

ORDINANCE # 2012-12-20

**AMENDMENT TO THE KENDALL COUNTY ZONING ORDINANCE
TO THE FINDINGS OF FACT**

WHEREAS, 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 interest; and

WHEREAS, all administrative procedures for amendments have been followed including a Public Hearing held before the Kendall County Zoning Board of Appeals on August 27, 2012.

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Section 13.04.A.3- "Administration- Variations", Section 13.07.F "Administration- Amendments- Findings of Fact and recommendation of the Zoning Board of Appeals" & Section 13.08.J "Administration- Special Uses and Planned Developments- Standards" of the Kendall County Zoning Ordinance as provided:

Section 13.04.A.3

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 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 substantially 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.

Section 13.07.F

FINDING OF FACT AND RECOMMENDATION OF THE ZONING BOARD OF APPEALS. Within a reasonable time after the close of the hearing on a proposed amendment, the Zoning Board of Appeals shall make written findings of fact and shall submit same together with its recommendation to the County Board of Kendall County. Where the purpose and effect of the proposed amendment is to change the Zoning classification of particular property, the Zoning Board of Appeals shall make findings based upon evidence presented to it in each specific case with respect to the following matters:

1. Existing uses of property within the general area of the property in question.
2. The Zoning classification of property within the general area of the property in question.
3. The suitability of the property in question for the uses permitted under the existing zoning classification.
4. The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was in its present zoning classification. The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. The Zoning Board of Appeals may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant. For the purpose of this paragraph the R-1 District shall be considered the highest classification and the M-2 District shall be considered the lowest classification.
5. Consistency with the purpose and objectives of the Land Resource Management Plan and other adopted County of municipal plans and policies.

Section 13.08.J

STANDARDS. No special use shall be recommended by the Hearing Officer unless said Hearing Officer shall make a written finding. The Hearing Officer shall consider the following in rendering a decision, but is not required to make an affirmative finding on all items:

1. That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
2. That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure

- that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole.
3. That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided.
 4. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Hearing Officer.
 5. That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies.

IN WITNESS OF, this Ordinance has been enacted by the Kendall County Board this 18th day of September, 2012.

Attest:



Kendall County Clerk
Debbie Gillette



Kendall County Board Chairman
John Purcell