



VILLAGE OF GLEN ELLYN

Construction Necessitated Zoning Variation Request Packet

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VILLAGE OF GLEN ELLYN, ILLINOIS
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Glen Ellyn, Illinois 60137
(630) 547-5250

CONSTRUCTION NECESSITATED
ZONING VARIATION REQUEST PACKET

Definition: “A zoning variation requested after the issuance of a valid building permit related to the project or a variation needed for any phase of construction that is in progress or has already occurred, either with or without a valid building permit and approved plans, that violated applicable zoning code regulations.”

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VILLAGE OF GLEN ELLYN, ILLINOIS

INFORMATION SHEET FOR POTENTIAL ZONING VARIATION REQUESTS AND RELATED OPTIONS

Note: This Information Sheet should be provided to each person who has been advised by a staff member of the Village Planning & Development Department, acting in his or her official capacity, that the project proposed by such person requires the granting of one or more variations from the Glen Ellyn Zoning Code.

This Information Sheet lists options available to you now that you have been officially advised by the staff of the Planning & Development Department that your proposed project requires the granting of one or more variations from the Glen Ellyn Zoning Code (Ordinance No. 3617-Z, as amended). The options listed below are not intended to be exhaustive nor are they mutually exclusive. (For example, you could decide to proceed under options 1 and 2 below as alternatives). You may wish to contact an attorney to discuss the options listed or explore other options that may be available to you.

- OPTION 1 - You could (1) decide not to revise your proposed project to reduce or eliminate the required zoning variation(s); and (2) apply for the required zoning variation(s). If this option is chosen, you will need to apply for approval of a zoning variation.
- OPTION 2 - You could (1) revise your proposed project to reduce the number and/or size of the required zoning variation(s) or (2) reduce the degree of your variation request; and (3) apply for the required zoning variation(s) for your revised proposal. If this option is chosen, you should proceed as described under Option 1 above.
- OPTION 3 - You could revise your proposed project to eliminate the need for the required zoning variation(s).
- OPTION 4 - You could decide not to revise or proceed with your proposed project. If this option is chosen, no zoning variation will be required.
- OPTION 5 - You could appeal the Village staff's interpretation of the Zoning Code to the Glen Ellyn Zoning Board of Appeals (ZBA) per Section 10-10-9, all appeals go to ZBA. If this option is chosen, you must file, within 45 days after the decision by Village staff that your proposed project requires one or more zoning variations, a notice of appeals specifying the grounds therefore and containing the information required by Section 10-10-9 of the Zoning Code with the Director of the Village Planning & Development Department and the Zoning Board of Appeals.

Such an appeal would be governed by Section 10-10-9 of the Zoning Code and applicable State law. In general, the appeal process entails (1) a public hearing before the Zoning Board of Appeals following reasonable notice to interested parties and (2) a decision by the Zoning Board of Appeals, based on the evidence presented at the hearing, within a reasonable period of time after the conclusion of the hearing. Under the Zoning Code, the Zoning Board of Appeals has the authority to affirm or reverse, wholly or in part, or modify the decision of Village staff being appealed. Unlike the decision of the Zoning Board of Appeals on a variation application (which constitutes a recommendation to the Village Board), the decision of the Zoning Board of Appeals on such an appeal is the final Village action on the matter in question.

Regardless of the option you choose, members of the Village staff will be available to continue working with you in an effort to bring your proposed project to a conclusion.

Please note: All zoning code variation requests for single-family and two-family homes and accessory structures are reviewed by the ZBA with a recommendation to the Village Board. All other zoning code variation requests are reviewed by the Plan Commission (PC) with a recommendation to the Village Board.

VILLAGE OF GLEN ELLYN, ILLINOIS
SAMPLE SCHEDULE FOR A ZONING VARIATION

1. Application submitted and reviewed by staff
 - Consult with staff for the number of copies for Plan Commission (PC)
 - 2 copies for Zoning Board of Appeals (ZBA)
2. After the application is determined complete, it is placed on next available ZBA or PC Agenda
 - 15-30 days for public hearing notice in local newspaper
 - Usually about 6 weeks from the date of submittal to the public hearing
3. Hearing before ZBA or PC
4. Minutes/Transcripts from hearing prepared and forwarded to the Village Board
5. Variation considered by the Village Board

Steps 1 – 5: Approximately 90 to 120 days

Zoning variations that are reviewed by the Plan Commission in association with a requested Special Use Permit or proposed Subdivision may take longer to process than what is represented by the above sample schedule.

