

Case 22-054-CU  
Case 23-002-TA  
Case 23-003-TA

827 Elmhurst Road  
Citywide  
Citywide

Conditional Use  
Text Amendment  
Text Amendment



**DES PLAINES PLANNING AND ZONING BOARD MEETING**  
**January 10, 2023**  
**DRAFT MINUTES**

The Des Plaines Planning and Zoning Board held its regularly scheduled meeting on Tuesday, January 10, 2023, at 7:00 p.m. in Room 102 of the Des Plaines Civic Center.

Vice Chair Saletnik called the meeting to order at 7:00 p.m. and roll call was established.

PRESENT: Catalano, Fowler, Saletnik, Veremis, Weaver

ABSENT: Szabo, Hofherr

ALSO PRESENT: John Carlisle, AICP, Director of Community & Economic Development  
Samantha Redman, Associate Planner  
Margie Mosele, CED Executive Assistant

A quorum was present.

**Call to Order and Roll Call**

**Approval of Minutes:** December 13 ,2022

**APPROVAL OF MINUTES**

**A motion was made by Board Member Fowler, seconded by Board Member Veremis to approve the meeting minutes of December 13, 2022.**

AYES: Fowler, Veremis, Catalano, Weaver

NAYES: None

ABSTAIN: Saletnik

**\*\*\*MOTION CARRIES UNANIMOUSLY \*\***

**PUBLIC COMMENT ON NON-AGENDA ITEM**

There was no public comment.

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## **Applications**

**1. Address:** 827 Elmhurst Road

**Case Number:** 22-054-CU

The petitioner is requesting a conditional use permit to operate an auto service repair use in the C-3 zoning district and any other variations, waivers, and zoning relief as may be necessary.

**Petitioner:** GW Properties (Representative: Mitch Goltz, 2211 N. Elston Avenue, Suite 400, Chicago, IL 60614)

**Owner:** RDK Ventures, LLC c/o Mac's Convenience Stores, LLC, P.O. Box 347, 4080 W. Jonathan Moore Pike, Columbus, IN 47201

**Case Number:** 22-054-CU

**PIN:** 08-24-100-031-0000

**Ward:** #8, Alderman Shamoon Ebrahimi

**Existing Zoning:** C-3 General Commercial District

**Existing Land Use:** Vacant Lot (previous auto fuel station)

**Surrounding Zoning:** North: C-3 General Commercial District  
South: C-3 General Commercial District  
East: C-3 General Commercial District  
West: C-3 General Commercial District

**Surrounding Land Use:** North: Grocery Store (Commercial)  
South: Bank (Commercial)  
East: Grocery Store (Commercial) / Shopping Center (Commercial)  
West: Shopping Center (Commercial)

**Street Classification:** Elmhurst Road is classified as another principal arterial road.

**Comprehensive Plan:** The Comprehensive Plan illustrates the site as commercial.

**Zoning/Property History:** Based on City records, the subject property was used as an auto filling station until 2019. Since then, the fuel station has been demolished and the property has been vacant.

**Project Description:** The petitioner has requested a Conditional Use Permit to allow the construction of a new automotive service repair use, Strickland Oil, at 827 Elmhurst Road. The subject 20,099-square-foot (0.46-acre) vacant property is in the C-3 General Commercial district. An oil change business falls underneath an auto service

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repair use, which requires a conditional use permit in the C-3 district.

The petitioner proposes to redevelop the subject property by building a new 1,700-square-foot, single-story building with surface parking area, dumpster enclosure, and freestanding monument sign. The proposed building consists of three service bays, lobby area, unisex restroom, and office/waste oil storage area. The subject property fronts Elmhurst Road but is accessed via a single access point through the Jewel-Osco parking lot at 811 Elmhurst Road. The proposal does not include any changes to the existing access point or the addition of new access points. The proposal includes the addition of both three-foot-wide foundation landscape areas around the north and south elevations of the building, and five-foot-wide parking lot landscaping areas around the perimeter of the parking area as required in Sections 12-10-8 and 12-10-10 of the Zoning Ordinance. New exterior lighting is also proposed for the new development as shown on the Photometric Plan. Section 12-12-10 restricts the amount of excess light that can bleed into surrounding properties based on the zoning of the properties surrounding the subject property. Since the subject property is surrounded by C-3-zoned properties, a maximum of 2.0 foot-candles is allowed. The attached Photometric Plan indicates that the maximum footcandles encroaching into surrounding properties will not exceed 1.2 in conformance with the applicable regulations.

Auto repair facilities are required to provide two parking spaces per service bay, plus one space for every 200 square feet of accessory retail. As a result, a total of seven off-street parking spaces, including a minimum of one mobility impaired accessible parking space, are required. The Site Plan illustrates a total of 14 parking spaces, including one mobility-impaired accessible space, which meets this standard. All proposed parking spaces, including the accessible space, are proposed to be nine-foot-wide by 18-foot-long in conformance with Section 12-9-6 of the Zoning Ordinance.

Strickland Oil proposes to operate from 8 a.m. to 7 p.m. Monday through Friday, 8 a.m. to 5 p.m. on Saturdays, and 10 a.m. to 5 p.m. on Sundays. Their services include stay-in-your-car oil changes, state inspections, tire rotations, air filter replacement, wiper blade replacement, and coolant and washer fluid refills. During normal operations, a total of 3-4 employees will be on site at a given time. Please see the attached Project Narrative for more information.

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**Conditional Use Findings:**

Conditional Use requests are subject to the standards set forth in Section 12-3-4.E of the Zoning Ordinance. Rationale for how the proposed amendments would satisfy the standards is provided below and in the petitioner’s response to standards. The PZB may use this rationale toward its recommendation, or the Board may adopt its own.

**1. The proposed Conditional Use is in fact a Conditional Use established within the specific Zoning district involved:**

*Comment:* Auto service repair is a Conditional Use, as specified in Section 12-7-3.K. of the Zoning Ordinance for properties in the C-3 General Commercial District.

