
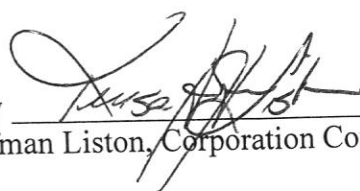
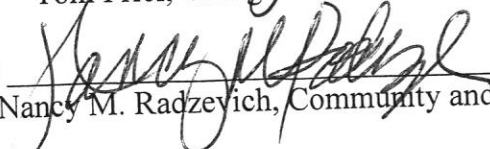


Legislative Summary

**Ordinance 15-07**

**AMENDING THE VILLAGE OF MORTON GROVE UNIFIED DEVELOPMENT CODE (ORD. 07-07)  
TO ESTABLISH A TIME LIMIT FOR THE VALIDITY OF VARIATIONS GRANTED BY THE  
ZONING BOARD OF APPEALS**

<b>Introduction:</b>	June 8, 2015
<b>Synopsis:</b>	This ordinance will establish a timeframe for the validity of variations granted by the Zoning Board of Appeals (ZBA).
<b>Purpose:</b>	A text amendment to establish that variations granted by the Zoning Board of Appeals shall be valid for up to one (1) year from the date of approval unless a building permit is issued and construction has been initiated within that period and is thereafter actively pursued to completion, or unless the applicant has applied for and been granted an extension of time by the ZBA.
<b>Background:</b>	The Village of Morton Grove Municipal Code (Title 1, Chapter 4), establishes the Zoning Board of Appeals with powers and duties which include hearing and deciding variations from the Unified Development Code (Title 12) pertaining to dimensional controls (Chapters 2, 3, and 4) and the number of required parking spaces for specific uses at specific locations (Section 12-7-3:K). Currently, there is no time limit for the validity of approved variations. The ZBA uses four (4) standards to grant variances. Two of these standards specifically address the potential impact the variation could have on the overall neighborhood and adjacent properties. Over time, conditions on the subject property, on abutting properties, or within the neighborhood could change, such that previously approved variations could result in unanticipated adverse impacts on the abutters or the surrounding neighborhood. Further, as the Village continues to reevaluate and improve the Code, potential changes to the bulk, massing, or parking requirements could in turn change the evaluation criteria for variations. The proposed text amendment would establish a one (1) year time limit for variations, from the date of approval, unless a building permit is issued and construction has been initiated and is thereafter actively pursued to completion, or unless the applicant applies for and the ZBA grants an extension of time. This time limit standard is consistent with the current time limits for special use permits and appearance certificates. Having established timelines for the validity of approved variations is common; this proposed text amendment would bring Morton Grove's code in line with other surrounding communities. PC#15-03 was presented to the Plan Commission for public hearing on May 18, 2015. There was no public comment. After reviewing the proposed amendment, the Plan Commission suggested one change to the draft language and voted recommend approval of the modified text amendment to the Village Board. (5-0-2; Gabriel and Shimanski absent).
<b>Programs, Departs or Groups Affected</b>	Community and Economic Department
<b>Fiscal Impact:</b>	N/A
<b>Source of Funds:</b>	N/A
<b>Workload Impact:</b>	These amendments will be implemented by the Community and Economic Development in the normal course of business.
<b>Admin Recommend:</b>	Approval as presented
<b>Second Reading:</b>	June 22, 2015, required – Municipal Code Book change;
<b>Special Consider or Requirements:</b>	None
<b>Submitted by:</b>	 Tom Friel, Village Administrator Pro-Tem
<b>Reviewed by:</b>	 Teresa Hoffman Liston, Corporation Counsel
<b>Prepared by:</b>	 Nancy M. Radzevich, Community and Economic Development Director

## ORDINANCE 15-07

### AMENDING THE VILLAGE OF MORTON GROVE UNIFIED DEVELOPMENT CODE (ORD. 07-07) TO ESTABLISH A TIME LIMIT FOR THE VALIDITY OF VARIATIONS GRANTED BY THE ZONING BOARD OF APPEALS

WHEREAS, the Village of Morton Grove (Village), located in Cook County, Illinois, is a home rule unit of government under the provisions of Article 7 of the 1970 Constitution of the State of Illinois, can exercise any power and perform any function pertaining to its government affairs, including but not limited to the power to tax and incur debt; and

WHEREAS, the Village continuously reviews and, as it deems necessary, updates existing Municipal Codes to assure they are kept current and relevant; and

WHEREAS, the applicant, the Village of Morton Grove, has made a proper application to the Plan Commission in case number PC15-03 to consider and recommend the adoption a of text amendment to the Village of Morton Grove Unified Development Code, Section 12-16-3:B, to establish a Time Limit for the Validity of Variations Granted by the Zoning Board of Appeals; and

WHEREAS, pursuant to the applicable provisions of the Municipal Code upon public notice duly published in the *Pioneer Press*, a newspaper of general circulation in the Village of Morton Grove which publication took place on April 30, 2015, a public hearing was conducted on May 18, 2015 relative to the above referenced case at which time all concerned parties were given the opportunity to present and express their views for the consideration of the Plan Commission. As a result of said hearing, the Plan Commission made certain recommendations and conditions through a report dated June 01, 2015, a copy of which is attached hereto and made a part hereof and marked as Exhibit "A"; and

