuance of a permit. If the application is denied, the applicant shall not again apply for a permit for substantially the same proposal unless there has occurred a substantial change of circumstances, and in such case, only with the Board's consent first obtained, otherwise not earlier than one year after date of denial. If the application is referred back for modification, the applicant may resubmit the application in accordance with the directions of the Board, if any, otherwise, in time for the next regular meeting of the Board.

B. The Board of Zoning Appeals may revoke a permit issued under this Chapter if:

1. The proposal for which a permit has been issued is not carried out pursuant to the approved final site plan; or
2. If any condition or requirement included in the permit is not complied with. The Board may, however, allow modification of the final plan, before completion, in conformity with the applicable provisions for review as provided for in this Chapter.

C. A permit issued under this Chapter shall expire if the proposal authorized by the permit is not completed within the development schedule therefor included in the application, or expiration.

D. After the final plan has been completed, it shall be a permanent site plan and shall not be modified, nor shall any additions be made thereto, except with the applicable provisions of this Chapter.

10-5-4: PUBLIC BUILDINGS AND PUBLIC OR SIMILAR PRIVATE UTILITY BUILDINGS OR STRUCTURE: The Board of Zoning Appeals may permit any building, structure or use of the Village, the County, the Township, Public School District, University, any State or Federal Agency, or public or similar private utility in either a governmental or proprietary capacity, in any zoning district as the Board deems necessary for the convenience and welfare. Such building, structure or use shall be subject to such of the requirements of the district wherein the building, structure or use is situated and to such of the other regulations applying to uses permitted in the development as the Board deems necessary to comply with general provisions of Section 10-5-1 and 10-5-2 and to assure compatibility of the development with the character of its locality.

10-5-5: USE VARIANCES AND SPECIAL PERMITS:

A. General. No use variance or special permit under this Chapter shall be granted by the Board of Zoning Appeals except in accordance with the procedure set forth in this Section.

B. Application- Preliminary Site Plan. Application for a use variance or special permit under this Chapter shall be made to the Board of Zoning Appeals on a form approved and furnished by the Board. Such application shall include, among other pertinent information, two (2) copies of a preliminary site plan of the proposed site, to scale, showing:

1. The location, dimensions and character of all present and/or proposed buildings, structures and uses;
2. The location of adjacent pedestrian and vehicular traffic circulation;
3. The location of off-street parking and off-street loading;
4. Type of proposed surfacing material for access ways and parking;
5. Plan for pedestrian and vehicular traffic within the subject area with consideration given to the established street systems serving the subject area, and to the emergency vehicle access to each building;
6. Perspectives of structures or other such drawings necessary to indicate the relative compatibility with immediate neighborhood as well as within the subject area,
7. General landscaping and screening plan;
8. Location of public or private utilities proposed to serve the subject area;
9. Proposed finished grade of the site; and
10. Development schedule providing reasonable guarantees for the completion of the proposed development or other construction according to the development schedule.

C. Hearing on Application. The Board of Appeals shall hear the application in accordance with the procedure established in Section 10-5-3.

D. Amendments to a Permanent Site Plan. The permanent site plan may be amended to include such information or other particulars so as not to create substantial change in the arrangement and/or operation of the permanent site plan upon and with the consent of the Board of Appeals.

E. Application Fee. The Application must be accompanied with the Application Fee as established in the Zoning Fee Schedule (TABLE 10-10-11), plus advertising costs. The Hearing on the Application shall not be held until fees are fully paid. (Amended Ord. 1558; 04/07/2015)

10-5-6: PLANNED BUILDING DEVELOPMENT; GENERAL:

A. The Board of Zoning Appeals may grant a special permit in accordance with Section 10-5-1 and the procedure in Section 10-5-5: for a planned building development as classified in subsection (B) of this Section on a tract of land under single ownership or unified control in the zoning district and subject to the requirements as hereinafter provided for each planned building development.

B. Classification and Size: A planned building development may consist of one of the following:

1. Planned multi-family residence development, situated on a tract of land of a minimum size of five (5) acres (See Section 10-5-7),
2. Planned mobile home park, situated on a tract of land of minimum size of five (5) acres (See Section 10-5-8),
3. Planned business center, situation on a tract of land of a minimum size of two (2) acres in the developed area, otherwise five (5) acres (See Section 10-5-9)
4. Other planned building developments (no minimum size) (See Section 10-5-10)

C. Subdivision Regulation. Except as otherwise specifically provided herein, a planned building development shall comply with applicable subdivision regulations.

D. Unified Arrangements. Any proposed development under Section 10-5-7, 10-5-8, 10-5-9, and 10-5-10 must present a unified arrangement of structures and service facilities having a functional relationship to each other and to the locality in which it is situated.

10-5-7: PLANNED MULTI-FAMILY RESIDENTIAL DEVELOPMENTS: The Board of Zoning Appeals may permit a planned multi-family residence development consisting of a multi-family dwelling or dwellings, in the MR-1 and B-1 Zoning Districts. The entire site for such development shall constitute a single lot and the development shall be subject to such applicable requirements of the district in which it is situated and to such other regulations applying to the uses permitted in the development as the Board deems necessary to comply with the intent and purpose of this Title and to insure compatibility of the development with the character of its locality.

10-5-8: PLANNED MOBILE HOMES PARKS: The Board of Zoning Appeals may permit a planned mobile home park in any MR-2 Zoning District, subject to such of the requirements of the mobile home park regulations and to such of the requirements of the district where and to such of the requirements of the district where the mobile home is situated, and the Board deems necessary to comply with the general provisions of Section 10-3-9 (A), 10-5-1 and 10-5-2 and to insure compatibility of the development with the character of its locality.

10-5-9: PLANNED BUSINESS CENTERS: The Board of Zoning Appeals may permit a planned business center in any B-1, B-2 or I Zoning District, including combinations of such uses as the Board deems necessary for the public convenience and welfare. Such center shall be subject to applicable requirements of the district in which the center is situated and to such of the other regulations applying to uses permitted in the development as the Board deems necessary to comply with the general provisions of Section 10-5-1 and 10-5-2 and to assure compatibility of the center with the character of its locality.

10-5-10: OTHER PLANNED BUILDING DEVELOPMENTS: The Board of Zoning Appeals may permit a planned building development (other than the planned building development permitted in Sections 10-5-7, 10-5-8, and 10-5-9, which may consist of two (2) or more principal buildings on the same lot, in any "B" or "I" district. Such development may include such combinations of uses, as the Board deems necessary for the public convenience and welfare. Such development shall be subject to such of the requirements of the district wherein the development is situated and to such of the other regulations applying to uses permitted in the

development as the Board deems necessary to comply with the general provisions of Sections 10-5-1 and 10-5-2 and to assure compatibility of the development with the character of the locality. (Ord. 776; 5/12/1971)

10-5-11: PLANNED SINGLE FAMILY RESIDENTIAL DEVELOPMENTS: The Board of Zoning Appeals may permit a planned single family residence development consisting of single family dwelling or dwellings, in the SR-1, SR-2 and SR-3 Zoning Districts. The entire site for such development shall be subject to such applicable requirements of the district in which it is situated and to such other regulations applying to the uses permitted in the development as the Board deems necessary to comply with the intent and purpose of this Title and to insure compatibility of the development with the character of its locality.