PZB Additions or Modifications (if necessary): \_\_\_\_\_

**2. The proposed Conditional Use is in accordance with the objectives of the City’s Comprehensive Plan:**

*Comment:* The Comprehensive Plan illustrates this property as commercial. The Comprehensive Plan strives to foster growth and redevelopment of existing commercial corridors to retain new businesses in Des Plaines. The addition of a new commercial development meets this intent while also repurposing a vacant lot along a major commercial corridor in Des Plaines.

PZB Additions or Modifications (if necessary): \_\_\_\_\_

**3. The proposed Conditional Use is designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity:**

*Comment:* The petitioner proposes to repurpose the property with a new commercial development designed to be consistent with and complementary to the surrounding commercial uses in the area. The proposed improvements, including landscaping, will transform the vacant property into a new use that will benefit the site from both a functional and aesthetic standpoint.

PZB Additions or Modifications (if necessary): \_\_\_\_\_

**4. The proposed Conditional Use is not hazardous or disturbing to existing neighboring uses:**

*Comment:* The proposed automotive repair use will not be hazardous or distributing to neighboring uses because all operations will be conducted within this building. The proposed landscape screening and exterior lighting is designed to minimize the impact on surrounding properties. In addition, the new business will provide new services to Des Plaines’ residents.

PZB Additions or Modifications (if necessary): \_\_\_\_\_

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**5. The proposed Conditional Use is to be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or, agencies responsible for establishing the Conditional Use shall provide adequately any such services:**

*Comment:* The subject property was adequately served by essential public facilities and services when the previous auto filling station was in operation. The proposed auto service repair use will also be adequately served by public facilities and services as the existing access point from Elmhurst Road via the Jewel-Osco parking lot will remain unchanged.

PZB Additions or Modifications (if necessary): \_\_\_\_\_

**6. The proposed Conditional Use does not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic well-being of the entire community:**

*Comment:* The proposed auto service repair facility will not create a burden on public facilities or be a detriment to the economic well-being of the community. When compared to the previous auto filling station, there is no anticipated increase in demand for public facilities as a result of the Conditional Use Permit for a new auto service repair use.

PZB Additions or Modifications (if necessary): \_\_\_\_\_

**7. The proposed Conditional Use does not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke fumes, glare or odors:**

*Comment:* The proposed auto service repair use is not anticipated to create additional traffic as compared to the previous auto filling station. None of the proposed activities occurring on site that will be detrimental to the public. Staff has notified the petitioner of the required mechanical systems that will need to be installed to reduce the production of traffic, noise, smoke fumes, glare, and odors generating from this use.

PZB Additions or Modifications (if necessary): \_\_\_\_\_

**8. The proposed Conditional Use provides vehicular access to the property designed so that it does not create an interference with traffic on surrounding public thoroughfares:**

*Comment:* The proposed auto service repair use will not create an interference with traffic on surrounding public thoroughfares. There will be no changes to the existing access point onto the property through the Jewel-Osco parking lot from Elmhurst Road that was utilized by the previous auto filling station.

PZB Additions or Modifications (if necessary): \_\_\_\_\_

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**9. The proposed Conditional Use does not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance:**

*Comment:* The proposed auto service repair use would not cause the destruction, loss, or damage of any natural, scenic or historic features since the site was already developed for the use of an auto filling station. The petitioner will redevelop the site with a freestanding building and add landscaping and screening to improve the aesthetics of the property.

PZB Additions or Modifications (if necessary):

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**10. The proposed Conditional Use complies with all additional regulations in the Zoning Ordinance specific to the Conditional Use requested:**

*Comment:* The proposed auto service repair use meets all other requirements of the Zoning Ordinance for the C-3 General Commercial District. No variations or additional actions are requested beyond the Conditional Use Permit.

PZB Additions or Modifications (if necessary):

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**PZB Procedure and Recommended Conditions:** Under Section 12-3-4.D (Procedure for Review and Decision for Conditional Uses) of the Zoning Ordinance, the PZB has the authority to *recommend* that the City Council approve, approve subject to conditions, or deny the above-mentioned conditional use for an auto service repair use at 827 Elmhurst Road. City Council has final authority on the proposal.

Consideration of the request should be based on a review of the information presented by the applicant and the findings made above, as specified in Section 12-3-4.E (Standards for Conditional Uses) of the Zoning Ordinance. If the PZB recommends and City Council ultimately approves the request, staff recommends the following conditions.

**Conditions of Approval:**

1. Vehicles related to the business cannot be stored or parked overnight on the surrounding streets.
2. No damaged or inoperable vehicles shall be parked or stored outside at any time.
3. A cross-access agreement between the ownership of the subject property and the property at 811 Elmhurst (Jewel-Osco) will be provided at the time of building permit approval and maintained throughout the operation of the conditional use.
4. That all submitted permit documents shall be sealed and signed by a design professional licensed in the State of Illinois and must comply with all City of Des Plaines building codes.

**Attachments:**

Attachment 1: Location and Zoning Map

Attachment 2: Site and Context Photos

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- Attachment 3: ALTA/ACSM Land Title Survey
- Attachment 4: Petitioner's Standards for a Conditional Use
- Attachment 5: Petitioner's Project Narrative
- Attachment 6: Site Plan
- Attachment 7: Elevations
- Attachment 8: Floor Plan
- Attachment 9: Photometric Plan
- Attachment 10: Landscape Plan
- Attachment 11: Public Comment Received January 5, 2023

Vice Chair Saletnik swore in Mitch Goltz -representative for GW Properties. Mr. Goltz explained the summary of requests which include a Conditional Use Permit to allow the construction of a new automotive service repair use, Strickland Oil, at 827 Elmhurst Road. The subject 20,099-square-foot (0.46-acre) is vacant property is in the C-3 General Commercial district. The site was previously environmentally remediated, with all underground storage tanks removed. All tanks will be above grade. All lighting will meet environmental performance standards in the zoning ordinance (no light will spill over the property line).

The applicant explained that this would be the first location in the Chicagoland area for Strickland Oil Company. The business performs sub-ground oil changes, allowing customers to remain in the vehicle during the oil change. The applicant went over the floor plan, landscape plan and elevation plan. The applicant provided photos during day and evening hours and the interior of another business location.