VILLAGE OF GLEN ELLYN, ILLINOIS

DESCRIPTION OF THE ZONING VARIATION REQUEST PROCESS AND INSTRUCTIONS

I. OVERVIEW:

A. Introduction:

In general, the zoning variation process involves the following three steps (each of which is described in more detail below):

STEP 1 - Application:

Zoning variation requests are initiated by filing a completed Application for Variation form, together with other supporting documents and materials, with the Director of the Village Planning & Development Department.

Prior to completing the Application for Variation form, applicants and their representatives, if any, are strongly encouraged to carefully review the Glen Ellyn Zoning Variation Request Package and to become familiar with the applicable provisions of the Zoning Code.

STEP 2 - Public Hearing before the ZBA or PC which both make Findings of Fact and Recommendations to the Village Board

After notice has been published and mailed to the surrounding property owners, a public hearing on the requested zoning variation(s) will be held before the ZBA or PC. Based on the evidence presented at the hearing by or on behalf of the applicant or by others, the ZBA or PC is required to make specific findings of fact to support its recommendation to the Village Board regarding the requested zoning variation(s). See I.B. below for a brief description of the findings/standards for a variation under the Zoning Code.

STEP 3 - Village Board Action:

After the minutes or transcript of the public hearing containing the Commission's findings of fact and recommendation have been delivered to the Village Board, the Village Board will consider the requested zoning variation(s). Under the Zoning Code, the Village Board has the final authority to act on the requested zoning variation(s).

A sample schedule for a zoning variation is included in this Zoning Variation Request Package. The actual schedule for particular requested zoning variation(s) may differ from the representative schedule for a wide variety of reasons.

Questions regarding the zoning variation process should be directed to the Planning & Development Department at (630) 547-5250.

B. Required Findings of Fact/Standards for a Variation:

Set forth below is a short summary of the three principal findings of fact or standards which must be met in order for the ZBA or PC to recommend, and the Village Board to grant, a requested variation from the Zoning Code. This summary is a simplified version of Section 10-10-12(C) of the Zoning Code, which the applicant is referred to for the governing legal language.

All three of the following findings of fact or standards must be established and met to support a requested zoning variation (since #2 below consists of two alternatives, only one of the two is required; however, the applicant may present evidence on both alternatives):

1. There would be practical difficulties or particular hardship for the applicant/owner resulting from the characteristics of the property in question if strict compliance with the Zoning Code were required (i.e., if no zoning variation were granted); and
2. Either:
 - A. The property in question cannot yield a reasonable return without a zoning variation, or
 - B. The plight of the applicant/owner is due to unique circumstances relating to the property in question; and
3. Granting the requested zoning variation will not alter the essential character of the locality of the property in question.

Applicants are also referred to Section 10-10-12(D) of the Zoning Code for a list of supplemental findings.

The primary purpose of both the Application for Variation form and the public hearing before the ZBA or PC is to elicit evidence relating to these findings of fact or standards upon which the ZBA or PC and the Village Board can base their actions on the requested zoning variation(s).

II. APPLICATION FOR VARIATION AND RELATED MATTERS:

A. Application for Variation:

The following items must be submitted to the Director of the Village Planning & Development Department to begin the process for a zoning variation:

1. A properly completed Application for Variation form, together with all supporting documents and materials.

Applicants should note that Section 10-10-10(B) of the Zoning Code contains a list of requirements that should be carefully reviewed and includes submitting disclosure of ownership interests and authorization letters depending on the type and capacity of the person or entity holding fee title to the property in question or acting as the applicant for the zoning variation (e.g., representatives, land trusts, corporations, partnerships, other business entities, etc.).

Disclosure of Interest and Affidavit of Authorization forms are attached with this packet.

