

Effective Date: October 28, 2009

9/10/2009

93-O-09

AN ORDINANCE

**Amending Subsection 6-3-8-12 of the Zoning Ordinance,
Which Establishes the "Minimum Change Necessary"
as a Standard for Zoning Variations**

WHEREAS, on July 29, 2009, and August 12, 2009 the Plan Commission held public hearings, pursuant to proper notice, regarding case no. 09-PLND-0056 (C-4) to consider an amendment to the text of Title 6 of the Evanston City Code of 1979, as amended (the "Zoning Ordinance"), specifically to amend portions of Subsection 6-3-8-12 thereof; and

WHEREAS, the Plan Commission received testimony and made verbatim transcripts and findings pursuant to Section 6-3-4-5 of the Zoning Ordinance that the proposed amendments met the standards for text amendments, and recommended City Council approval thereof; and

WHEREAS, at its meeting of September 29, 2009, the Planning and Development Committee of the City Council considered and adopted the findings and recommendation of the Plan Commission, in case no. 09-PLND-0056 (C-4) and recommended City Council approval thereof; and

WHEREAS, at its meeting of October 12, 2009, the City Council considered and adopted the records and recommendations of the Plan Commission and the Planning and Development Committee,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

SECTION 1: That the foregoing recitals are found as fact and incorporated herein by reference.

SECTION 2: That Subsection 6-3-8-12 (A) of the Zoning Ordinance, "Minor Variations", is hereby amended to read as follows:

- (A)** Minor Variations: Minor variations may be authorized by the zoning administrator upon making written findings that the proposed variation satisfies the following standards:
1. The practical difficulty is not self-created.
 2. The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties.
 3. The requested variation is in keeping with the comprehensive general plan and the zoning ordinance.
 4. The requested variation is consistent with the preservation policies set forth in the comprehensive general plan.
 5. The requested variation requires the least deviation from the applicable regulation among the feasible options identified before the Zoning Administrator issues his/her decision regarding said variation.

SECTION 3: That Subsection 6-3-8-12 (D) of the Zoning Ordinance, "Family Necessity Variations", is hereby amended to read as follows:

- (D)** Family Necessity Variations: Family necessity variations may be authorized by the zoning board of appeals upon making written findings that the proposed variation satisfies the following standards:
1. The requested variation will not have a substantial adverse impact on the use, enjoyment, or property values of the adjoining properties.
 2. The requested variation is in keeping with the intent of the zoning ordinance.
 3. The character of the residence for which the variation is requested will as a result be as or more consistent with the character of the residences of the surrounding neighborhood.

4. The purpose of the variation is not based exclusively upon a desire to extract additional income from the property.
5. The requested variation requires the least deviation from the relevant regulation among the feasible options identified before the Zoning Administrator issues his/her recommendation to the Zoning Board of Appeals regarding said variation.

SECTION 4: That Subsection 6-3-8-12 (E) of the Zoning Ordinance,

“Major Variations”, is hereby amended to read as follows:

- (E)** Major Variations: Major variations may be authorized by the zoning board of appeals, or by the city council in the case of an application for a major variation to off-street parking, off-street loading, and height beyond fifty feet (50'), including within that measurement any height otherwise excluded because the story provides required parking, or a combined application for a major variation pertaining to off-street parking, off-street loading, height beyond fifty feet (50'), including within that measurement any height otherwise excluded because the story provides required parking, and any other variation, upon making written findings that the proposed variation satisfies the following standards:
1. The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties.
 2. The requested variation is in keeping with the intent of the zoning ordinance.
 3. The alleged hardship or practical difficulty is peculiar to the property.
 4. The property owner would suffer a particular hardship or practical difficulty as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out.
 5.
 - (a) The purpose of the variation is not based exclusively upon a desire to extract additional income from the property, or
 - (b) While the granting of the variation will result in additional income to the applicant and while the applicant for the variation may not have demonstrated that the application is not based exclusively upon a desire to extract additional income from the property, the zoning board of appeals or the city council, depending on final jurisdiction under section 6-3-8-2 of this chapter, has found that public benefits to the surrounding neighborhood and the city as a whole will be derived from approval of the variation, that include, but are not limited to, any of the standards of section 6-3-6-3 of this chapter.

- 6. The alleged difficulty or hardship has not been created by any person having an interest in the property.
- 7. The requested variation requires the least deviation from the applicable regulation among the feasible options identified before the Zoning Board of Appeals issues its decision or recommendation to the City Council regarding said variation.

SECTION 5: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6: That if any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.


SECTION 7: That this ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

Introduced: September 29, 2009

Approved:

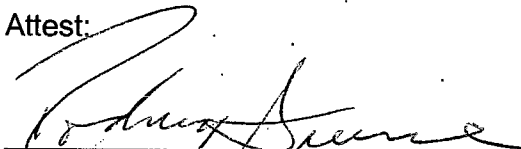
Adopted: October 12, 2009

October 14, 2009


Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:


Rodney Greene, City Clerk


Elke B. Tober-Purze, Interim
First Assistant Corporation Counsel