Vice Chair Saletnik asked if any tire repair is involved and what the duration of time each customer would be at the facility.

Mr. Goltz stated that they will only be providing oil changes and tire rotations. They will not be providing any other auto repairs. He stated that the average time is 10 minutes per vehicle.

Member Catalano asked if any auto services would require tow trucks or vehicles staying overnight.

Mr. Goltz stated that they will not have tow trucks or overnight vehicles.

Member Weaver asked if a tire is defective, will there be the option to purchase tires at this business.

Mr. Goltz stated no tires will be sold or stored on site, customers would need to go to a different business for tires.

John Carlisle, CED Director, reviewed the staff report. Mr. Carlisle explained the application for 827 Elmhurst Road. The property is an out lot of the Aldi, located in the C-3 district on a half-acre. All services for the business would be rendered inside the building. There are stacking spaces for three vehicles. There is also off-street parking on site. There are 14 spaces onsite. Mr. Carlisle when over the floor plans and building design.

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Four conditions of approval were proposed.  
Member Weaver asked who would own the land?

Mr. Goltz stated that GW properties own the land and Strickland Oil Company would be the tenant.

Vice Chair Saletnik acknowledged some letters that were received in objection to the application. The letters referred to an auto repair facility that is a few blocks down the road and is in disrepair. Mr. Saletnik stated that they are not the same type of facility and does not see any justification in the objections.

**A motion was made by Board Member Weaver, seconded by Board Member Catalano to allow a Conditional Use Permit to allow the construction of a new automotive service repair use, Strickland Oil, at 827 Elmhurst Road. The subject 20,099-square-foot (0.46-acre) vacant property is in the C-3 General Commercial district. An oil change business falls underneath an auto service repair use, which requires a conditional use permit in the C-3 district. With the following Conditions of Approval: 1. Vehicles related to the business cannot be stored or parked overnight on the surrounding streets. 2. No damaged or inoperable vehicles shall be parked or stored outside at any time. 3. A cross-access agreement between the ownership of the subject property and the property at 811 Elmhurst (Jewel-Osco) will be provided at the time of building permit approval and maintained throughout the operation of the conditional use. 4. That all submitted permit documents shall be sealed and signed by a design professional licensed in the State of Illinois and must comply with all City of Des Plaines building codes.**

AYES: Weaver, Catalano, Fowler, Veremis, Saletnik  
NAYES: None  
ABSTAIN: None

**\*\*\*MOTION CARRIES UNANIMOUSLY \*\***



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**2. Address:** 1300 Miner Street

**Case Number:** 23-001-CU

The petitioner is requesting an amendment to a previously approved conditional use permit for auto body repair to allow an expansion of an existing establishment into a second tenant space at 1300 Miner Street, and the approval of any other such variations, waivers, and zoning relief as may be necessary.

**PIN:** 09-17-408-011-0000

**Petitioner:** Melbin Ordonez, 8417 Austin Avenue, Morton Grove, IL 60053

**Owner:** GXK Properties, 1300 Miner Street, Des Plaines, IL 60016

Case Number 23-001-CU which is located at 1300 Miner has requested to be continued until the January 24, 2023 Planning and Zoning Board Meeting.

Vice Chair Saletnik stated that even though the case is continued that he will open floor for any audience members that are here for the case.

Vice Chair Saletnik swore in Chris Whyte who operates an auto body repair business (C&H Auto Repair), another tenant at 1300 Miner Street. Mr. Whyte stated that there have been issues with parking and organization of vehicles on this property. Mr. Whyte had several questions about handicap parking spaces and whether there are enough for the property. Mr. Whyte stated that sometimes his customers are not able to get into his business because of the ongoing parking issues. Mr. Whyte stated that he has been at the property for 11 years and he started having parking issues a year and a half ago. Mr. Whyte stated that he plans to be back for the January 24, 2023, meeting.

Vice Chair Saletnik swore in John Pallaohusky who is an owner of a 1325 Perry Street residential property across from 1300 Miner. Mr. Pallaohusky said he appeared in January 2020 when the first zoning came up for this property. He raised some issues during the time. He said that parking has been an issue. There are about 20 vehicles and an Amazon truck at the property. A restaurant nearby was closed and it was overrun with vehicles. The property owners said in 2020 that parking will not be an issue with this conditional use. The property owner said that employees would be parking inside the facility and they would have a ventilation system to deal with the fumes. Mr. Pallaohusky stated that the aesthetics of the property are not what they said they would be. He stated they have vehicles parked on the street and block traffic to the residents which makes it really hard for the elderly residents in the area. The alleyway gets blocked between 1300 Miner and the residential building to the north. He also stated that there are fumes coming from the property that you can smell over the summer and there is only a small landscape box. He stated that he plans to come to the January 24<sup>th</sup> meeting.

Vice Chair Saletnik stated that staff should look whether any conditions of the conditional use that are being violated and requested staff complete an inspection and bring it to the next hearing.

Vice Chair Saletnik swore in Nicholas Darrus who owns a restaurant at 1290 Northwest Highway. He stated that there is too much traffic in the area and not enough space for the body

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shop. He stated that the applicant need many more parking spaces. Mr. Darrus stated that he was letting the applicant use his parking lot when while his restaurant was closed until the City told them they could not do this.

Member Veremis stated that it seems like there is no space at this property and the vehicles are jammed in. She believes that they have overgrown this location.

**A motion was made by Board Member Catalano seconded by Board Member Veremis to continue Address 1300 Miner -Case Number 23-001-CU to the January 24, 2023 PZB Meeting.**

AYES: Catalano, Veremis, Fowler, Weaver, Saletnik  
NAYES: None  
ABSTAIN: None

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### **3. Address: Citywide**

**Case Number: 23-002-TA**

The petitioner is requesting text amendments to the Zoning Ordinance related to definitions and regulations for fencing, screening, trellises, and other similar yard features; permitting requirements for obstructions in required yards; and any other amendments or relief as may be necessary

**PIN:** Citywide

**Petitioner:** City of Des Plaines, 1420 Miner Street, Des Plaines, IL 60016

**Project Summary:** The City of Des Plaines is applying for zoning text amendments to related to definitions and regulations for fencing, screening, trellises, and other similar yard features; permitting requirements for obstructions in required yards; and any other amendments or relief as may be necessary.