Applicants should also note that they are obligated to notify the Village in writing of any change in the requirements relating to the applicant under Section 10-10-10(B) of the Zoning Code (e.g., new 5% or more stockholder in a corporate applicant or new partner in a partnership applicant) that occur at any time after the Application for Variation has been submitted and before final action by the Village Board on their requested zoning variation(s).

2. An application fee must be paid at the time the application is made. Staff will inform the Petitioner of the amount. Depending on the type of application, an escrow (amount to be determined by the Planning and Development Director) may also be required to pay out of pocket Village expenses related to public notice costs, recording costs and other items related to the project application.

3. A site plan (at a scale of no less than 1 inch = 100 feet) showing:
 - Site dimensions and area
 - Location of any existing buildings and/or structures on the lot
 - Lot location
 - Placement of proposed building(s)/structure(s) on the lot
 - Street width, sidewalks and curb cuts
 - Easements
 - Type of construction
 - Floor layout
 - Building elevations
 - Parking area and layout
 - Front, rear and side yard setbacks, and
 - Other data that may be necessary for the review of the application

4. Proof of ownership from the most recent title insurance policy, deed or commitment covering the property in question.
5. A plat of survey of the property in question, with a topographical map containing a statement made by a registered Illinois land surveyor that the property is or is not in a flood plain or other type of special management area.

B. Village Review:

The Village staff will examine each Application for Variation and accompanying items within a reasonable time after filing. When the Application for Variation and accompanying items appear to be complete and in good order, the requested zoning variation(s) will be scheduled for consideration at a public hearing before the ZBA or PC.

C. Public Hearing Notices and Related Matters:

Village staff will produce a legal notice of the public hearing before the ZBA or PC to be published not more than 30 or less than 15 days before the beginning of the hearing in one or more newspapers generally circulated within the Village. Such legal notice will state the time, date and location of the hearing and the particular location of the property in question and briefly describe the applicant's requested zoning variation(s).

Not less than 10 days prior to the public hearing, the Village Planning & Development Department will cause notice of the public hearing to be mailed to all property owners within a 250-foot radius of the property in question.

The Village will place one or more placards on the property in question not less than 15 days prior to the date of the public hearing. The placard(s) must remain until completion of the public hearing, at which time it will be removed by the Village. The placard(s) will be provided by the Village and will contain such information as is directed by the Director of the Village Planning & Development Department. Jurisdiction of the ZBA or PC to hold a hearing will not be affected by the absence of the placard(s), if the absence is not the result of the applicant's act or omission.

The Planning & Development Department will submit the Application for Variation and all accompanying and related items to the ZBA or PC for the public hearing.

Applicants are advised that members of the ZBA or PC and Village Board may visit the property in question to inspect it for themselves prior to the hearing.

III. PUBLIC HEARING BEFORE THE ZONING BOARD OF APPEALS:

A. Time, Date and Location:

Regularly scheduled meetings of the ZBA are on the 2nd and 4th Tuesday of each month and regularly scheduled meetings of the PC are on the 2nd and 4th Thursday of each month both at 7:00 p.m. on the third floor of the Civic Center at 535 Duane Street, Glen Ellyn, Illinois.

B. Public Hearing:

The public hearing before the ZBA or PC is typically divided into five separate stages (which are described in more detail below) – (1) Staff Presentation, (2) Petitioner's Presentation, (3) Public Participation, (4) Commission Deliberation, and (5) Findings of Fact & Recommendation by the Commission.

1. Staff Presentation:

The Village staff will present a general overview of the applicant's request based on the applicant's submittals and/or adherence to the Village's Zoning Code, review guidelines, stormwater standards and other relevant data.

2. Petitioner's Presentation:

After the Village staff's presentation, the applicant is given the opportunity to present his or her case. Applicants should note that it is the responsibility of the applicant and/or his or her representatives to present evidence supporting the requested zoning variation(s) in a complete and logical manner and to have all supporting documentation available at the hearing.

3. Public Participation:

The purpose of the public participation portion of the hearing is to give the public an opportunity to testify and to present evidence related to the requested zoning variation(s). Pursuant to State law, all testimony by witnesses in the hearing must be given under oath.

