



Variation Information & Application Packet

Introduction

This information packet was created to assist anyone who is considering applying for a variation. The packet presents an overview of the procedures and requirements for variation requests. It also includes all forms and information necessary to compile a complete variation application. However, this packet does not have any statutory standing and should not be considered a substitute for the actual law, ordinances, codes, or policies of the Village of Lemont. At a minimum, those considering a variation request should consult section 17.04.150 of the Lemont Unified Development Ordinance. Also, applicants should consider a meeting with Planning & Economic Development Department staff prior to submitting a variation application.

What is a Variation?

The Village of Lemont Unified Development Ordinance (UDO) establishes the zoning and land development regulations for all properties within the Village. Ordinarily, all properties must adhere to all applicable requirements of the UDO. When an individual property would be uniquely and unduly burdened by strict adherence to the requirements of the UDO, Section 17.04.150 of the UDO allows for variations. Variations are deviations from the requirements of the UDO. Examples of such deviations may include changes to minimum building setbacks, maximum building heights, etc. Variations to the permitted and special uses of the adopted zoning districts are not allowed. A rezoning is the appropriate process for changing the allowable uses on an individual parcel.

The same zoning district requirements do not affect all properties equally, and variations are intended to allow properties with a unique hardship to enjoy equal opportunities as other similarly zoned parcels. However, a variation is not intended to merely remove an inconvenience or financial burden that a person may incur by adhering to the UDO requirements. UDO Section 17.04.150.D establishes the standards for variation requests; these criteria are listed on the *Variation Criteria Worksheet* attachment in this information packet. The person applying for a variation (the applicant) is responsible for demonstrating that the variation request meets all of the applicable criteria.

Application, Review, and Approval Process

To apply for a variation, an applicant must submit all of the items listed on the attached *Variation Application Checklist of Required Materials* to the Planning & Economic Development Department. The Department staff will review the application for completeness. If the application is incomplete, the applicant will be notified and no further action will be taken by the Planning & Economic Development Department staff until the application has been completed. If the application is not completed within 90 days, the application may be considered withdrawn.

If the application is complete, the Planning & Economic Development staff will schedule a public hearing before the Planning & Zoning Commission or the Zoning Hearing Officer. The Planning & Zoning Commission hears the majority of variation requests; the Zoning Hearing Officer hears certain types of minor variation requests as detailed in UDO Section 17.04.150.C. The Planning & Zoning Commission is an advisory board appointed by the Village Mayor. It meets on the third Wednesday of every month. The Zoning Hearing Officer is the Planning & Economic Development Director. The Zoning Hearing Officer schedules public hearings as needed.

Prior to the public hearing, the applicant must fulfill the public notice requirements detailed in the attached *Variation Public Notice Requirements*. Failure to complete the required public notice could result in cancellation or postponement of the public hearing. At the conclusion of the public hearing, the Planning & Zoning Commission or Zoning Hearing Officer will recommend approval or denial of the variation. The recommendation will be forwarded to the Village Board.

Variation requests are generally required to be presented at a Committee of the Whole meeting prior to the Village Board meeting. The Committee of the Whole is comprised of all members of the Village Board; it is an informal, working session for the Board. No official action is taken at this meeting.

At the Village Board meeting, the Village Trustees will either approve or deny the variation request. If the request is approved, it will be approved by the adoption of an ordinance at the meeting.

Once a variation is approved, the property owner may still need to pursue building permits. Applicants should inquire with the Building Department regarding building permit requirements.

Attachments:

1. Variation Application Form
2. Variation Application Checklist of Required Materials
3. Variation Criteria Worksheet
4. Variation Public Notice Requirements
5. Affidavit of Public Notice

Variation Application Form

APPLICANT INFORMATION

Applicant Name

Company/Organization

Applicant Address

Telephone & Fax

E-mail

CHECK ONE OF THE FOLLOWING:

_____ Applicant is the owner of the subject property and is the signer of this application.

_____ Applicant is the contract purchaser of the subject property.

_____ Applicant is acting on behalf of the beneficiary of a trust.

_____ Applicant is acting on behalf of the owner.

PROPERTY INFORMATION

Address of Subject Property/Properties

Parcel Identification Number of Subject Property/Properties

Size of Subject Property/Properties

DESCRIPTION OF REQUEST

Brief description of the proposed variation

REQUIRED DOCUMENTS

See Form 500-A, *Variation Application Checklist of Required Materials*, for items that must accompany this application.

