

**CHAPTER 13
PLANNING AND ZONING COMMISSION**

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5A-13-1 **Planning and Zoning Commission** *Amended, Ord. 2002-03-697*

The Planning and Zoning Commission, also referred to as the Commission in this Title 5A, in addition to its powers and duties as prescribed in Chapter 2 of Title 5 herein and as prescribed in the Illinois Compiled Statutes, shall have the powers and duties prescribed by this Title 5A. Additionally, in the absence of the chairman and vice-chairman, the Commissioners may elect an acting chairman to reside over the meeting or hearing, so long as there is a quorum.

5A-13-2 **Records of Proceedings, Expenses, Rules**

The Commission shall keep minutes and records of all its proceedings showing the attendance and the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall keep records of examinations and other official actions, which record shall be open to the public. A record shall be made immediately of every rule, regulation, amendment or repeal thereof. Every order, requirement, decision or determination shall immediately be reduced to writing and filed with the Village Clerk and a copy thereof immediately with the Building Inspector. The Commission may incur such expenditures as are authorized by the Board of Trustees. The Commission shall adopt rules of procedure not in conflict with the statutes or the provisions of the zoning regulations of the Village.

5A-13-3 **Jurisdiction**

The Commission is hereby vested with the following powers and duties:

1. To hear and decide appeals alleging error in any order, requirement, decision or determination of the Building Inspector relating to zoning matters set forth in this Zoning Ordinance. After holding a public hearing, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Building Inspector.
2. To recommend to the Board of Trustees, after holding a public hearing, on applications or petitions for variations from the strict enforcement of any provisions of this Zoning Ordinance, in accordance with the rules and standards hereinafter set forth.

3. To recommend to the Board of Trustees, after holding a public hearing, on applications and petitions for special uses listed in each of the several zoning districts.
4. To recommend to the Village Board, after holding a public hearing, on applications and petitions for Planned Developments referred to it by the Board of Trustees and to hear and decide other matters referred to it or upon which it is required to pass under the provisions of this Zoning Ordinance.
5. To recommend to the Board of Trustees, after holding a public hearing, on petitions for amendment of the provisions of this Title (a.k.a. text amendments) and the boundary lines of zoning districts herein established (a.k.a. re-zonings or map amendments). Nothing herein contained shall be construed to authorize the Commission to change any of the provisions of this Title or district boundary lines established hereby.
6. The concurring vote of four members shall be necessary to reverse any order, requirement, decision, or determination of the Building Inspector or to decide in favor of the petitioner or applicant in considering any matter upon which the Commission is authorized to act.
7. To transmit to the Board of Trustees, with every recommendation, a written finding of fact and to refer to any documents and exhibits containing plans and specifications relating to its recommendation, which documents, plans and specifications shall remain a part of the permanent records of the Commission. The finding of fact shall specify the reason or reasons for its recommendation. The recommendation, or the terms of any relief recommended, shall be incorporated into the finding of fact, and shall be specifically set forth in a conclusion of the finding.

5A-13-4 **Procedure on Petition for Variance, Reclassification, Special Use or Amendment**

5A-13-4.1 **Petition**

When a variance from this Title, the reclassification of the zoning district, an amendment to the Zoning Ordinance or a special use is requested the property owner shall file a petition with the Village Clerk. The petition should include the following information:

1. The name and address of the person having legal title to the land which is the subject of the petition and any beneficiaries of a land trust having beneficial interest in said land.
2. The legal description of the land.
3. If the petition is for a reclassification or an amendment to this Title, the underlying zoning of the land in question shall be stated.
4. If the petition is for a reclassification or amendment to this Title, or for a special use, the surrounding land uses must be stated.

5. If the petition is for a variance, a sketch of the land and improvements thereon shall be attached or submitted with the petition which shows how the variance affects the land.

Such petition shall be accompanied by the filing fee established by the Board of Trustees.

5A-13-4.2 **Public Hearing, Notice** *Amended, 870*

- A. The variance, reclassification or amendment or special use permit shall not be considered by the Commission, unless notice of such hearing has been published not less than 15 days nor more than 30 days before the hearing in a newspaper of general circulation in the Village.
- B. The notice shall state the date, time and place of the hearing on the petition before the Commission.
- C. The notice shall state the common street address or addresses and location of all the parcels of the real property contained in the affected area and the property index number ("PIN") or numbers for which the variance, reclassification or amendment or special use is requested, as well as a brief statement about the proposed variance, reclassification or amendment or special use. The cost of the publication shall be paid by the petitioner.
- D. In no more than 30 days and not less than 15 days before the hearing, the petitioner shall send a copy of the notice to all surrounding landowners having contiguous and adjacent property by certified mail, return receipt requested.
- E. Finding of Supporting Facts:
 1. Variance: When evidence in a specific case shows conclusively that literal enforcement of any provision of this Title would result in a practical difficulty or particular hardship because of unusual surroundings or condition of the property involved, or by reason of exceptional narrowness, shallowness or shape of the zoning lot or because of unique topography, underground conditions or other unusual circumstances, the Commission may determine and vary the application of the provision and the Board of Trustees may grant by ordinance a variation to permit relief from any provision relating to the use, construction or alteration of buildings or structures or the use of land.

