



VILLAGE OF
Midlothian

14801 South Pulaski Road
Midlothian, Illinois 60445

Fax: (708) 389-0255

www.villageofmidlothian.net

REQUEST FOR ZONING VARIATION PROCESS

Purpose: The purpose and intent of the Zoning Code is outlined in the Village Code Section 11-1-2. Except as otherwise provided for by Title 11 Zoning, of the Village Code, no building, structure, or land shall be used or occupied, and no building or structure, or part thereof, shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered, unless it conforms with the provisions of Title 11 governing the zoning district in which the subject building structure or land is located. There are often particular hardships faced by property owners attempting to fully comply with the intent and purpose of the Zoning Code. The Request for Zoning Variation process may, on a case-by-case basis, afford a relaxation of the Zoning Code provisions.

Any person having a right of ownership or right of possession in any property in the Village may request a zoning variation. All applications for variations shall be filed with the Village Clerk in accordance with the requirements in Section 11-2-7 of the Village Code.

This document provides a synopsis of the process for application and review of requests for zoning variations. Additional information may be found in Section 11-2-17 of the Village Code.

1. **Pre-application Meeting:** The petitioner should meet with the Superintendent of Buildings for a pre-application meeting to informally discuss the request for variation prior to filling out a formal application. At the pre-application meeting, the petitioner should provide general information that describes or outlines the existing conditions of the site and the hardship that prevents compliance with the provisions of the Zoning Code. The Building Department staff will review the types of required submittals (see item #2), the number of copies required, and the approximate length of review time required by the Village.

The petitioner is encouraged to become familiar with the appropriate provisions of the Zoning Code prior to submittal of request for variation.

2. **Required Submittals:** The petitioner shall prepare and submit copies of the following documents to the Village Clerk, 14801 South Pulaski Road, Midlothian, Illinois 60445.
 - a. **Application:** Completed Application for Zoning Variation.
 - b. **Application Fee:** \$400.00, non-refundable.
 - c. **Deposit:** \$1,000.00. The deposit is used to offset the direct costs incurred by the Village for required mailings of public notices, publication of legal notices, and consultants for engineering, legal and Zoning Board of Appeal secretarial services. The Superintendent of Buildings may set a higher minimum based on an evaluation of the size of the project and likely expenses associated with the review process. Once the project is complete, any remaining funds from the deposit are returned to the petitioner. Any costs related to the application that are not covered by the deposit must be paid by the applicant prior to the request being heard by the Village Board.
 - d. **Reimbursement of Fees Agreement:** Signed agreement consenting to reimburse the Village for out-of-pocket expenses incurred in processing the application (form attached to application).
 - e. **Plat of Survey:** A current Plat of Survey of the property, prepared, signed and sealed by a land surveyor licensed in the State of Illinois, including a statement that the property is or is not in the floodplain or floodway.
 - f. **Site Plan:** A plan drawn to scale, including a north arrow, address of the site, name of the preparer and date, showing:
 - 1) Lot line dimensions and lot area;
 - 2) Existing or proposed grades with contour intervals not more than two feet (only required if request includes and expansion of the building footprint);
 - 3) Location of any existing and proposed structures on the lot;
 - 4) Adjacent street locations, right-of-way widths and pavement widths;
 - 5) Location, width and materials of sidewalks, curb cuts and driveways;
 - 6) Location and size of any sanitary and storm sewer lines, water lines, septic systems, and wells (only required if request includes and expansion of the

building footprint);

- 7) Location and width of easements (only required if request includes and expansion of the building footprint);
- 8) Location of parking areas, type of surface, dimension of parking spaces and drive aisles, (only required for variations to parking requirements);
- 9) Location of loading areas, types of surfaces, dimensions, striping, signing, and type of screening, (only required for variations to parking requirements);
- 10) On-site traffic access and circulation delineated by directional arrows and signs, (only required for variations to parking requirements);
- 11) Open spaces, (only required for variations to parking requirements);
- 12) Location of existing and proposed signs (only required for sign variations);
- 13) Location, height, and type of existing and proposed exterior lighting (only required for variation involving exterior lighting);
- 14) Location, size, and species of existing and proposed landscaping (only required for variations to parking requirements);
- 15) Zoning designation of subject property and adjacent properties; and
- 16) Other data that may be necessary for the review of the application, as determined by the Superintendent of Buildings.