FOR OFFICE USE ONLY

Application received on: _____

By: _____

Application deemed complete on: _____

By: _____

Current Zoning: _____

Fee Amount Enclosed: _____

Escrow Amount Enclosed: _____

Variation Application Form

Village of Lemont

APPLICATION FEE & ESCROW

Application Fee = \$250 (per zoning lot)

Fee is non-refundable. A zoning lot is defined as "a single tract of land located within a single block that (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed, or built upon, under single ownership or control" (Unified Development Ordinance Chapter 17.02).

Required Escrow = \$500

At the time of application, the applicant shall submit a check for the establishment of an escrow account. The escrow money shall be used to defray costs of public notice, consultants, or other direct costs incurred by the Village in association with the variation application. Additionally, should the applicant fail to remove the required public notice sign in a timely manner, the escrow account may be used to defray the costs of the sign's removal. After completion of the variation review process, any unused portion of the escrow account will be refunded upon request.

AFFIRMATION

I hereby affirm that I have full legal capacity to authorize the filing of this application and that all information and exhibits herewith submitted are true and correct to the best of my knowledge. I permit Village representatives to make all reasonable inspections and investigations of the subject property during the period of processing of this application. I understand that as part of this application I am required to establish an escrow account to pay for direct costs associated with the approval of this application, such as the fulfillment of public notice requirements, removal of the public notice sign, taking of minutes at the public hearing and fees for consultants hired by the Village to evaluate this application. I understand that the submitted fee is non-refundable and that any escrow amount leftover upon project completion will be refunded upon request. I understand that I am responsible for the posting of a public hearing sign and for the mailing of legal notice to all surrounding property owners as required by Village ordinances and state law.

Signature of Applicant

Date

State

County

I, the undersigned, a Notary Public in and for the aforesaid County and State, do hereby certify that _____ is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and that said person signed, sealed and delivered the above petition as a free and voluntary act for the uses and purposes set forth.

Notary Signature

Given under my hand and notary seal this _____ day of _____ A.D. 20 _____.

My commission expires this _____ day of _____ A.D. 20 _____.

Variation Application Checklist of Required Materials

Materials Required at Submittal of Application

A complete application for a variation must include **all** of the following items. Any application that does not include all of the following items will not be considered complete. The Planning & Economic Development Department **will not** schedule a public hearing for any variation request until a complete application has been submitted.

_____ **Application Form.** One original copy of the attached *Variation Application Form*, signed by the applicant and notarized.

_____ **Application Fee.** A non-refundable fee of \$250 per zoning lot.

_____ **Escrow Account.** \$500 per application. Any unused portion may be refunded upon request after completion of the variation review process.

_____ **Proof of Ownership & Applicant Authorization.** One copy of a deed that documents the current ownership of the subject property. If the applicant is the owner, this is the only documentation necessary. If the applicant is not the owner, the following are required in addition to a copy of the deed:

- If the applicant is the contract purchaser of the property, a copy of said contract must be attached.
- If the applicant is acting on behalf of the beneficiary of a trust, a notarized letter from an authorized trust officer identifying the applicant as an authorized individual acting in behalf of the beneficiaries must be attached. The letter must also provide the name, address and percentage of interest of each beneficiary.
- If the applicant is acting on behalf of the owner, a notarized letter of consent from the owner must be attached.

If the property owner is a company, a disclosure of the principals of the company must be included in the application materials. For example, an LLC may submit a copy of the LLC Management Agreement.

_____ **Submittal Packet.** 22 collated copies of a submittal packet for distribution at public meetings and one electronic copy for Village files. Additional copies of the submittal

packet may be required after initial submission of the variation application. Planning & Economic Development Staff will advise if/when additional copies are needed.

Any plans and maps included in the submittal packet should contain the following: a north arrow or other indication of true north or map north; the date of map/plan preparation; the name of the person preparing the map/plan; and a scale, the scale may be expressed verbally (e.g. 1 inch equals 60 ft.) but other forms of scale are preferable (e.g. scale bar or ratio such as 1:24,000).

The submittal packet shall include the following:

- **Legal Description.** A legal description of the subject property.
- **Variation Criteria Worksheet.** The applicant must address the standards listed on the attached *Variation Criteria Worksheet*.
- **Additional Plans or Documents as Required by the Planning & Economic Development Director.** Department staff will advise if any additional materials are necessary.