#### **Consider the following Zoning Ordinance amendments:**

(i) add the terms “Fence”, “Trellis” and “Arbor” and revise the term “Yard Features” in Section 12-13-3; (ii) amend yard feature regulations in Section 12-7-1.C to create separate regulations for trellis, arbor and yard features; (iii) add Section 12-8-14: Arbors and Trellises to create regulations for arbors and trellises.

#### **Background**

In 2022 City staff encountered multiple instances where property owners erected structures attached or close to fences that were challenging to define and extended above the allowable fence height. Ambiguity ensued on how to define the structures by the fence: Are they part of the fence? Separate? How tall are they allowed to be? Can they be solid or do they need to be partially open? Complicating the decision is the fact there is no term definition for fence in the Zoning Ordinance.

In lieu of clear, specific definitions for fences, trellises and similar structures, staff relied on the normal dictionary definition, as instructed by Section 12-13-1.A. Section 12-7-1.C allows trellises to be a maximum of eight feet tall and one foot from the property line. However, staff seeks to resolve issues with the fence, arbor, trellis, and yard feature regulations to ensure the intent of the requirements are met and structures that have been recently confused are henceforth accurately defined.

Fences are currently regulated in height, opacity, and location for both residential and nonresidential properties. Broad dictionary definitions for terms like “fences” are often too general to be applied to the variety

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of scenarios planners and zoning administrators face. For example, Merriam Webster dictionary defines fence as, “a barrier intended to prevent escape or intrusion or to mark a boundary.” However, fences can have a variety of purposes within a city, including delineating boundaries, creating enclosures on property for people, animals and equipment, and providing screening to support an aesthetically pleasing environment for residents and businesses.

Nonetheless, the fence regulations have remained relatively consistent since adopted in the original 1998 Zoning Ordinance, even without an expressed definition. Amendments over the years have included permitting eight-foot-tall fences on properties abutting railroad rights of way and adding regulations for dog runs. The most substantial amendments occurred in 2019 and included placing restrictions on abutting fences, as well as adding the “corner side” yard definition and attendant rules.

Section 12-8-2 regulates height, setbacks, location, and appearance of fencing. Staff most commonly receive questions about the height and opacity of fencing for properties from residents seeking to alter an existing fence or erect a new fence. Generally side and rear yards are permitted to have a six-foot-tall fence, if located outside of the 10-foot sight triangle of an alley, driveway, or street. Fencing in the front yards can be a maximum of four-foot-tall and cannot be less than 50 percent open. For corner lots, the corner side yard (along the longest side fronting a street) cannot be taller than four feet and can be open or solid. The intent of the shorter fencing in areas visible from the street is to create a more cohesive, inviting neighborhood, allowing for the display of landscaping and preventing the appearance of a walled community.

### **Examples from Other Municipalities**

Examples from other municipalities were used to shape the suggested amendments. Fence, trellis, and arbor definitions from twenty-two (22) municipalities of the Northwest Municipal Conference (NWMC) were collected and compared (refer to attached Fence Definitions of Other Communities). In particular, definitions from Barrington, Lincolnwood, Mount Prospect, Niles, and Northfield were used to shape the definitions. The majority of other zoning ordinances include a definition of fence and regulate the location, height, and/or materials (18 out of 22). Several communities (eight out of 22) also define trellises and arbors and/or regulate the location, height, and materials.

### **Proposed Amendments**

The full proposed amendments are attached and are summarized below:

- **Section 12-13-3, Definition of Terms**
  - Added or revised definitions for:

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- Fence
- Trellis
- Arbor
- Yard Feature

• **Section 12-7-1.C – Permitted Obstructions in Required Yards**

- Arbors and trellises added to table with applicable setbacks from lot lines and other structures:
  - Arbors permitted at lot line of front and corner side yards and one foot away from the lot line at side and rear lot lines.
  - Trellises permitted in front and corner side yards if they do not exceed 4 feet in height and do not encroach more than 5 feet into the front and corner side yards; may be six feet tall for side and rear yards if located at least one foot from rear and side lot lines.
  - Footnote 3 removed regarding when a permit is required for recreational equipment and yard features. A separate amendment to the Local Amendments to the adopted Building Code (Section 10-1-2 of City Code) will be submitted to clarify work exempt from permit; the Zoning Ordinance is not the correct location to regulate what construction requires a permit.

• **Section 12-8-14 – Arbor and Trellis Regulations**

- New section added to regulate arbors and trellises on zoning lots generally, not just in required yards. This section includes restrictions on:
  - Size
  - Material
  - Quantity
  - Setbacks

**Standards for Text Amendments:**

The following is a discussion of standards for zoning amendments from Section 12-3-7.E of the Zoning Ordinance. Rationale for how the proposed amendments would satisfy the standards is provided. The PZB may use the statements below as its rationale or adopt its own.

**1. Whether the proposed amendments are consistent with the goals, objectives, and policies of the comprehensive plan, as adopted and amended from time to time by the City Council;**

The Comprehensive Plan calls for the preservation and enhancement of residential and non-residential properties. The proposed amendments serve to clarify fencing and yard feature regulations, encouraging cohesive, aesthetically pleasing and welcoming neighborhoods and corridors.

PZB Modifications (if any): \_\_\_\_\_

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**2. Whether the proposed amendments are compatible with current conditions and the overall character of existing development.**

The amendments clarify fence and other yard feature regulations to ensure the intent of the existing fence rules are met, provide clearer direction on the height, materials, and location of yard features. The proposed definitions match current trends in the size and materials of trellises and arbors per staff's research with several hardware and landscaping stores. The additions to the encroachment table in Section 12-7-1.C and adding Section 12-8-14 regarding arbors and trellises support the fence regulations in Section 12-8-2 by removing ambiguity about the ability to use other yard features to serve as an extension of a fence. Overall, the proposed amendments provide clarity to other sections of the Zoning Ordinance, which are the agreed upon regulations used to control the character and development patterns of properties in the city.

