

ORDINANCE # 2000-00-09

**AMENDMENT TO SECTION 13.04 of the
KENDALL COUNTY ZONING ORDINANCE**

WHEREAS, the Kendall County regulates development under authority of its Zoning Ordinance and related ordinances; and

WHEREAS, the Kendall County Board amends these ordinances from time to time in the public's interest; and

WHEREAS, Section 13.04 of the Kendall County Zoning Ordinance currently states:

- A. PURPOSE AND CONDITIONS.
1. In order that the spirit of this ordinance may be observed and substantial justice done, the Zoning Board of Appeals shall upon application or appeal determine and vary the terms thereof, other than permitted or special use restrictions the variance of which shall not be permitted, upon making a finding of fact that, owing to special conditions, a literal enforcement of the provisions of this amended ordinance would result in unnecessary hardship.
 2. In making its determination as to whether there is unnecessary hardships, the Zoning Board of Appeals shall take into consideration the extent to which the following conditions, all favorable to the applicant or appellant, have been established by the evidence.
 - a. That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or loss of revenue, if the strict letter of the regulations were carried out.
 - b. That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification.
 - c. That the alleged difficulty or hardship has not been created by any person presently having an interest in the property.
 - d. That the granting of the variation will not materially be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 - e. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood; and
 - f. That the proposed variance complies with the spirit and intent of the restrictions imposed by this amended ordinance.
 3. The Board of Appeals may impose such conditions and restrictions upon the premises benefitted by a variation as may be necessary to prevent injurious effects therefrom upon other property in the neighborhood, and better to carry out the general intent of this amended ordinance.
- B. AUTHORIZED VARIATIONS. Variation from the regulations of this amended ordinance shall be granted by the Zoning Board of Appeals only in accordance with the standards set forth in subsection 13.04-A hereof and may be granted in the following instances only, and in no others:

1. To permit the extension of a district to include an entire lot where the boundary line of the district divides a lot of record in the effective date of this amended ordinance.
 2. To permit any yard of less dimension than required by the applicable regulations.
 3. To permit the use of a lot for a use otherwise prohibited solely because of the insufficient area of the lot.
 4. To reduce the applicable off-street parking or loading facilities required by not more than one parking space or loading berth or twenty percent of the required number, whichever is greater.
 5. To increase by not more than twenty-five percent the maximum distance that required parking spaces are permitted to be located from the use served.
 6. To permit the same off-street parking facilities to qualify as a required facility for two or more uses, provided the substantial use of such facility by each user does not take place at approximately the same hours of the same day of the week.
 7. To permit a fence height greater than required by the applicable regulations.
- C. **APPLICATION FOR VARIATION AND NOTICE OF HEARING.** An application for a variation shall be filed with the Zoning Administrator on a prescribed form who shall forward a copy of same to the Zoning Board of Appeals without delay. The application shall contain such information as the Zoning Board of Appeals may from time to time by rule provide. No more than ninety days after the filing of such application, a hearing shall be held on the application. Notice of such hearing shall be published at least once nor more than thirty or less than fifteen days before the hearing, in a newspaper of general circulation in Kendall County. The published notice may be supplemented by such additional form of notice as the County Board may by rule provide.

WHEREAS, the Illinois Compiled Statutes (55 ILCS 5/5-12009) provides for variations from adopted zoning ordinances under certain circumstances; and

WHEREAS, the Kendall County Board finds the Kendall County Zoning Ordinance should parallel the language provided by the Illinois Statutes; and

WHEREAS, all administrative procedures for amendments have been followed including a Public Hearing held before the Kendall County Zoning Board of Appeals.

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Section 13.04 of the Kendall County Zoning Ordinance to read as follows:

A. **PURPOSE AND CONDITIONS.**

1. In order that the spirit of this ordinance may be observed and substantial justice done, the Zoning Board of Appeals shall upon application or appeal determine and vary the terms thereof, other than permitted or special use restrictions the variance of which shall not be permitted, upon making a finding of fact that, owing to special conditions, a literal enforcement of the provisions of this amended ordinance would result in a particular hardship or practical difficulty.
2. In making its determination as to whether there is a particular hardship or practical difficulty, the Zoning Board of Appeals shall take into consideration the extent to which the following conditions, all favorable to the applicant or appellant, have been established by the evidence.

- a. That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out.
 - b. That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification.
 - c. That the alleged difficulty or hardship has not been created by any person presently having an interest in the property.
 - d. That the granting of the variation will not materially be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 - e. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood; and
 - f. That the proposed variance complies with the spirit and intent of the restrictions imposed by this amended ordinance.
3. The Board of Appeals may impose such conditions and restrictions upon the premises benefitted by a variation as may be necessary to prevent injurious effects therefrom upon other property in the neighborhood, and better to carry out the general intent of this amended ordinance.

B. **AUTHORIZED VARIATIONS.** Variation from the regulations of this amended ordinance shall be granted by the Zoning Board of Appeals only in accordance with the standards set forth in subsection 13.04-A hereof and may be granted in the following instances only, and in no others:


1. To permit the extension of a district to include an entire lot where the boundary line of the district divides a lot of record in the effective date of this amended ordinance.
2. To permit the change of a location, height, or bulk (such as: maximum allowable building footprint, floor area ratio, etc.) requirement, with the exception of signs which require a special use permit in accordance with Section 12.12.
3. To permit a structure in a side, rear, or front yard in which that structure is prohibited.
4. To permit the use of a lot for a use otherwise prohibited solely because of the insufficient area of the lot.
5. To reduce the applicable off-street parking or loading facilities required by not more than one parking space or loading berth or twenty percent of the required number, whichever is greater.
6. To increase by not more than twenty-five percent the maximum distance that required parking spaces are permitted to be located from the use served.
7. To permit the same off-street parking facilities to qualify as a required facility for two or more uses, provided the substantial use of such facility by each user does not take place at approximately the same hours of the same day of the week.

C. **APPLICATION FOR VARIATION AND NOTICE OF HEARING.** An application for a variation shall be filed with the Zoning Administrator on a prescribed form who shall forward a copy of same to the

Zoning Board of Appeals without delay. The application shall contain such information as the Zoning Board of Appeals may from time to time by rule provide. No more than ninety (90) days after the filing of such application, a hearing shall be held on the application. Notice of such hearing shall be published at least once nor more than thirty (30) or less than fifteen (15) days before the hearing, in a newspaper of general circulation in Kendall County. The published notice may be supplemented by such additional form of notice as the County Board may by rule provide.

IN WITNESS OF, this Amendment to the Kendall County Zoning Ordinance was approved by the Kendall County Board on March 21, 2000.

Attest:



Paul Anderson
Kendall County Clerk



John A. Church
Kendall County Board Chairman