g. **Floor Plans:** Scaled existing and proposed floor plans to indicate proposed spaces within any structure on the subject property (only required if a variation request includes an expansion of the building footprint)

h. **Building Elevations:** (only required if variation request includes an increase of the building height)

- i. **Landscaping Plans:** (only required if determined necessary by the Committee)
- j. **Photographs:** Imagery of property and existing structures from each compass direction, indicating area subject to variation request

k. **Proof of Ownership:**

- 1) A copy of a Guarantee Title Policy or other proof of ownership as approved by the Building Department staff, or
- 2) If a tenant is the petitioner, include copy of the Lease Agreement or Letter of Intent to lease from the property owner, or
- 3) If a tenant is the petitioner, include a written statement from the property owner that they are aware of and approve the tenant's application for a zoning variation.

l. **Disclosure of Interest:** If the subject property is held in a trust, a complete disclosure of interest of the ownership, including the names of trustees and beneficial owners, shall be provided. If the subject property is owned by a corporation, a disclosure of the shareholders, including the names of the officers and directors, shall be provided (form attached to application).

- m. **Affidavit of Authorization:** A document signed by the owner of the subject property which authorizes the petitioner to represent them for the zoning variation request shall be provided (form attached to application).

NOTE: Waiver of the required documentary evidence may be granted by the Superintendent of Buildings provided staff determines that the information is insignificant or unnecessary.

NOTE: The petitioner should be aware that the requirements outlined herein are the minimum requirements for processing an application for zoning variations and that, from time to time, the Zoning Board of Appeals may require such other information that it deems necessary to make a recommendation to the Village Board.

3. **Preliminary Staff Review:** When the petitioner has plans in substantially completed form, seven (7) copies of all application documents shall be submitted for preliminary review by the Village's Site Plan Review Committee (Committee"). The Committee will review the project for compliance with applicable Village ordinances and will raise any concerns or issues with the proposal. Following review by the Committee, the petitioner shall modify the proposal to respond to Committee comments.

The Superintendent of Buildings, if he/she considers it necessary, may call upon any Village department or official for their review of the zoning variation request prior to any public hearing. Such a review shall be in writing and take no more than ten days.

4. **Formal Application:**

- a. Zoning variation requests require an application fee. This fee is applied toward project review costs. The fee is payable at the time formal application is made.
- b. The applicant shall submit ten (10) hard, and one (1) electronic, copies of final documents, which shall include responses to the Site Plan Review Committee comments, for submittal for review by the Zoning Board of Appeals. Upon receipt of the required number of copies of all the items enumerated above and the application fee and deposit, the Building Department staff shall set a date for a public hearing before the Zoning Board of Appeals on the application for zoning variation. The application must be received a minimum of 30 days in advance of the proposed public hearing date.

5. **Public Notice:**

- a. The Zoning Board of Appeals shall cause a notice of time, place, and purpose of such hearing to be published in a newspaper of general circulation within the Village not more than thirty (30) days nor less than fifteen (15) days in advance of such hearing.
- b. The applicant shall be required to post a sign on the subject property for all applications for zoning variations in accordance with the following provisions:

- 1). Location And Time Period for Posting Signs: The required posting period shall be seven (7) consecutive days, immediately prior to the hearing date (excluding the day of the hearing from the 7-day period). The sign shall be posted at a prominent location on the property, near the sidewalk or public right of way so that it is visible to passing pedestrians and motorists. Properties with more than one street frontage shall be required to post one sign visible from each street frontage.
- 2). Applicant's Responsibility for Posting Signs: Any applicant required to post a sign under this provision shall acknowledge receipt of a copy of these requirements at the time the application is accepted by the Village. It is the applicant's responsibility to obtain a sign from the Village and to verify the correct hearing date, time, and place with the Village. Further, it is the applicant's responsibility to erect the sign on the property and maintain it during the required seven (7) day period. The applicant shall verify to the Zoning Board of Appeals at the time of the hearing that the sign posting requirement has been complied with and the Zoning Board of Appeals may, by motion, waive defects in said compliance.