PZB Modifications (if any): \_\_\_\_\_

**3. Whether the proposed amendments are appropriate considering the adequacy of public facilities and services available;**

The proposed amendments will not have an impact on public facilities or services. The amendments refine existing regulations for fences and yard features and will not result in development necessitating additional services.

PZB Modifications (if any): \_\_\_\_\_

**4. Whether the proposed amendments will have an adverse effect on the value of properties throughout the jurisdiction; and**

The proposed amendments remove ambiguity regarding the location, height, and materials of fence and other yard features, creating certainty about appearance and scale of yard features and providing a cohesive appearance for residents, business owners and visitors. Regulating the allowable materials serves to ensure fences, arbors and trellises would be constructed of high quality, durable components, and the additions to Section 12-7-1.C and new Section 12-8-14 provide assurance that the scale of any yard features will not create a nuisance to neighborhoods, allowing for sufficient natural light and encouraging an inviting and aesthetically pleasing appearance of properties.

PZB Modifications (if any): \_\_\_\_\_

**5. Whether the proposed amendments reflect responsible standards for development and growth.**

The proposed amendments provide clarity and reduce ambiguity regarding allowable height, materials and location of fence and yard features of properties, supporting the intent of the existing Zoning Ordinance to create responsible and harmonious development and growth within the city. There is no anticipated negative effect on development or growth with the proposed amendments.

PZB Modifications (if any): \_\_\_\_\_

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### **PZB Procedure and Recommended Conditions:**

Under Section 12-3-7 of the Zoning Ordinance, the PZB has the authority to recommend that the City Council approve, approve with modifications, or deny the above-mentioned amendments. City Council has final authority on the proposal.

### **Attachments:**

Attachment 1: Proposed Amendments

Attachment 2: Summary of Fence Definitions from Other Municipalities

Samantha Redman, Associate Planner went over the staff report which includes the information and explanation of the Text Amendment related to Fences, Trellis, Arbors and Yard Features. Ms. Redman explained that the reason for this text amendment is that recently our city staff have encountered some ambiguous situations where other yard features- especially trellises = have been used as an extension of a fence. Ms. Redman went over the PowerPoint presentation which discussing definitions and regulations. Ms. Redman went over a diagram which showed the height regulations for fences. Ms. Redman showed pictures of situations that are similar to the ones we are working with in Des Plaines. The Zoning Ordinance currently does not have a fence or trellis definition. We have been using the standard dictionary definition, but it is not specific enough to deal with the zoning scenarios that we encounter.

Ms. Redman did a comparison using surrounding municipalities. Most of the municipalities has a fence definition and others also have trellis and arbor definitions. Ms. Redman went over another table that showed our Trellis and Arbor regulations in the permitted obstruction table. Staff believes that Trellis and Arbors are distinct structures from fences and other yard features. The proposed amendments remove ambiguity regarding the location, height, and materials of fence and other yard features, creating certainty about appearance and scale of yard features and providing a cohesive appearance for residents, business owners and visitors.

For the text amendments, staff would like to add definitions for arbors, trellises, fences and amending the yard feature definition. Staff also proposed amendments to the location of arbors and trellises in the permitted obstruction table and Section 12-8-14: Arbors and Trellises to the chapter on accessory structures and uses. Ms. Redman stated that the City is looking to do separate amendments that will be going through the building code to discuss what permits are required for yard features instead of having it in the zoning ordinance which is not the correct place for it. Ms. Redman showed a diagram for the proposed amendments.

Member Weaver asked about the reasoning for the amendments. Are the concerns about blocking light, blocking view or police surveillance of the property? What are the things we are trying to avoid with the fence?

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Ms. Redman stated that there is a combination of those issues . We have neighbors who would like to have more light for their yards for plants or more privacy. Within planning, we are interested in preventing a walled off city, which is why we have more transparent fences and shorter fences in the front to have a more community feeling.

Member Fowler stated that trellis that are required to be a foot away from the fence does not make any sense to her as a gardener, it is not practical. She agrees that trellis should not increase the height by attaching to a fence. It is structurally challenging to have a freestanding trellis.

Member Saletnik stated that he sees a number of problems. He stated he thinks we run the risk on inhibiting architectural design and gardening. He stated that it seems like we need to go after the people that are abusing the fence regulation. He also asked what the tipping point would be between when an arbor becomes an architectural element. How would these changes affect what an architect would do, for example a narrow lot with a garage in the back and an arbor? Also, having a trellis over 6 feet would make sense on a mature lot. Your focus is on abusing the fence regulations.

Member Fowler brought up safety concerns with pets or people hiding behind a trellis a foot away from a structure. Member Fowler asked about what the inspiration was behind the 1 foot rule. Ms. Redman stated the rule was intended to prevent issues with circumventing fence rules in the future.

John Carlisle, CED Director explains that currently in the ordinance, recreational equipment and yard features does not require a permit unless it needs a foundation or electrical. We would like to keep the policy but believe its in the wrong place.

Mr. Carlisle stated that an arbor or trellis is a free-standing structure will be part of the ordinance. If it's a free-standing structure, we will call it a trellis or arbor, not an architectural element. For trellises there is a discussion of the height of 8 instead of 6. Currently, the maximum height is 8 feet. You can propose it at 8', but many of the rest of the regulations are built around height being a maximum of 6 feet. Discussions are also needed for number of units and linear feet if we do continue to allow the height to be 8 feet.

Vice Chair Saletnik states that trellises should be measured from the ground, in order to support climbing plants and vines. Trellises above fences should not be considered trellises.

Mr. Carlisle stated that the board has some options. First, if there is a lot that is needed to be changed in the text amendment you can ask the staff to bring this back to another meeting with changes. Second, the board has the option to make specific changes if you know the language that you would like to see changed which would be recommending approval with modifications.

Vice Chair Saletnik suggested that the text amendment makes a distinction between how its related to the abuse of the fence regulations versus normal interior gardening.