4. Commission Deliberation/Findings of Fact:

The Commission then discusses whether the evidence presented at the hearing is sufficient to establish and meet the findings/standards required under the Zoning Code to support a requested zoning variation. (See I.B. above for a short summary of the requisite findings/standards for a variation under the Zoning Code). Following this discussion, the Commission makes its recommendation and findings of fact under the Zoning Code and State law, based on the evidence presented during the public participation portion of the hearing to the Village Board concerning the requested zoning variation(s) by vote.

5. Vote:

An affirmative vote of four (4) members of the ZBA and six (6) members of the PC is necessary to recommend the granting of a requested zoning variation to the Village Board.

Under the Zoning Code, the Commission may recommend to the Village Board a lesser variation than the requested zoning variation. In addition, the ZBA or PC may recommend to the Village Board such conditions and restrictions upon the property in question as may, in the opinion of the Commission, be necessary (1) to comply with the standards for a variation set forth in Section 10-10-12 of the Zoning Code, (2) to reduce or minimize the injurious effect of the variation upon other property in the neighborhood, and/or (3) to implement the general purpose and intent of the Zoning Code.

IV. VILLAGE BOARD ACTION:

After a record of the public hearing containing the Commission's findings and recommendations has been delivered to the Village Board, the Village Board considers the requested zoning variation(s) against the findings/ standards required under the Zoning Code for a variation. The Village Board may choose to consider the requested zoning variation(s) at a workshop meeting before the request is considered at the regular meeting of the Village Board. The Village Board has final authority to act on the requested zoning variation(s).

The Village Board holds its meetings on the second (2nd) and fourth (4th) Mondays of every month at 7:00 PM. On the third (3rd) Monday of the month, the Village Board holds a workshop, where it discusses various requests but does not act on any applications.

Without further public hearing, the Village Board may grant, deny or amend the recommendation for variation or refer the requested zoning variation back to the ZBA or PC for further consideration.

A zoning variation may only be granted by an ordinance which is duly passed and approved by the Village Board and President. Pursuant to state law, passage of an ordinance granting a zoning variation which failed to receive a recommendation for approval from the ZBA or PC requires the affirmative vote of two-thirds of all Trustees on the Village Board.

After final action by the Village Board, the Village Clerk will notify the applicant, the Director of the Village Planning and Development Department, the Village Building and Zoning Official and the Director of the Village Public Works Department of the decision of the Village Board.

Applicants should note that unless a building permit to begin construction is applied for within 18 months after the approval of an ordinance granting a zoning variation, the ordinance granting the zoning variation becomes null and void (unless the 18-month time limit is expressly extended by the Village Board by ordinance).

Zoning Code Variation Guidelines for Particular Hardship and Practical Difficulty Criteria

Seeking a variation is a legal process that allows property owners to build structures or use land in a way that is contrary to the local zoning regulations. Variations are meant to be used sparingly. Granting a variation should be based on a practical difficulty or a particular hardship that is directly related to the property and related uses. The Glen Ellyn Zoning code reads:

“The Zoning Board of Appeals shall not recommend, and the Village Board shall not vary, the provisions of this Zoning Code, except in cases where there are practical difficulties or particular hardship in the way of carrying out the strict letter of any regulation of this Zoning Code relating to the use, construction or alteration of buildings or structures or the use of land.”

It is very important to consider what constitutes a practical difficulty or particular hardship. Unfortunately, there is more information about what is not a practical difficulty or particular hardship than there is to define one. This is probably because there are an infinite number of variation probabilities and scenarios.

The courts have ruled that a practical difficulty or particular hardship cannot be self created, cannot be just showing that the property would be worth more if a variation were granted, and it cannot be just a demonstration that a property is better suited for a use that is prohibited than a use that is permitted.

In trying to define the practical difficulty or particular hardship the person making the decision on whether or not to support the variance will need to evaluate if:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located; or
2. The plight of the owner is due to unique circumstances; and that the Variation, if granted, will not alter the essential character of the locality;

The first test above essentially applies to the variety of uses that could be developed on the land. The applicant or owner must show more than a loss. The applicant or owner must demonstrate that there would be a loss or lack of reasonable return from each and every permitted use on the property. The second test implies that the hardship conditions shall not be generally applicable to a similar situation in the same zoning district. If that were the case, then the zoning of the district would be materially changed. Uniqueness relates to hardship, which refers to the land and not to the personal circumstances of the applicant or owner.