Before recommending any variation the Commission shall first determine and record its finding that the evidence justifies conclusions that the proposed variation (a) will not impair an adequate supply of light and air to adjacent property, (b) will not unreasonably increase congestion in the public streets or otherwise endanger public safety, and (c) is in harmony with the general purpose and intent of this Title. Where the evidence is not found to justify such conclusions that fact shall be reported to the Board of Trustees with a recommendation that the variation be denied.

2. **Reclassification or Amendment:** The Commission shall not recommend a reclassification or amendment to the Zoning Ordinance unless the following findings are made:
 - a. The reclassification or amendment is consistent with the surrounding uses.
 - b. The amendment or reclassification is consistent with the general intent and purpose of the comprehensive zoning map.
 - c. It will not diminish the value of the adjacent property.
 - d. It does not otherwise impair the public health, safety, comfort, morals and general welfare.
3. **Special Use Permit:** See Section 5A-11-2.5 of this Title.

F. **Conditions:** The Commission Appeals may recommend, and the Board of Trustees in granting any variation, reclassification or amendment or special use, may impose such conditions or restrictions as appear necessary to minimize possible detrimental effects of such action upon other properties in the neighborhood.

G. **Board of Trustees Action:** No action on any specific petition, application or case shall be made by the Board of Trustees without a hearing by the Commission as required herein, nor without a report thereof having been made by the Commission to the Board of Trustees. Said report shall consist of the hearing minutes and a finding of fact.

Upon the report of the Commission, the Board of Trustees, without further public hearing, may adopt, modify or deny any proposed petition or application or may refer the petition or application back to the Commission for further consideration.

5A-13-5 **Appeal from Ruling of Building Inspector**

5A-13-5.1 **Appeal by Aggrieved Party**

An appeal may be taken from any order, requirement, decision or determination of the Building Inspector by any person aggrieved within the time prescribed by the Commission by general rule by filing a notice of appeal specifying the grounds thereof, with the Commission and with the Building Inspector. The Building Inspector shall forthwith transmit to the Commission all papers constituting the records of the case.

5A-13-5.2 **Effect, Exception**

An appeal stays all proceedings in furtherance of the action appealed from unless the Building Inspector certifies that such stay would cause imminent peril to life or property, in which case

such proceedings shall not be stayed except by restraining order issued by the Board or a court of record.

5A-13-5.3 Hearing, Notice

The Commission shall fix a reasonable time for the hearing of an appeal from a decision of the Building Inspector or other Village official whose ruling is being appealed and give due notice thereon to the parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

5A-13-6 Voting Requirements

The concurring vote of four members of the Commission shall be necessary:

1. To reverse any order, requirement, decision or determination of the Building Inspector.
2. To decide in favor of the applicant any matter upon which it is or may be required to pass.
3. To recommend approval of any variance from the strict application of the Zoning Ordinance.
4. To recommend the reclassification or amendment to the Zoning Ordinance.
5. To recommend the issuance of a special use permit.

5A-13-7 Final Approval

Final approval of a petition for variance, reclassification or amendment to the Zoning Ordinance or the issuance of a special use permit shall be by passage of an ordinance by the Board of Trustees approving of the request on a majority vote of the Board of Trustees.

Any proposed variation which fails to receive the approval of the Commission shall not be passed except by the favorable vote of two-thirds of all the Trustees of the Board of Trustees.

In the event of written protest against the petition or application, signed and acknowledged by the owners of 20 per cent of the frontage proposed to be altered, or by the owners of 20 percent of the frontage immediately adjoining or across the alley or rear line therefrom, or by the owners of 20 per cent of the frontage directly opposite the frontage proposed to be altered as to such regulations or zoning district, and filed with the Village Clerk, such petition or application shall not be approved except by the favorable vote of two-thirds of all trustees then holding office.

The Village Clerk shall provide the chairman of the Commission a copy of any ordinance passed by the Board of Trustees which grants a reclassification or amends the Zoning Ordinance.