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Mr. Carlisle asked the board if we could isolate the definitions for fence, trellis and arbors. Because as staff we do not have clear definitions and terms. If we have the definitions, we know what the intent of the structures are and can draw a distinction then we can have a flat regulation.

Member Fowler stated she would like to not have the 1-foot setback rule, a trellis should be allowed to be next to a fence to be more stable. Vice Chair Saletnik discusses issues with height that could infringe on the rights of a gardener or an architect if the plants expand above the allowable height.

Vice Chair Saletnik stated he likes the definitions but does not like limiting the height, location, and distance. He stated that a trellis should not be used to extend the height of a fence or to be used for additional screening which exceeds the fence height regulations. He stated that he foresees many issues with existing trellises and arbors not conforming with the existing regulations. Mr. Carlisle clarified that existing structures could persist under the “Non-Conforming Structure” section of the Zoning Ordinance.

Member Catalano discussed whether trellises should be able to be located on a house. Vice Chair Saletnik agreed that within the buildable area, it would be appropriate to allow taller trellises and they should be able to be attached to the house. He stated concerns about infringing on the rights of property owners and requests staff make better distinctions between abuse of fence regulations compared to trellises. He supports the arbor regulations, but not the trellis definitions.

Member Weaver stated that he wants to make sure we are not overregulating and create so many rules that we are digging the City into a hole. He also asked staff about the comparison with the other municipalities. He stated that it seems like they are all over the place and not very uniform.

Mr. Carlisle stated that it sounds like the fence and arbor definitions are pretty good. The proposed trellis definition needs to be tweaked to allow it to be freestanding or not. Two ways we are regulating - in required yards with Section 12-7-1 C and more generally with the regulations in Section 12-8-14.

Vice Chair Saletnik believes we need a linear amount in the definition to make sure the trellis does not become a fence. Members Saletnik and Fowler agree that they are not supportive of regulations to location and height for trellises. Trellises are not necessarily free-standing; free-standing works for arbors but not trellises.

Member Weaver asked staff for their assessment of the other municipalities and their regulations because it seems like the definitions are relatively consistent, but other requirements are all over the place and the municipalities are not in line with one another.

Ms. Redman stated that it does not seem like there is a consensus with all the municipalities on fence heights.

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Mr. Carlisle stated that we are encountering more people looking to put up taller screening to block view.

Mr. Carlisle suggested that staff brings this back with adjustments to definitions and adjustments to Section 12-7-1 and Section 12-8-14 to loosen the proposed regulations on trellises and other edits, and return on the February 28, 2023 meeting.

**A motion was made by Board Member Catalano, seconded by Board Member Fowler to continue Case 23-002-TA to February 28, 2023.**

AYES: Catalano, Fowler, Veremis, Weaver, Saletnik  
NAYES: None  
ABSTAIN: None

**\*\*\*MOTION CARRIES UNANIMOUSLY \*\***

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**4. Address:** Citywide

**Case Number:** 23-003-TA

The petitioner is requesting text amendments to the Zoning Ordinance related to the procedure for variation requests and any other amendments or relief as may be necessary.

**PIN:** Citywide

**Petitioner:** City of Des Plaines, 1420 Miner Street, Des Plaines, IL 60016

**Case Number:** #23-003-TA

**Project Summary:** The City of Des Plaines is applying for zoning text amendments to the Zoning Ordinance related to the procedure for variation requests and any other amendments or relief as may be necessary

### **Background and Purpose**

Section 12-3-6 of the Zoning Ordinance establishes three types of variations and the procedures for each: Minor, Standard, and Major. Currently Minor Variations must be decided by the Zoning Administrator with the following outcomes: approved, approved with modifications/conditions, or denied. These variations include the following instances (paraphrased from the Ordinance):

- Vary any required front, side, or rear yard setback by no more than thirty percent (30%);
- Vary the height, type, and location of any fence (but no barbed wire may be allowed within a residential district);
- Allow replacement or expansion of an existing residential detached garage located in a residential district, or the expansion of an existing structure located within a residential district, when the replacement or expansion would not further encroach into the required side yard.
- Vary the location of accessory structures for lots that are "double frontage lots" or lots that are both "corner" and "double frontage lots" (lots at the end of a block with three street frontages), where the construction or installation of an accessory structure is between the principal structure and the street of secondary frontage (generally bordering busy or industrial streets);
- Vary the size, location, and number of parking or driveway areas as established in the driveway rules (Sections 12-9-6.B.3 and C. of the Ordinance) when a property improved with a residential single-family detached dwelling cannot accommodate two parking spaces within a garage, carport, on a surface driveway or a combination (but cannot use this if the result is more than two parking spaces on the property);
- Vary the Building Design Review Standards.
- Vary the open storage requirements in the M-2 District; and

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- Vary the minimum distance from a lot line for a driveway in a required yard in the R-1 and R-2 Districts or in any other district where the property has a single-family detached dwelling.

The ability to provide relief administratively, without a full public hearing and approval of either a board or council, is common among municipal zoning ordinances. This approval avenue is seen to allow small relief from the code when there is essentially no wide-reaching effect on a property’s surrounding neighborhood or the city overall. In 2021 the City Council approved Ordinance Z-42-21, which eliminated the fee for Minor Variations. As part of the basis for this, the Council recognized the most common source of requests are owners or residents of single-family detached residences. Occasionally there are requests from townhome residents/owners, and less frequently, there are non-residential requests from, for example, an industrial property or a public utility. By far the most common type of request is related to fences or screening; requesters want a fence that is either taller or opaquer than allowed, in a non-permitted location, or a combination of these. Research of recent minor variation cases shows that the vast majority have been approved or approved with conditions.

<b>Year</b>	<b>Approvals or Approvals with Conditions</b>	<b>Denials</b>	<b>Total Requests</b>
2022	12	1	13
2021	8	1	9
2020	6	1	7

Nonetheless, there are occasional denials. Any approval requires the Zoning Administrator to consider the eight Findings of Fact pursuant to Section 12-3-6. Examples of these findings include determining there is a practical hardship preventing compliance, a physical uniqueness related to existing lots or structures, and a demonstration that all other reasonable remedies for complying with the Ordinance have been exhausted. If the Zoning Administrator’s opinion is that these findings cannot be made because the petition has not presented sufficient evidence, a denial is the administrator’s appropriate action.