Furthermore, the Zoning Board must also consider other standards prescribed in the Glen Ellyn Zoning Code when deciding on variations:

1. That the particular physical surroundings, shape or topographical condition of the specific property involved would bring particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulation were to be carried out;
2. That the conditions upon which the petition for Variation is based would not be applicable generally to other property within the same zoning district;
3. That the purpose of the Variation is not based exclusively upon a desire to make more money out of the property;
4. That the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property or by the applicant;
5. That the granting of the Variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
6. That the proposed Variation will not:
 - a. Impair an adequate supply of light and air to adjacent property;
 - b. Substantially increase the hazard from fire or other dangers to said property or adjacent property;
 - c. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of the Village;
 - d. Diminish or impair property values within the neighborhood;
 - e. Unduly increase traffic congestion in the public streets and highways;
 - f. Create a nuisance; or
 - g. Result in an increase in public expenditures;
7. That the Variation is the minimum Variation that will make possible the reasonable use of the land, building or structure.

A zoning variation runs with the land indefinitely. This reinforces that variations should not be granted based on personal circumstances; while the people eventually will go away, the variation does not. The New York Supreme Court defined a variance as:

“An authority to a property owner to use the property in a manner forbidden by the ordinance.”

The owners seeking variations are expected to bear a “higher burden of proof”. Where a request for a variation is not unique or changes the essential character of the area, the petitioner should seek an amendment to the zoning code that would then apply throughout the district, rather than a variation. Variations are meant to be used sparingly, which is intentional as suggested in a reference from the case of *Real Properties v. Board of Appeals of Boston* that reads:

“The power of variances is to be sparingly exercised and only in rare instances and under exceptional circumstances peculiar in their nature and with due regard

to the main purpose of a zoning ordinance to preserve the property rights of others.”

Here are a couple of examples of variation requests that have hardships:

1. A platted lot that is uniquely shaped and when the zoning code is applied, interferes with the buildable area of the lot.
2. Unusual topography or natural conditions within a parcel.

These are a few variations requests that do not include hardships:

1. The cost of a project would be greater if it were constructed in an area that would be otherwise permissible.
2. Request to accommodate the size of ones family or personal heath issues.
3. Request to expand beyond conditions created by a previous owner. For example, the previous owner may have elected to build the structure up to the setback line even though there was ample space to provide more distance from the property line.

In conclusion, a hardship is not just ordinary inconvenience or difficulty and the owner must be able to show that there is an inability to make reasonable use of the land. The hardship or difficulty must be unique and should not generally apply to other properties. Hardships cannot be self-created, which even applies to action taken by previous owners, including work performed without a permit. According to the courts, a hardship does not include a potential for economic loss or less than maximum return. Finally, the use or modification must not alter the essential character of the area. The ultimate question that must be asked is “Is the property owner deprived of rights or deprived of their desires?”

VILLAGE OF GLEN ELLYN
535 Duane Street
Glen Ellyn, Illinois 60137
(630) 547-5250

APPLICATION FOR VARIATION

Note to the Applicant: This application should be filed with, and any questions regarding it, should be directed to the Director of the Village Planning and Development Department.

The undersigned hereby petitions the Village of Glen Ellyn, Illinois, for one or more variations from the Glen Ellyn Zoning Code (Ordinance No. 3617-Z, as amended), as described in this application.

I. **APPLICANT INFORMATION:**

(Note: The applicant must comply with Section 10-10-10(B) of the Zoning Code).

Name: _____

Address: _____

Phone No.: _____

Fax No.: _____

E-mail: _____

Ownership Interest in the Property in Question: _____

II. **INFORMATION REQUIRED BY SECTION 10-10-10(B) OF THE ZONING CODE, IF APPLICABLE**

NOTE: All parties, whether petitioner, agent, attorney, representative and or organization et al. must be fully disclosed by true name and address in compliance with Section 10-10-10(B) of the Zoning Code. Disclosure forms are attached for your convenience.