6. **Public Hearing:**

- a. The Building Department staff will submit the application, staff report and any other supporting documents to the Zoning Board of Appeals to conduct the public hearing thereon. The Zoning Board of Appeals meets in the Village of Midlothian Council Chambers, at 14801 S. Pulaski Road, on the first Tuesday of each month, at 6:00 p.m.
- b. The petitioner or his/her representative must attend the public hearing. It is the responsibility of the petitioner to present an argument supporting the request for a zoning variation in a complete and logical manner and to have available all evidence necessary to support the request. It is advisable, but not required, for the petitioner to prepare color versions of the plans (site plan, landscaping, building drawings), mounted for presentation purposes.
- c. The Zoning Board of Appeals may make a decision at one meeting or choose to continue the public hearing to another date for a variety of reasons, including but not limited to: additional information is deemed necessary; Zoning Board of Appeals' desire for an opportunity to visit the site or request staff to conduct further research; or insufficient time remains on the night of the public hearing to conclude the hearing. If the hearing is continued, no additional public notice is required to be published, however the sign remains on the subject property.
- d. At the close of the public hearing, the Zoning Board of Appeals will take a roll call vote on the requested zoning variation. The Zoning Board of Appeals may recommend approval, approval with conditions, or denial. In making its recommendation, the Zoning Board of Appeals must find that:
 - 1) The applicant has established that carrying out the strict letter of the provisions of this title would create a practical difficulty or particular hardship.

- 2) The subject property is exceptional, as compared to other properties subject to the same provisions, by means of a unique physical condition, including irregular or substandard size, shape or configuration, exceptional topographical features, or presence of an existing use, structure or sign, whether conforming or nonconforming, or other extraordinary physical conditions peculiar to, and inherent in, the subject property that amount to more than a mere inconvenience to the property owner, and that relate to, or arise out of, the characteristics of the property rather than the personal situation or preference of the current property owner.
- 3) The aforesaid unique physical condition is not the result of any action or inaction of the property owner, or his/her predecessors in title, and that it existed at the time of enactment of the provisions from which a variation is sought, was created by natural forces, or was the result of governmental action, other than the adoption of the Zoning Code.
- 4) The carrying out of the strict letter of provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other properties subject to the same provisions.
- 5) The alleged hardship or difficulty is neither merely the inability of the owner or occupants to enjoy some special privilege or additional right not available to owners or occupants of other lots or properties subject to the same provisions, nor merely the inability of the owner to gain a greater financial return from the use of the subject property.
- 6) The variation would not result in a use of development of the subject property that would not be in harmony with the general and specific purposes of this title, including the provision from which a variation is sought, or the general purpose and intent of the comprehensive plan.
- 7) There is no means, other than granting the requested variation, by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.
- 8) The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of the Zoning Code.
- 9) Additional Criteria for Sign Variations: Within thirty (30) days after the denial of a sign permit by the Superintendent of Buildings, a request for variance in height or size may be filed with the Zoning Board of Appeals. The Zoning Board of Appeals may hold a hearing and make its recommendation to the Village Board. The Zoning Board of Appeals may recommend granting the variation if it finds that the unusual shape or topography of the property in question prevents signage allowable under the provisions of this title from adequately identifying the business or other activity on such property. The Zoning Board of Appeals may recommend a variance only to allow the area or height of a sign to be increased by up to twenty five percent (25%) of the maximum allowable height or area. If the request for variance is based upon building materials, the request must be made to the Village Board, in writing, within thirty (30) days after the denial of the permit by the Superintendent of Buildings. All

appeals to the Zoning Board of Appeals shall require payment of appropriate fees and filing of applicable forms.

- e. The Zoning Board of Appeals may recommend, and the Village Board may grant variations less than or different from that requested when the record supports the applicant's right to some relief, but not to the entire relief requested.
- f. The Zoning Board of Appeals may recommend, and the Village Board may impose, specific conditions and restrictions concerning use, construction, character, location, landscaping, screening, and other matters that address the purposes and objectives of this title, upon any property that is granted a variation. These conditions may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities or services. Such conditions shall be expressly set forth in the ordinance or order granting the variation. Failure to maintain such conditions or restrictions as may have been imposed shall constitute grounds for revocation of the variation.
- g. Limitations On Variations:
 - 1) Variations may become null and void unless a building permit is issued, and construction is begun within six (6) months of granting the variation and is thereafter diligently pursued to completion. After notice to the property owner and an opportunity for a hearing, the Village Board may terminate the variation. However, the Village Board may extend this period, upon written request from the applicant showing good cause.
 - 2) A variation is granted to a specific property and authorizes the conduct of the variation only on the property represented on the application and is not transferable to other properties or other owners or tenants.
 - 3) The approval of a variation only authorizes the particular construction or development for which it was issued, but does not authorize the establishment or extension of any use, nor development, construction, reconstruction, alteration or moving of any building or structure without first obtaining any other required permit, including a zoning certificate, building permit and certificate of occupancy. The approved variation shall automatically expire and cease to be of any force or effect if such construction or development is beyond the scope so authorized.