WHEREAS, the Unified Development Code establishes the Zoning Board of Appeals with powers and duties which include hearing and deciding variations from the Unified Development Code (Title 12). Specifically, Chapter 16 of Title 12 authorizes the Zoning Board of Appeals (ZBA) to grant variations to Chapters 2, 3, and 4 of the Unified Development Code (Section 12-16-3), "...except as otherwise indicated in this title [title 12], and except for those regulations regarding permitted, special and prohibited uses in all districts..." In addition, the

ZBA has the authority to review and decide on variations to the number of required parking spaces for specific uses at specific locations, on a case by case basis (Section 12-7-3:K); and

WHEREAS, the Unified Development Code does not currently have a time limit for the validity of variations granted by the zoning board of appeals; and

WHEREAS, in the absence of such a time limit conditions on a subject property that receives a variance, the surrounding neighborhood and/or on abutting properties could change, such that a previously approved variation, executed years afterwards, could have unanticipated adverse impacts; and

WHEREAS, in the absence of such a time limit changes to the bulk and massing requirements in Unified Development Code could occur which in turn could change the evaluation of the potential impacts of variations; and

WHEREAS, establishing a time limit for variances will be consistent with current one (1) year time limit for development related approvals granted by other boards and commission, as established in the Unified Development Code, such as appearance certificates granted by the Appearance Review Commission and special use permits authorized by the Board of Trustees; and

WHEREAS, the Corporate Authorities have concluded that the proposed amendment will preserve the intent of the Unified Development Code to allow for the orderly development and add clarity to the massing, bulk, and parking code requirements and standards; and

WHEREAS, the Corporate Authorities have considered this matter at a public meeting and find the text amendment, when evaluated in the context of the whole Village, serves the public good; and

WHEREAS, the Village is desirous of assuring all policies are kept current and relevant.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MORTON GROVE, COOK COUNTY, ILLINOIS, AS FOLLOWS:**

SECTION 1: The Corporate Authorities do hereby incorporate the foregoing WHEREAS clauses into this Ordinance, as though fully set forth herein, thereby making the findings as hereinabove set forth:

SECTION 2: Title 12 entitled *Unified Development Code*, Chapter 16, entitled *Project Approval Process*, Section 12-16-3 entitled *Procedures For Zoning Board of Appeals*, subsection

12-16-3:B entitled *Authorized Variations* of the Municipal Code is hereby amended with the following:

12-16-3: PROCEDURE FOR ZONING BOARD OF APPEALS

B. Authorized variations: The zoning board of appeals shall publicly hear and have the authority to vary the zoning regulations set forth in chapters 2, 3, and 4 of this title, except as otherwise indicated in this title, and except for those regulations regarding permitted, special and prohibited uses in all districts. *An authorized variation shall be valid for a period of no longer than one (1) year from the date of approval unless a building permit is issued and construction is actually begun within that period and is thereafter actively pursued to completion, or unless the applicant applies for and the Zoning Board of Appeals grants an extension of time.*

PASSED this 22<sup>nd</sup> day of June 2015.

Trustee Gear	<u>Aye</u>
Trustee Minx	<u>Aye</u>
Trustee Pietron	<u>Aye</u>
Trustee Ramos	<u>Aye</u>
Trustee Thill	<u>Absent</u>
Trustee Witko	<u>Aye</u>

APPROVED by me this 22<sup>nd</sup> day of June 2015.



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Daniel P. DiMaria, Village President  
Village of Morton Grove  
Cook County, Illinois

APPROVED and FILED in my office  
This 23<sup>rd</sup> day of June 2015.

Connie Travis  
\_\_\_\_\_  
Connie Travis, Village Clerk  
Village of Morton Grove  
Cook County, Illinois



# Village of Morton Grove

## Department of Community Development

**To: Village President and Board of Trustees**

**From: Ron Farkas, Plan Commission  
Nancy Radzevich, AICP, Community and Economic Development Director  
Dominick A. Argumedo, AICP, Zoning Administrator/Land-Use Planner**

**Date: May 31, 2015**

**Re: Plan Commission Case PC15-03: Application for a Text Amendment to Chapter 16 of Title 12 of the Village of Morton Grove Municipal Code (Ord. #07-07) to Establish a Time Limit for the Validity of Variations Granted by Zoning Board of Appeals**

### Commission Report

#### Public Hearing Notice

The Village provided Public Notice for the May 18, 2015 Plan Commission public hearing for PC 15-02 in accordance with the Unified Development Code. The *Pioneer Press* published the public notice on April 30, 2015. As this request is for a text amendment, not a request for a specific site, no public notice signs or notification letters were required.