Materials Required when Public Notice is Served

The following items **are not** required at the time of application submittal. However, these items must be submitted to the Planning & Economic Development Department prior to the public hearing before the Planning & Zoning Commission or Zoning Hearing Officer. Once the applicant has fulfilled the public notice requirements, the following items must be submitted:

_____ **Affidavit of Public Notice.** The attached *Affidavit of Public Notice* must be submitted by the applicant once he/she has completed the necessary public notice requirements. A signed and notarized original form should be submitted to the Planning & Economic Development Department no later than 15 days prior to the scheduled public hearing for the variation request. More explanation regarding public notice requirements is contained in the attached *Variation Public Notice Requirements* document.

_____ **Copy of Written Notice.** Once the applicant has sent the required written notice of public hearing, a copy shall be submitted to the Planning & Economic Development Department. The copy of the written notice should be submitted at the time that the notice is sent to the surrounding property owners. More explanation regarding public notice requirements is contained in the attached *Variation Public Notice Requirements* document.

_____ **Address List.** A list of all addresses to which the applicant sent the written notice of public hearing shall be submitted to the Planning & Economic Development Department at the time the written notice is sent to the surrounding property owners. More explanation regarding public notice requirements is contained in the attached *Variation Public Notice Requirements* document.

Variation Criteria Worksheet

Unified Development Ordinance (UDO) Section 17.04.150.D.1 establishes the criteria that all applications for variations must meet. In addition, Section 17.04.150.D.2 of the Unified Development Ordinance requires that the Planning & Zoning Commission or Zoning Hearing Officer take the following conditions into consideration when determining whether a request qualifies for a variation. You may want to consider the following in your variation request:

- The particular physical surroundings, shape, or topographical condition of the specific property involved results in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations of the Unified Development Ordinance were fulfilled;
- The conditions upon which the petition for variation is based would not be applicable, generally, to other property within the same zoning classification;
- The alleged difficulty or hardship has not been created by any person presently having an interest in the property;
- 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 subject property is located; and
- The variation will not impair an adequate supply of light and air to adjacent properties, 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.

Please describe below how your variation request meets the criteria of UDO Section 17.04.150.D.1. Attach additional sheets if necessary.

UDO Section 17.04.150.D.1.a

The variation is in harmony with the general purpose and intent of the Unified Development Ordinance;

UDO Section 17.04.150.D.1.b

The plight of the owner is due to unique circumstances and thus strict enforcement of the Unified Development Ordinance would result in practical difficulties or impose exceptional hardships due to the special and unusual conditions that are not generally found on other properties in the same zoning district; and

UDO Section 17.04.150.D.1.c

The variation will not alter the essential character of the locality and will not be a substantial detriment to adjacent property.

Variation Public Notice Requirements

The applicant for a variation request is responsible for meeting the public notice requirements of Section 17.04.050 of the Unified Development Ordinance (UDO). Public Notice must include written notice and notice by sign, as detailed below. A sample written notice and a sample sign are provided on the following pages. The applicant must submit the following to the Planning & Economic Development Department once the notice requirements have been met:

- a signed and notarized Affidavit of Public Notice;
- a copy of the written notice; and
- a list of all addresses to which the applicant sent the written notice.

Written Notice. The applicant shall serve written notice in person or by registered mail, return receipt requested, to the owners of the subject property and to owners of all property within 250 feet of the property lines of the subject property. The property owners shall be those as recorded in the relevant county's Office of the Recorder of Deeds. Land occupied by public roads, streets, alleys, and other public ways shall be excluded in computing the 250 ft. requirement. The notice must be served not less than 15 days and not more than 30 days prior to the scheduled public hearing. The written notice must contain:

- The common street address of the subject property;
- The scheduled time, date and venue of the public hearing;
- A description of the nature, scope, and purpose of the application;
- The name and address of the applicant;
- A statement that additional information concerning the hearing or application can be obtained from the Planning & Economic Development Department; and
- The address and contact information for the Planning & Economic Development Department.

If, after a bona fide effort to provide written notice, the property owner of the property on which the notice is served cannot be found at their last known address, or the mailed notice is returned because the property owner cannot be found at their last known address, the written notice requirements will be deemed satisfied.

Effective January 15, 1998, the Lemont Township Office will compile the required list of property owners and addresses for variation petitions. The fee for such service is \$25.00 and must be paid in advance. Please allow five days for the Township to compile the information.

The Township office is located at 1115 Warner Avenue in Lemont. The phone number is (630) 257-2522.

