

ORDINANCE NO. F-0790

**AN ORDINANCE AMENDING THE TEXT OF THE
WHEATON ZONING ORDINANCE
“ARTICLE 5.7 – ADMINISTRATIVE VARIATIONS”**

WHEREAS, Article 5.7 of the City of Wheaton Zoning Ordinance pertains to zoning variations; and

WHEREAS, the City Council of the City of Wheaton deems it necessary and appropriate to amend Article 5.7 of the City of Wheaton Zoning Ordinance to adjust the administrative zoning variation process to allow applicants to expedite the process by obtaining the signatures of all property owners within a one property radius of the subject property as an alternative to the existing certified mail notification of said property owners; and

WHEREAS, pursuant to notice as required by the Illinois Municipal Code and the City of Wheaton Zoning Ordinance, a public hearing was conducted by the Wheaton Planning and Zoning Board on January 28, 2003, and the Wheaton Planning and Zoning Board has unanimously recommended approval of the amendment.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, that Article 5.7 A(1) of the City of Wheaton Zoning Ordinance is hereby amended by hereby repealing and rescinding it in its entirety and replacing it with a new Article 5.7 A(1) which shall read as follows:

Section 1: The Wheaton Zoning Ordinance text is amended by deleting Article 5.7 A(1) in its entirety and replacing it with the following:

“Article 5.7

A. Administrative Variations. Any variation to decrease any setback or any minimum yard dimension by less than or equal to 25% or five feet, whichever is less, or to increase the maximum height required by the applicable provisions, may be heard and decided by the Director of Planning & Economic Development as an administrative variation.

(1) Application for Administrative Variation. Any application for an administrative variation shall be filed with the Director of Planning & Economic Development. The application shall contain such information as the Director of Planning & Economic Development may require. Any application shall be filed either by the owner of record or the contract purchaser of the property to be directly affected thereby.

The Director of Planning & Economic Development shall review the proposed application against the standards contained herein. If the Director of Planning & Economic Development finds the proposed application does not meet the standards contained herein, the administrative variation will be denied. Following a denial of an administrative variation, the applicant may file for a non-administrative variation.

If the Director of Planning & Economic Development finds that the requested variation meets the standards herein, the applicant may choose one of the following two methods for notifying property owners within a one property radius of the subject property:

1. A copy of the variation application shall be sent by certified mail to all property owners within a one property radius of the subject property. If there are no written objections filed with the Director of Planning & Economic Development within 15 days of receipt of such notice, the administrative variation will be granted. If an application for an administrative variation is not granted, the applicant may file for a non-administrative variation.
2. The applicant shall review the variation application with all property owners within a one property radius and obtain a signed statement along with a signed set of plans from each property owner confirming he/she has no objection to the requested variation. Only upon receiving a signed statement along with a signed set of plans from each property owner within a one property radius, shall the Director of Planning and Economic Development grant the administrative variation. If an application for an administrative variation is not granted, the applicant may file for a non-administrative variation.

The granting of an administrative variation must be in harmony with the general purpose and intent of the Zoning Ordinance, and only in cases where there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this chapter. In consideration of the standards of practical difficulties or particular hardships, the Director of Planning & Economic Development shall require evidence that:

1. 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 (for the purpose of these standards, reasonable return includes both monetary considerations and non-monetary considerations, such as use and enjoyment).
2. The plight of the owner is due to unique physical characteristics (such as particular physical surroundings, shape or topographical conditions of the specific property involved) which create a hardship as distinguished from a mere inconvenience, if the strict letter of the Zoning Ordinance were carried out.
3. The variation, if granted, will not alter the essential character of the area, nor will it be detrimental or injurious to other property or improvements in the neighborhood, impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, endanger the public safety, or diminish or impair property values within the neighborhood.

The Director of Planning & Economic Development may impose such conditions and restrictions upon the premises benefited by an administrative variation as may be necessary to comply with the standards set out in this section to reduce or minimize the injurious effect of such variation upon other property in the neighborhood, and to better carry out the general intent of this chapter.

(2) Administrative Variation Limitations. No administrative variation shall be valid for a period longer than twelve months. Upon written application, the Director of Planning & Economic Development may grant a maximum extension not exceeding one year."

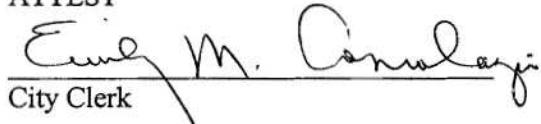
Section 2: All ordinances and parts of ordinances in conflict with these provisions are repealed.

Section 3: If any part or portion of this ordinance shall be declared invalid by a court of competent jurisdiction such invalidity shall not affect the remainder of this ordinance.

Section 4: This ordinance shall become effective after its passage, approval, and publication in pamphlet form in the manner prescribed by law.


C. James Carr
Mayor

ATTEST


Emily M. Connally
City Clerk

Roll Call Vote

Ayes: Councilman Mouhelis
Councilman Tamm
Councilman Gresk
Councilman Johnson
Councilwoman Johnson
Mayor Carr
Councilman Mork

Nays: None

Absent: None

Motion Carried Unanimously

Passed: February 18, 2003
Published: February 19, 2003