#### Amendment Background

The Village of Morton Grove municipal code (Title 1, Chapter 4), establishes the Zoning Board of Appeals with powers and duties which include hearing and deciding variations, from the Unified Development Code (Title 12). Specifically, Chapter 16 of Title 12 authorizes the Zoning Board of Appeals (ZBA) to grant variations to Chapters 2, 3, and 4 of the Unified Development Code (Section 12-16-3), "...except as otherwise indicated in this title [title 12], and except for those regulations regarding permitted, special and prohibited uses in all districts..." In addition, the ZBA has the authority to review and decide on variations to the number of required parking spaces for specific uses at specific locations, on a case by case basis (Section 12-7-3-K). The municipal code does not, however, include a time limit by which the applicant must exercise the granted variation. Based upon the codified standards the ZBA utilizes to make determinations (Section 12-16-3:A.2.), the lack of a time limit on a variation's validity may result in future development that contradicts the ZBA's initial approval.

The ZBA grants an authorized variation from the Unified Development Code based upon the following four standards:

- a. Not Self-Imposed: The alleged difficulty or hardship is caused by this title and has not been created by any persons presently having an interest in the subject property.
- b. Nonmonetary Considerations: The circumstances or conditions are such that the strict application of the provisions of this title would deprive the applicant of a reasonable use of his land. Mere loss in value shall not justify a variation.

- c. Not Detrimental to Public Welfare: The granting of any variation is in harmony with the general purposes and intent of this title and will not be detrimental to the public welfare or to other property or improvements in the neighborhood.
- d. Not Detrimental to Neighborhood: The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the streets, increase the potential damage of fire, endanger the public safety, or alter the character of the neighborhood.

It is standards c. and d. where the absence of a timeframe for the validity of a variance could ultimately end up in having an adverse impact. These two standards specifically address the potential impact that the proposed variation could have on the overall neighborhood and adjacent properties. Over the course of time, conditions on the subject property, within the neighborhood and/or on abutting properties could change, whereas the proposed variation could change and exaggerate potential adverse impacts. Further, in addition to changes in development patterns, there also may be additional changes to the bulk and massing requirements in Unified Development Code, which in turn could change the evaluation of potential impacts.

#### Proposed Amendment

Staff proposed the following Amendment to Section 12-16-3-B of the Unified Development Code:

#### **12-16-3: PROCEDURE FOR ZONING BOARD OF APPEALS**

B. Authorized variations: The zoning board of appeals shall publicly hear and have the authority to vary the zoning regulations set forth in chapters 2, 3, and 4 of this title, except as otherwise indicated in this title, and except for those regulations regarding permitted, special and prohibited uses in all districts. **An authorized variation shall be valid for a period of no longer than one (1) year from the date of issue unless a building permit is issued and construction is actually begun within that period and is thereafter actively pursued to completion.**

In reviewing municipal codes for other area communities, staff found that established timelines for owners to execute work associated with an approved variation is common. The neighboring communities of Evanston, Park Ridge, Niles, and Skokie all have time limits for the validity of variations. This proposed amendment would be consistent with timeframes included in codes for other surrounding municipalities

In addition, the municipal code currently has established timeframes for the validity of appearance certificates granted by the Appearance Review Commission and special use permits authorized by the Board of Trustees. Per Section 12-16-2:C.6., appearance certificates are valid for one (1) year after the date of granting by the Appearance Commission and if construction has not commenced within that twelve month period, the appearance certificate shall become null and void, unless the commission grants an extension of time. For Special Use Permits (Section 12-16-4:C.6.c.), the permit is similarly only valid for one from the date of issuances, unless a building permit has been issued and construction has begun within that twelve month timeframe. Further the code states that in order for the special use permit to remain valid, after construction begins it must be

"...actively pursued to completion or a certificated of occupancy is obtained and a use commenced within that period."

This proposed amendment would bring the village's variance procedure and timeframes in line with the current timeframes for execution of special use permits and appearance certificates.

May 18, 2015 Public Hearing

Mr. Argumedo introduced the case and summarized the Plan Commission staff report dated May 11, 2015 into the public record.

Chairperson Farkas asked if there were any questions to staff.

Commissioner Blonz asked if a provision could be added to the proposed amendment that the Zoning Board of Appeals could grant an extension of time to a previously granted variance before the one (1) year limit. Ms. Radzevich stated that there would be no reason why this could not be added to this provision. Chairperson Farkas asked if there would have to be a definite procedure for this. Blonz said he is suggesting just adding that additional provision and that he believes the procedure would be the same as any other.

Public Hearing—Public Comment

Chairperson Farkas asked if anyone was present that wanted to be heard on this case. No one asked to speak.

Public Hearing—Board Discussion and Vote

Commissioner Blonz moved to approve Case PC 15-03 with the following recommendations:

Plan Commission recommends approval of Case #PC 15-03 for a Text Amendment to the Unified Development code (Ordinance #07-07) to establish a time limit for the validity of variations granted by the Zoning Board of Appeals and to specifically add the following language to Section 12-16-3:B.: **"An authorized variation shall be valid for a period of no longer than one (1) year from the date of approval unless a building permit is issued and construction is actually begun within that period and is thereafter actively pursued to completion, or unless the applicant applies for and the Zoning Board of Appeals grants an extension of time."**

Commissioner Gillespie seconded the motion.

Chairperson Farkas called for the vote. The motion passed unanimously (5-0-2; Gabriel and Shimanski absent).