Name and address of the legal owner of the property (if other than the applicant):

Name and address of the person or entity for whom the applicant is acting (if the applicant is acting in a representative capacity):

Is the property in question subject to a contract or other arrangement for sale with the fee owner? (Circle "Yes" or "No")

YES

NO

If YES, the contract purchaser must provide a copy of the contract to the Village and must either be a co-petitioner to this application or submit the attached Affidavit of Authorization with the application packet.

Is the property in question the subject of a land trust agreement? (Circle "Yes" or "No")

YES

NO

If YES, (1) either the trustee must be a co-petitioner or submit the attached Affidavit of Authorization from the trustee to represent the holders of the beneficial interests in the trust and (2) the applicant must provide a trust disclosure in compliance with "An Act to Require Disclosure of All Beneficial Interests", Chapter 148, Section 71 et seq., Illinois Revised Statutes, signed by the trustee.

III. PROPERTY INFORMATION:

Common address: _____

Permanent tax index number: _____

Legal description: _____

Zoning classification: _____

Lot size: _____ ft. x _____ ft. Area: _____ sq. ft.

Present use: _____

IV. INFORMATION REGARDING THE VARIATION(S) REQUESTED:

Description of the variation(s) requested (including identification of the Zoning Code provisions from which variation is sought) and proposed use(s):

Estimated date to begin construction: _____

Names and addresses of any experts (e.g., planner, architect, engineer, attorney, etc.):

V. EVIDENCE RELATING TO ZONING CODE STANDARDS FOR A VARIATION:

The following items are intended to elicit information to support conclusions by the ZBA or PC and the Village Board that the required findings/standards for a variation under the Zoning Code have been established and met. Therefore, please complete these items carefully.

A. Standards Applicable to All Variations Requested:

1. Provide evidence that due to the characteristics of the property in question, there are practical difficulties or particular hardship for the applicant/owner in carrying out the strict letter of the Zoning Code:

2. (a) Provide evidence that the property in question cannot yield a reasonable return if permitted to be used under the conditions allowed by the Zoning Code (i.e., without one or more variations):

OR

(b) Provide evidence that the plight of the applicant/owner is due to unique circumstances relating to the property in question:

3. Provide evidence that the requested variation(s), if granted, will not alter the essential character of the locality of the property in question:

B. For the purpose of supplementing the above standards, the ZBA or PC, in making its recommendation that there are practical difficulties or particular hardships, shall also take into consideration the extent to which the evidence establishes or fails to establish the following facts favorably to the applicant:

1. Provide evidence that the particular physical surroundings, shape or topographical condition of the property in question would bring particular hardship upon the applicant/owner as distinguished from a mere inconvenience if the strict letter of the Zoning Code were to be carried out:

2. Provide evidence that the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning district:

3. Provide evidence that the purpose of the variation is not based exclusively upon a desire to make more money out of the property in question:

4. Provide evidence that the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property in question or by the applicant.

5. Provide evidence that the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property in question is located

6. Provide evidence that the proposed variation will not:

- a. Impair an adequate supply of light and air to adjacent property;

- b. Substantially increase the hazard from fire or other dangers to the property in question or adjacent property;

- c. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of the Village;

- d. Diminish or impair property values within the neighborhood;

- e. Unduly increase traffic congestion in the public streets and highway;

- f. Create a nuisance; or

- g. Results in an increase in public expenditures.

7. Provide evidence that the variation is the minimum variation that will make possible the reasonable use of the land, building or structure.

8. Please add any comments which may assist the commission in reviewing this application.

CERTIFICATIONS, CONSENT AND SIGNATURE(S):

I (We) certify that all of the statements and documents submitted as part of this application are true and complete to the best of my (our) knowledge and belief.

I (We) consent to the entry in or upon the premises described in the application by any authorized official of the Village of Glen Ellyn.

I (We) certify that I (we) have carefully reviewed the Glen Ellyn Zoning Variation Request Package and applicable provisions of the Glen Ellyn Zoning Code.

I (We) consent to accept and pay the cost to publish a notice of Public Hearing as submitted on an invoice from the publishing newspaper. I (we) understand that our request will not be scheduled for a Village Board agenda until and unless this invoice is paid.