While there is an existing appeal-of-denials option (heard and decided by the PZB) for petitioners under the Ordinance (Section 12-3-9), a more time-efficient process in certain circumstances would be to allow the Zoning Administrator to treat a Minor Variation like it is a non-administrative application; in other words, one that will go to the PZB for a public hearing and recommendation and subsequently to the City Council for a final vote. Although these instances are generally rare, when the Zoning Administrator believes a request is sensitive or controversial enough that those duly elected should ultimately decide its outcome, there is no procedural allowance for this path. The Zoning Administrator is currently obligated to be the final decider on all Minor Variations. The proposed amendments are intended to change this.

**Proposed Amendments**

The full proposed amendments are attached and are summarized below:

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- **Section 12-3-6.E.2: Procedure for Review and Decision**
  - Added language to express that because of the nature of an application for minor variation, it should be decided by the City Council in accordance with the procedures for a major variation.
- **Section 12-2-6: Decision Making Diagram**
  - Updates to correspond with Section 12-3-6.E.2.

In the instances where a Minor Variation has been elevated to be determined by the City Council as if it were a Major Variation, notice of the public hearing to be held by the PZB (recommendation vote) will be required. What is *not* proposed to change is the lack of application fee for these Minor Variations. Regardless of whether the Zoning Administrator chooses to decide upon them or escalate them to be decided by the City Council, there will remain to be no fee.

**Standards for Text Amendments:**

The following is a discussion of standards for zoning amendments from Section 12-3-7.E of the Zoning Ordinance. Rationale for how the proposed amendments would satisfy the standards is provided. The PZB may use the statements below as its rationale or adopt its own.

**1. Whether the proposed amendments are consistent with the goals, objectives, and policies of the comprehensive plan, as adopted and amended from time to time by the City Council;**

The Comprehensive Plan does not address the avenues for variation relief, but it does generally support any changes that would lead to stronger neighborhoods and commercial areas. A decision process that could lead to better resolutions of contentious requests is part of having a strong city with strong neighborhoods.

PZB Modifications (if any): \_\_\_\_\_

**2. Whether the proposed amendments are compatible with current conditions and the overall character of existing development;**

The amendments are compatible because they allow for an additional approach to deciding contentious requests where, for example, direct neighbors have adamant disagreement about the outcome. Unfortunately, staff has observed this is somewhat regular and has become increasingly common.

PZB Modifications (if any): \_\_\_\_\_

**3. Whether the proposed amendments are appropriate considering the adequacy of public facilities and services available;**

The proposed amendments will not have an impact on public facilities or services.

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PZB Modifications (if any): \_\_\_\_\_

**4. Whether the proposed amendments will have an adverse effect on the value of properties throughout the jurisdiction; and**

The proposed amendments are a simple procedural change with no effect on property values.

PZB Modifications (if any):

**5. Whether the proposed amendments reflect responsible standards for development and growth.**

Because these changes allow for more decisions to be made through public meetings, there is increased opportunity for the public to participate. The trade-off is that some minor variations may take longer to be decided, but the Zoning Administrator intends use the new option granted by the amendments sparingly.

PZB Modifications (if any): \_\_\_\_\_

**PZB Procedure and Recommended Conditions:** Under Section 12-3-7 of the Zoning Ordinance, the PZB has the authority to *recommend* that the City Council approve, approve with modifications, or deny the above- mentioned amendments. If recommending approval with modifications, the PZB should state the modifications. City Council has final authority on the proposal.

**Attachments:**

Attachment 1: Proposed Amendments to Section 12-3-6: Variations

Attachment 2: Proposed Amendments to Section 12-2-5: Decision Making Diagram

**PROPOSED AMENDMENTS**

Additions are **bold, double-underlined**

Deletions are struck through.

**12-3-6: VARIATIONS:**

\* \* \*

**2. Procedure For Review And Decision:**

- A. Upon receipt of a properly completed application for a minor variation, the zoning administrator shall conduct a site plan review subject to the requirements of section 12-3-2, "Site Plan Review", of this chapter. The zoning administrator may also (i) hold a public hearing on the application, at the applicant's request, in accordance with the requirements of section 12-3-1, "Applications And Hearings", of this chapter **pursuant to notice** for the public hearing shall be performed in the manner **as** prescribed by subsection 12-3-1.C, "Notice", of this chapter.; or (ii) **determine that, because of the nature of the application, the**

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**application for minor variation should be decided upon by the City Council in accordance with the procedures for a major variation as set forth in Subsection G below.**

- B. Within fifteen (15) days of the close of the hearing, or completion of site plan review where no hearing was requested the zoning administrator shall, by written findings either approve, approve with modifications, or disapprove the application. The failure of the Zoning Administrator to act in such fifteen (15) days, or such further time to which the applicant may agree, shall be deemed to be a decision of disapproval.
- C. If the application is approved or approved with modifications, the Zoning Administrator shall issue a variation permit, listing any specific conditions specified by the Administrator for approval. If the application is disapproved, the Zoning Administrator shall provide the applicant with written notification of his decision.

**F. Standard Variations (Planning And Zoning Board):**

- 1. **Authorized Variations:** Variations from the regulations of this title may be granted by the Planning and Zoning Board in the following instances, and then only in accordance with the standards set out in subsection H of this section:
  - a) To vary any required front, side or rear yard setback more than thirty percent (30%) of the yard required by the applicable district regulations.
  - b) To permit the improvement of a lot for a use otherwise prohibited solely because of the insufficient lot area, but in no event shall the area of the lot be less than eighty percent (80%) of the required lot area.
  - c) To vary the applicable off-street parking or loading requirements up to but not more than thirty percent (30%) of the applicable regulations, except for multi-family buildings in R-4, Central Core Residential and C-5, Central Business Zoning Districts. All variation petitions for off street parking requirements for multi-family dwellings in R-4, Central Core Residential and C-5, Central Business Districts shall be approved by the City Council.
  - d) To vary the lot frontage requirements set forth in the residential districts up to but not more than thirty percent (30%) of the applicable district requirement.
  - e) To vary the maximum lot requirements set forth in the residential districts up to but not more than twenty percent (20%) of the applicable district requirement.
  - f) To vary the dimension of any sign (height, length, width, or area) up to but not more than ten percent (10%) of the corresponding dimensions normally permitted by chapter 11, "Signs", of this title.