Notice by Sign. The applicant shall ensure that a readable sign is posted on the subject property not less than 15 days and not more than 30 days prior to the scheduled public hearing. The applicant shall ensure that the sign remains posted until the scheduled public hearing. The applicant must remove the sign no later than 10 days after the completion of the public hearing. If the applicant fails to remove the sign within 10 days of completion of the public hearing, the Village may remove the sign and charge the applicant for such removal or deduct the cost of the removal from the applicant's escrow account. The applicant shall be responsible for all costs associated with the sign.

The sign shall be placed near the public right of way and shall be visible from the public right of way. If no public right of way exists, the sign shall be placed on the subject property where it will receive the maximum exposure to neighboring residents and passersby.

The size and appearance of the sign must be consistent with the sample sign provided on the following pages. The sign must include the following information:

- The scheduled time, date, and venue of the public hearing;
- A description of the nature, scope, and purpose of the application;
- A statement that additional information concerning the hearing or application can be obtained from the Planning & Economic Development Department; and
- The address and contact information for the Planning & Economic Development Department.

SAMPLE PUBLIC NOTICE

Insert Date

Dear Property Owner:

You are listed within the (insert applicable County or Township name) official tax records as the owner of a parcel of land within 250 feet of property that is subject to a petition for a variation from the requirements of the Village of Lemont Unified Development Ordinance. The petition for a variation concerns the property that generally is located at (insert street address). The requested variation will (insert general description of the variation request). In accordance with the provisions of the Village of Lemont Unified Development Ordinance, the petitioner hereby notifies you of the scheduled public hearing on this petition.

The Lemont Planning & Zoning Commission will hold a public hearing on this petition on (insert date) at (insert time) p.m. The public hearing will be held in the Village Board Chambers of Lemont Village Hall, 418 Main Street, Lemont, IL 60439.

All interested parties will be given the opportunity to be heard at the public hearing. Interested persons may present either written or verbal comments at the public hearing. If the public hearing is not concluded on (insert meeting date), it may be continued to another Planning & Zoning Commission meeting date. If the hearing is continued, another written notice will not be sent.

If you have any questions regarding this petition you may contact the Lemont Planning & Economic Development Department by phone at (630) 257-1595, or in person at Village Hall, 418 Main Street, Lemont, IL 60439.

Insert Applicant Name & Address

SAMPLE PUBLIC NOTICE

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN FOR A PUBLIC HEARING CONCERNING A LAND USE APPLICATION FOR THIS PROPERTY.

HEARING FOR: [INSERT WHAT APPLICATION IS FOR]

VENUE OF HEARING: VILLAGE HALL, 418 MAIN ST., LEMONT (UPSTAIRS CHAMBER ROOM)

HEARING BODY: PLANNING AND ZONING COMMISSION

DATE AND TIME OF HEARING: [INSERT DATE AND TIME]

PUBLIC ATTENDANCE AND COMMENTS INVITED:

FOR ADDITIONAL INFORMATION CONTACT:
VILLAGE OF LEMONT
PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
418 MAIN STREET
(630)257-1595

Sign Size/Appearance Requirements:

- **At least 36 inches in height and 48 inches in width.**
- **Must have a white background.**
- **Must have 1.5-inch high black block letters, except the words “NOTICE OF PUBLIC HEARING” must appear in 3-inch high capital red block letters.**

Affidavit of Public Notice

The undersigned _____, being duly sworn on oath states as follows:

1. That he/she is the _____ that is subject of the
(owner of record, contract purchaser, authorized agent, etc.)

petition to _____

by _____
(Designate petitioner(s); and, if applicable, designate Trust numbers and all beneficiaries thereunder.)

_____ for property located at and commonly known as _____

2. That the attached Public Notice, marked as Exhibit A, was served on all parties whose names and addresses are identified on attached Exhibit B, by one of two means listed below.

Check the applicable box and enter requested information:

By mailing a copy of said notice by certified mail, return receipt requested, via United States Mail at the following location: _____
City and State

OR:

By delivering said notice in person to the individual homes or offices and obtaining the signature of each recipient with name and address on a separate sheet of paper to be submitted as Exhibit C.

3. That the designated delivery took place on the _____ day of _____ 20____.

Signature

(Indicate whether owner, contract purchaser, agent, etc.)

Subscribed and sworn before me this _____
day of _____, 20____

Notary Public

My commission expires on _____

(Notary Seal Here)