7. **Final Action:**

- a. Within thirty (30) days of the close of the public hearing, the Zoning Board of Appeals shall forward its findings of fact and recommendation of either approval, approval with conditions, or denial on applications for zoning variations to the Village Board.

NOTE: Before the Village Board takes final action and votes on the request, the

petitioner must pay any outstanding charges for services indicated under item #2c.

- b. The Village Board shall consider the application within thirty (30) days of receiving the findings of fact and recommendation from the Zoning Board of Appeals but may postpone final decision for an additional thirty (30) days for any reason. The Village Board may act in the form of approval, approval with conditions, or denial of applications for zoning variation. The Village Board may also refer the matter back to the Zoning Board of Appeals for further consideration.
- c. If the decision of the Village Board is to approve the request for zoning variation, the petitioner may seek building permits after the ordinance has been approved and signed. A building permit must be applied for within 18 months of the date of the ordinance, or the zoning variation will become null and void. The Building Department will review plans submitted for permits for general conformance with the plans that were approved by the Village Board and include any conditions applied to the zoning variation.

Questions regarding the Request for Zoning Variation process may be directed to the Superintendent of Buildings at phone number 708-752-8948.



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APPLICATION FOR ZONING VARIATION

For the property located at _____ Midlothian, IL 60445.

.....

Note to the Applicant: Ten (10) copies of this application and attachments thereto (drawings, data or other information as deemed necessary by the Superintendent of Buildings) must be filed with the Village Clerk along with the required \$400.00 application fee and \$1000.00 deposit. An applicant shall have the right to withdraw an application at any time prior to the decision on the application by a village official, commission or board; however, there will be no refund of fees. Such withdrawal shall be made in writing.

You may attach separate sheets if additional space is needed to provide the required information.

.....

The undersigned hereby petitions the Village of Midlothian, Illinois ("Village"), for one or more variations from the Village Zoning Code (Ordinance No. 1650, as amended), as described in this application.

OFFICE USE ONLY:

Date Received: _____

Application Fee Paid: \$ _____

Application Number: _____

Deposit Paid: \$ _____

Scheduled Hearing Date: _____

I. **CONTACT INFORMATION:**

Applicant:

Name: _____

Company: _____

Address: _____

Business Phone: _____ Fax: _____

Home Phone: _____ Mobile Phone: _____

Email: _____

Property Interest of Applicant: Property Owner Contract Purchaser

Contractor Architect

Attorney Other: _____

Person or Entity Applicant is representing if not self:

Name: _____

Address: _____

Business Phone: _____ Fax: _____

Home Phone: _____ Mobile Phone: _____

Email: _____

Property Owner:

Name: _____

Address of Property Owner: _____

Business Phone: _____ Fax: _____

Home Phone: _____ Mobile Phone: _____

Email: _____

II. **PROPERTY INFORMATION:**

Common address: _____

Permanent tax index number: _____

Legal description:

Current Zoning classification:

<input type="checkbox"/> R-1 - Single-Family Residential	<input type="checkbox"/> B1: Neighborhood Business Residential
<input type="checkbox"/> R-2 - Single-Family Residential	<input type="checkbox"/> B2: Village Center
<input type="checkbox"/> R-3 - Single-Family Attached Residential	<input type="checkbox"/> B-3: Community Commercial
<input type="checkbox"/> R-4 - General Residential	<input type="checkbox"/> O/I: Office/Limited Industrial
<input type="checkbox"/> R-5 - Village Center Multi-Family Residential	<input type="checkbox"/> OS: Open Space and Recreation

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

Present use:

Is the property in question subject to a contract or other arrangement for sale with the fee owner?

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?