Signature of Applicant(s)

Date filed

AFFIDAVIT OF AUTHORIZATION

I, _____ owner of the property described as

verify that _____
is duly authorized to apply and represent my interests before the Glen Ellyn Architectural Review Commission, Plan Commission, Zoning Board of Appeals and/or Village Board. Owner acknowledges that any notice given applicant is actual notice to owner.

OWNER

NOTARY

OWNERSHIP BY A CORPORATION

Date: _____

Address: _____

Legal Description: _____

LIST ALL SHAREHOLDERS AND OFFICERS/DIRECTORS (AND % OF INTEREST OWNED IN EXCESS OF 5% OF STOCK)

Name: _____ Address: _____ % _____

OWNERSHIP BY LAND TRUST

Date: _____

Address: _____

Legal Description: _____

TRUSTEE: _____ TRUST NO. _____

Address: _____

LIST ALL BENEFICIARIES:

Name: _____ Address: _____

REIMBURSEMENT OF FEES AGREEMENT

Village of Glen Ellyn Acct: # _____
Initial Deposit Amount: _____

I. DESCRIPTION OF PROJECT: _____

II. OWNER:

- A. Owner of Property: _____
- B. Owner's Address: _____
- C. Owner's Home Phone Number: _____ Fax: _____
- D. Owner's Work Phone Number: _____
- E. Owner's E-mail: _____
- F. If Owner is a Land Trust or Corporation, the attached disclosures of interest should be filled out.

III. PERSON MAKING REQUEST (Petitioner):

- A. Name of Petitioner: _____
- B. Petitioner's Address: _____
- C. Petitioner's Home Phone Number: _____
- D. Petitioner's Work Number: _____
- E. Petitioner's E-mail: _____

IV. LOCATION OF PROPERTY:

- A. General Location of Property: _____
- B. Acreage of Parcel: _____
- C. Permanent Index Number(s): _____
- D. Legal Description (Please attach)

V. REIMBURSEMENT OF FEES:

The Ordinances of the Village require the owners of property, or individuals seeking to utilize property, to receive approval by ordinance or the issuance of a permit to undertake various uses or improvements of property in the Village. These uses can include requests for textual or map changes in the Zoning Ordinance, applications for building permits, requests for zoning relief and other similar requests. The Village has established a fee schedule for the anticipated use of staff time in processing such petitions or applications. In many cases, however the Village cannot reasonably evaluate the validity or compliance of the petition or application with the Ordinances of the Village without the use of reports from various consultants. In some cases, the application or petition requires among other things, public hearings and associated public notice costs, preparation of minutes or transcripts from the public hearing or meeting, recording costs of Ordinances and the preparation of reports by consultants whose services require the payment of out-of-pocket expenses by the Village. These expenses would not have been incurred but for the petition or application. The Village does not intend to seek to make a profit on its utilization of such consultants, but requires that the applicant, or the person receiving benefit, shall be obligated to reimburse the out-of-pocket expenses incurred by the Village. The Village shall seek to employ consultants who shall charge rates consistent with those paid by private parties who seek similar consulting services. The Village intends, through this Agreement, to cause the payment of out-of-pocket expenses and to

require the creation of an escrow fund to guarantee that the petition or application will not result in the citizens of the Village being required to pay for costs incurred at the request of the owner or applicant.

This document shall constitute a contract when an application is made for a license, permit, request for zoning relief or other approval involving the use of real property. Should the Village, in its sole and exclusive discretion, determine that it is necessary or desirable for the Village to obtain professional services, including, but not limited to, attorneys, engineers, planners, architects, surveyors, court reporters, traffic, drainage or other consultants, including full and/or part time site inspection services during the actual construction of any required improvements, and/or to incur costs related to any required notices or recordations, in connection with any application or petition filed by the petitioner then the petitioner and owner shall be jointly and severally liable for the payment of such professional fees and costs, as shall actually be incurred by the Village. The Planning and Development Director is hereby authorized to assign the above described services to the Village staff or to consultants, as the Director deems appropriate and without prior notification to the petitioner.