**2. Procedure For Review And Decision:**

- 1. Action By Zoning Administrator: Upon receipt of a properly completed application for a standard variation, the Zoning Administrator shall conduct a site plan review subject to the requirements of section 12-3-2, "Site Plan Review", of this chapter. The Zoning Administrator shall forward his written report and recommendations to the Planning and Zoning Board for its review and decision.
- 2. Action By Planning And Zoning Board:

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- a) The Planning and Zoning Board shall hold a public hearing on the application in accordance with the requirements of section 12-3-1, "Applications And Hearings", of this chapter. Notice for the public hearing shall be performed in the manner prescribed by subsection 12-3-1C, "Notice", of this chapter.
- b) Within thirty (30) days of the close of the public hearing, the Planning and Zoning Board shall in writing either approve, approve with modifications, or disapprove of the application. The failure of the Planning and Zoning Board to act in such thirty (30) days, or such further time to which the applicant may agree, shall be deemed to be a decision of disapproval.
- c) If the application is approved or approved with modifications, the Planning and Zoning Board shall instruct the Zoning Administrator to issue a variation permit, listing any specific conditions specified by the board or by the Zoning Administrator. If the application is disapproved, the board shall instruct the Zoning Administrator to provide the applicant with written notification of the board's decision

#### **G. Major Variations (City Council):**

1. Authorized Variations: For all variations not authorized to be decided by the Zoning Administrator or the Planning and Zoning Board, **or for variations that the Zoning Administrator has determined should be decided upon by the City Council rather than the Zoning Administrator, in accordance with Section 12-3-6.E.2.a**, the City Council may vary any other provision of this title, but no such variations shall be made without a public hearing before the Planning and Zoning Board; provided, however, that both principal and accessory use variations are expressly prohibited.
2. Procedure For Review And Decision:
  - a) Action By Zoning Administrator: Upon receipt of a properly completed application for a major variance, the zoning administrator shall conduct a site plan review subject to the requirements of section 12-3-2, "Site Plan Review", of this chapter. The zoning administrator shall forward his written report and recommendations to the planning and zoning board for its review and recommendations.
  - b) Action By Planning And Zoning Board:
    - i. The planning and zoning board shall hold a public hearing on the application in accordance with the requirements of section 12-3-1, "Applications And Hearings", of this chapter. Notice for the public hearing shall be performed in the manner prescribed by subsection 12-3-1C, "Notice", of this chapter.
    - ii. Within thirty (30) days of the close of the public hearing, the planning and zoning board shall forward its recommendation of either approval, approval with modifications, or disapproval in writing to the city council.
  - c) Action By City Council:
    - i. The city council shall consider the application at its next available scheduled public meeting, and shall schedule a hearing if, in the opinion of the mayor, city manager or by written call by three (3) of



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- the aldermen, it appears necessary and shall either approve, approve with modifications, or disapprove of the application. The failure of the city council to act at such time, or such further time to which the applicant may agree, shall be deemed to be a decision of disapproval.
- ii. If the application is approved or approved with modifications, the zoning administrator shall issue a variation permit, listing any specific conditions specified by the council or the planning and zoning board. If the application is disapproved, the city council shall instruct the zoning administrator to provide the applicant with written notification of the council's decision.

#### **H. Findings Of Fact For Variations:**

A variation from the terms of this title shall not be granted unless the reviewing authority makes specific written findings of fact directly based on the standards and conditions imposed by this section and any conditions imposed by the reviewing authority, to the extent each may be applicable.

1. **Hardship:** No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.
2. **Unique Physical Condition:** The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.
3. **Not Self-Created:** The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.
4. **Denied Substantial Rights:** The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.
5. **Not Merely Special Privilege:** The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.
6. **Title And Plan Purposes:** The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and the provision from which a variation is sought were enacted or the general purpose and intent of the comprehensive plan.
7. **No Other Remedy:** There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.
8. **Minimum Required:** The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.

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John Carlisle, CED Director went over the staff report. Mr. Carlisle discussed the decision matrix from the zoning ordinance showing where zoning appeals fit in. Mr. Carlisle listed the items that the Zoning Administrator may make a decision on, pursuant to Section 12-3-6. Minor variations are things that generally do not need to be brought to the PZB board meeting. However, current rules do not allow for in sensitive and/or controversial cases to be sent to the PZB for public hearing and then City Council for final approval. For example, this could apply to neighbor disputes or gray areas of the code. Currently the zoning ordinance does allow the staff to call a public hearing for a case; however, staff believes if it rises to that level, to elevate it to the Council approval level. Zoning appeals can go to the Planning and Zoning Board, but it is adding a step. Staff are finding that there are sensitive enough cases where elected officials should have an opportunity to vote on it.

For these cases, the Zoning Administrator, believes that the elected officials, the Council, should decide a controversial case. The text amendment would build in the ability to send these cases up to City Council. The extra power that is granted to the zoning administrator is to have the discretion to decide when the case is sensitive enough to rise to that level.

Vice Chair Saletnik agrees this amendment would be useful for sensitive cases and makes sense.

**A motion was made by Board Member Weaver, seconded by Board Member Catalano to approve this amendment for recommendation to council as proposed in the staff memo.**

AYES: Weaver, Catalano, Fowler, Veremis, Saletnik  
NAYES: None  
ABSTAIN: None

**\*\*\*MOTION CARRIES UNANIMOUSLY \*\***

### **ADJOURNMENT**

The next scheduled Planning & Zoning Board meeting is Tuesday January 24, 2022.

Vice Chairman Saletnik adjourned the meeting by voice vote at 8:39 p.m.

Sincerely,  
Margie Mosele, Executive Assistant/Recording Secretary

cc: City Officials, Aldermen, Planning & Zoning Board, Petitioners