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. **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):

(Attach additional sheet if necessary)

Zoning Code Section: _____

Zoning Code Requirement: _____

Variation Requested: _____

Zoning Code Section: _____

Zoning Code Requirement: _____

Variation Requested: _____

Zoning Code Section: _____

Zoning Code Requirement: _____

Variation Requested: _____

IV. **EVIDENCE RELATING TO ZONING CODE STANDARDS FOR VARIATIONS:**

The following items are intended to elicit information to support conclusions by the Zoning Board of Appeals 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.

1. Hardship: Provide evidence that there is a practical difficulty or particular hardship for the applicant/owner in carrying out the strict letter of the Zoning Code:

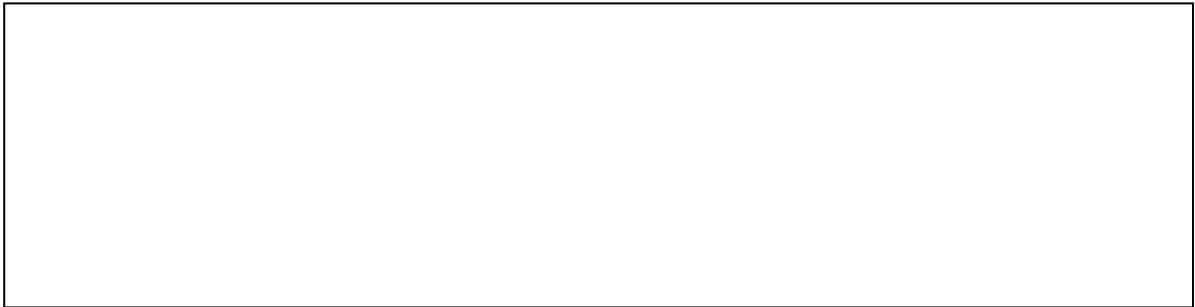
2. Unique Physical Conditions: Provide evidence that the subject property is exceptional, as compared to other properties subject to the same provisions, by means of a unique physical condition, including irregular or substandard size, shape or configuration, exceptional topographical features, or presence of an existing use, structure or sign, whether conforming or nonconforming, or other extraordinary physical conditions peculiar to, and inherent in, the subject property that amount to more than a mere inconvenience to the property owner, and that relate to, or arise out of, the characteristics of the property rather than the personal situation or preference of the current property owner.

3. Not Self-Created: Provide evidence that the aforesaid unique physical condition is not the result of any action or inaction of the property owner, or his/her predecessors in title, and that it existed at the time of enactment of the provisions from which a variation is sought, was created by natural forces, or was the result of governmental action, other than the adoption of the Zoning Code.

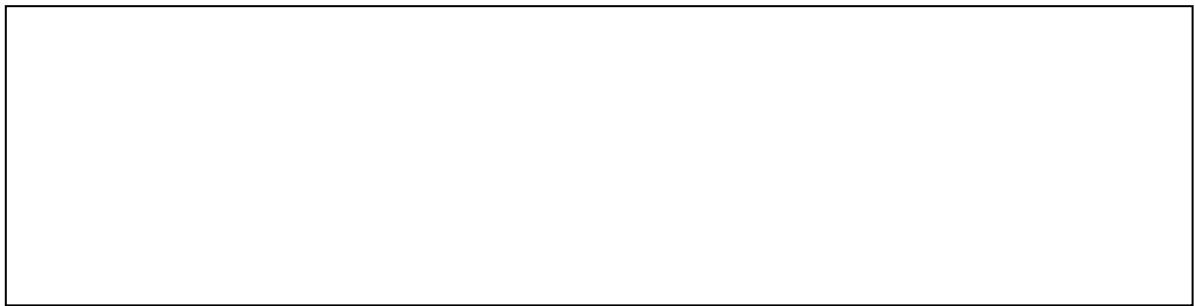
4. Denied Substantial Rights: Provide evidence that the carrying out of the strict letter of provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other properties subject to the same provisions.

5. Not Merely Special Privilege: Provide evidence that the alleged hardship or difficulty is neither merely the inability of the owner or occupants to enjoy some special privilege or additional right not available to owners or occupants of other lots or properties subject to the same provisions, nor merely the inability of the owner to gain a greater financial return from the use of the subject property.