Any application or petition to be reviewed by the Planning and Development Department or by the Plan Commission or Architectural Review Commission shall require the petitioner to establish an escrow account with the Village in an amount determined by the Planning and Development Director to reimburse the Village for all out of pocket costs associated with the request. These out of pocket costs will cover such things as services provided by the Village's consulting engineer, consulting attorney, consulting planner, traffic consultant, wetland consultant, landscape consultant, architectural consultant, appraiser and transcriber, among others, as well as reproduction costs, public hearing notice costs, recording costs, etc. Along with the application the petitioner shall also submit a signed copy of this agreement thereby acknowledging and agreeing to reimburse the Village for all out of pocket costs associated with the application or petition.

This agreement shall be accompanied by an initial deposit in an amount to be determined by the Director of Planning and Development but shall be no less than \$500. The Village will provide an itemized list of Village expenses incurred related to any charge to the escrow account, and the petitioner shall deposit funds to reimburse the Village for those expenses upon notice from the Village that the deposit has dropped below \$300. If the expenses are not reimbursed, then reviews meetings and permits associated with out of pocket costs will cease, and the request will not be moved forward through the review process. At the completion of the review process, and development of the project, if appropriate, any remaining balance from the deposit will be returned to the petitioner, without interest, after all expenses have been paid.

The Village shall deduct the incurred expenditures and costs from the funds deposited. If the remaining deposit balance falls below \$300.00, the petitioner, upon notice by the Village, shall be required to replenish the deposit to its initial amount. The Village shall mail the petitioner regular invoices for the fees and costs incurred. The petitioner shall replenish the deposit amount within thirty (30) days of issuance of each such invoice directing replenishment of the deposit.

A petitioner who withdraws his or her petition may apply in writing to the Planning and Development Director for a refund of his or her remaining escrow balance. The Planning and Development Director may, at his or her discretion, approve such refund less any actual fees and costs, which the Village has already paid or incurred relative to the application.

Upon the failure of the petitioner or owner to reimburse the Village in accordance with this Agreement, no further action shall be undertaken on the application by the Village President and Board of Trustees, or by any other official or quasi-official individual or body thereunder, including the conduct of any hearings or deliberations, reviews of any plans or applications, the granting of any relief or approvals, issuance of any permits or occupancies, performance of inspections and the execution or recording of any documents, until all such outstanding fees are paid in full and/or the initial deposit is restored to its full amount. Upon any failure to reimburse the Village in accordance with this Section, the Village may in its discretion, apply any or all of the initial deposit to the outstanding balance due.

The remedies available to the Village as set forth hereinabove are non-exclusive and nothing herein shall be deemed to limit or waive the Village's right to seek relief of such fees against any or all responsible parties in a court of competent jurisdiction.

Any remaining balance of any funds deposited pursuant to this Agreement shall be refunded at such time as the completion of Village deliberation on the petition or application, recordation of all necessary documents associated with the petition or application, issuance of a building permit, approval of a final inspection, or issuance of a final certificate of occupancy upon the real property in question whichever occurs later.

BY SIGNING BELOW, THE PETITIONER AND OWNER ACKNOWLEDGE THAT EACH OF THEM HAS READ THE FOREGOING PARAGRAPHS AND EACH OF THEM FULLY UNDERSTANDS AND AGREES TO COMPLY WITH THE TERMS SET FORTH HEREIN. FURTHER, BY SIGNING BELOW, EACH SIGNATORY WARRANTS THAT HE/SHE/IT POSSESSES FULL AUTHORITY TO SO SIGN.

THE PETITIONER AND OWNER AGREE THAT PETITIONER AND OWNER SHALL BE JOINTLY AND SEVERALLY LIABLE FOR PAYMENT OF FEES REFERRED TO IN APPLICABLE SECTIONS OF THE ORDINANCES OF THE VILLAGE OF GLEN ELLYN, AND THE OBLIGATIONS FOR PAYMENT RELATING TO THE FILING OF PETITION OR APPLICATION, AS SET FORTH HEREIN.

Petitioner

Village of Glen Ellyn

Owner

By: _____
Planning and Development Director

Date: _____

Date: _____