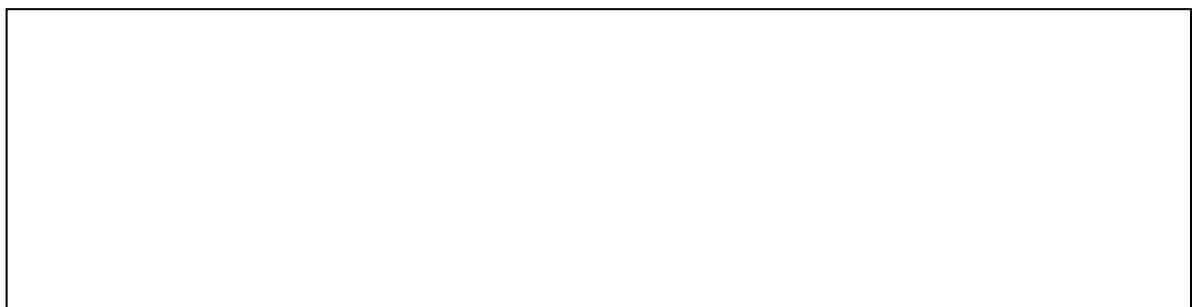
6. Conformance With Title And Plan Purposes: Provide evidence that the variation would not result in a use of development of the subject property that would not be in harmony with the general and specific purposes of this title, including the provision from which a variation is sought, or the general purpose and intent of the Village's comprehensive plan.



7. No Other Remedy: Provide evidence that there is no means, other than granting the requested variation, by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.



8. Minimum Relief Required: Provide evidence that the requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of the Zoning Code.



V. **CERTIFICATIONS, CONSENT AND SIGNATURE(S):**

I (We) certify that all 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 entry in or upon the premises described in the application by any authorized official of the Village during normal business hours for the purpose of inspection related to the requested variation(s) and information contained within this application.

I (We) understand that the deposit paid will be applied toward expenses incurred by the Village, including but not limited to all notices of publication(s), mailings and postage, professional fees (legal, engineering, etc.), signs, Zoning Board of Appeals public hearing, plus a 5% administrative fee. Each member of the Zoning Board of Appeals shall receive a stipend of \$50.00 per application presented at each public hearing (regardless of if such application is approved or denied). The total stipend amount shall be deducted from the deposit, which shall not be subject to the 5% administrative fee. The unused deposit amount shall be refunded to the applicant upon approval, denial, or withdrawal of the application.

I (we) understand that our request will not be scheduled for a Village Board agenda until and unless an invoice for Village expenses that exceed the deposit amount has been paid.

Printed Name of Applicant

Printed Name of Applicant

Signature of Applicant

Signature of Applicant

Date

Date

AFFIDAVIT OF AUTHORIZATION

I, _____ owner of the property described as

verify that _____

is duly authorized to apply and represent my interests before the Village Zoning Board of Appeals and/or Village Board. Owner acknowledges that any notice given applicant is actual notice to owner.

Owner Signature

Owner Printed Name

Subscribed and sworn to before me this

____ day of _____, 20_____

Notary Public

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: _____

AFFIDAVIT AFFIRMING NO CONFLICT OF INTEREST

The undersigned, being duly sworn and under oath, states as follows:

1. My name is _____,

and I hold the position of _____

for _____ (“*Applicant*”).

2. I have personal knowledge of all facts stated in this Affidavit, and if called to testify, I could and would testify competently thereto.
3. I am authorized by the *Applicant* to make the representations and statements in this Affidavit on the *Applicant*’s behalf in support of the application for development approval (“*Application*”) the *Applicant* filed with the Village of Midlothian (“*Village*”).
4. To the best of my knowledge, and as of the *Application*’s date, no individual that is employed by the Village or sits on an elected or appointed Village board or commission has a financial interest in the *Applicant*, the *Application*, or the project proposed by the *Applicant*.
5. To the best of my knowledge, and as of the *Application*’s date, no individual that is related to any person that is employed by the Village or sits on an elected or appointed Village board or commission has a financial interest in the *Applicant*, the *Application*, or the project proposed by the *Applicant*.
6. I will immediately notify the Village if the *Applicant* learns of the material inaccuracy of any statement within this Affidavit.

Further affiant sayeth naught.

Name: _____

Title: _____

Applicant’s Name: _____

Subscribed and sworn to me this

_____ day of _____, 20_____.

Notary Public