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## Staff Report to the Plan Commission

Project: Removal of Hearing Officers Text Amendment

Case Number: 2024-0765

Prepared: 10/09/2024

### AMENDMENT SUMMARY

The proposed text amendment removes the role of Hearing Officers from the Land Development Code and transfers the duties and responsibilities to the Plan Commission.

Currently, Hearing Officers review variance applications for single-family residential properties and multi-family dwellings with fewer than six units, while all other variance applications are handled by the Plan Commission. The Plan Commission would be responsible for all variance requests within the Village with this change.

Hearing Officers are also tasked with appeals of administrative decisions, a responsibility that already overlaps with the Plan Commission's duties outlined in the Land Development Code. The proposed amendment eliminates all references to Hearing Officers, making the code clearer and concise.

If approved, the Plan Commission will oversee all variance requests under Section 5-109 and handle all appeals under Section 5-107, except when the appeal is a result to their own decision. In these cases, the Board of Trustees will take responsibility for hearing the appeal.

### PROPOSED AMENDMENT TEXT

Key: Text with ~~strikethrough~~ to be deleted. **Bold and highlighted** text to be added.

#### SECTION 3-104. ~~HEARING OFFICERS~~ **APPEALS.**

**The Plan Commission, the Committee of the Whole, and the Board of Trustees shall be responsible for hearing appeals from the various administrative and other decisions made pursuant to the provisions of the Land Development Code. The Plan Commission shall be the primary appellate body and shall hear all appeals under Sections 5-107 and under any other section unless it requires an appeal from their own determination, which shall be heard by the Board of Trustees; and the Plan Commission shall further hear all applications for Variances under Section 5-109.**

~~A. **Creation.** There is hereby established the position of Hearing Officer(s).~~

~~—B. **Powers and Duties.** The Hearing Officer(s) shall have the following powers and duties:~~

~~—1. To hold hearings and make decisions in regard to applications for variances and appeals under the provisions of Sections 5-107 and 5-109;~~

~~—2. To adopt rules of procedure for the conduct of hearings;~~

~~—3. To take testimony under oath and compel the attendance of witnesses; and~~

~~—4. To issue orders regarding matters within their jurisdiction.~~

~~—C. **Qualifications.** Hearing Officers shall be trained and qualified to conduct hearings, make recommendations or findings of fact and conclusions on the matters heard.~~

- ~~—D. **Membership, Appointment, Removal, Terms and Vacancies.** Membership, Appointment, Removal, Terms and Vacancies shall be as provided by the Village Board of Trustees by Ordinance. (Ord. 2768 -- 8/7/95)~~
- ~~—E. **Recording Secretary.** The Director of the Building Department shall appoint a Recording Secretary to serve the Hearing Officers. The Secretary shall keep minutes of all proceedings of the Officers, which minutes shall be a summary of all proceedings before the Board, attested to by the presiding Officer. In addition, the Secretary shall maintain all records of the hearings, proceedings and correspondence of the Officers.~~
- ~~—F. **Staff.** The Building Department shall be the professional staff of the Hearing Officers.~~
- ~~—G. **Meetings, Hearings and Procedure:**~~
  - ~~—1. Hearings shall be called by a Hearing Officer as are necessary to perform the duties prescribed in this Section.~~
  - ~~—2. All hearings shall be set for a time certain and be open to the public.~~
  - ~~—3. Every order, requirement, decision or determination of a Hearing Officer shall immediately be filed in the office of the Village Clerk and be of public record. A report on all such decisions shall also be filed on a monthly basis with the Board of Trustees in accordance with the provisions of Sections 5-107 and 5-109.~~

**SECTION 5-109. VARIANCES.**

- A. **Authority and Purpose.** The ~~Hearing Officer(s) and the~~ Plan Commission ~~are~~ is hereby authorized to grant and/or recommend to the Board of Trustees such variances from the literal terms of these regulations where there are practical difficulties or unnecessary hardships that may result from strict compliance with these regulations so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. ~~The Hearing Officer(s) shall hear those applications affecting one (1) single family residential dwelling and those applications affecting multi-family dwellings of fewer than six (6) units.~~ All ~~other~~ applications for a variance shall be heard by the Plan Commission.  
...
- D. **Standards Applicable to all Variances.** The findings of the ~~Hearing Officer(s) or~~ Plan Commission and the Board shall be based on data submitted pertaining to each standard in this section as it relates to the development. A variance shall be granted only if the applicant demonstrates:  
...
- E. **Limitations on Variances Granted by the ~~Hearing Officer(s) or the~~ Plan Commission.** Variances may only be granted by the ~~Hearing Officer(s) or the~~ Plan Commission in the below instances. The Village Board of Trustees may also grant these and other variances to these regulations.  
...
- H. **Action by the ~~Hearing Officer or~~ Plan Commission.** See Section 5-101.C.1 and 5-101.C.4 for the respective procedures and actions of the Plan Commission ~~and the Hearing Officer(s)~~ relating to public hearings.

**SECTION 5-101. DEVELOPMENT REVIEW PROCEDURES.**

**SECTION 5-101.A.3.**

~~c. Development Requiring Hearing Officers Review (Variances):~~

- ~~— 1. Pre-Application Review with Village Staff;~~
- ~~— 2. Filing of Application and Scheduling Hearing Officer Public Hearing;~~
- ~~— 3. Hearing Officer(s) Review and Decision;~~
- ~~— 4. Board of Trustees (if appeal is filed).~~

**SECTION 5-101.B.2.a.**

1. A public hearing at Plan Commission shall be required for applications regarding:

- Special Uses;
- Special Use Amendments;
- Variances ~~(except as in 5 below);~~

...

~~5. A public hearing before the Hearing Officer(s) is required for:~~

- ~~— Variance petitions affecting one (1) single family residential dwelling;~~
- ~~— Variance petitions affecting multi-family residential dwellings of fewer than six (6) units.~~

**SECTION 5-101.C.**

...

~~3. Public Meeting at the Hearing Officer(s) with a Public Hearing.~~

~~— a. Hearing Officer(s). The Hearing Officer(s) shall hold a public hearing in accordance with the provisions of Section 5-101.C of these regulations for applications regarding variance petitions affecting one (1) single family residential dwelling and variance petitions affecting multi-family residential dwellings of fewer than six (6) units. The Hearing Officer(s) shall review a preliminary plan or related documentation, the report and recommendation of the Development Services Department and testimony given at the public hearing and if the application for a variance is within one of those variances authorized in Section 5-109.E, grant the variance with or without conditions or deny the variance. If the variance is not within one of those variances authorized in Section 5-109.E, the Hearing Officer(s) shall review a preliminary plan or related documentation, the report and recommendation of the Development Services Department and testimony given at the public hearing and either recommend approval, with or without conditions, or disapproval to the Board of Trustees, or not make a recommendation but forward to the Board of Trustees.~~

~~— b. Board Action. Upon receipt and review of the Hearing Officer(s) recommendations, and the Development Services Department's report and recommendation, the Board of Trustees shall consider the variances requested not authorized in Section 5-109.E for the Hearing Officer(s) to grant or deny and shall grant, with or without conditions, or deny the petition/application.~~

**PLAN COMMISSION RECOMMENDED ACTION**

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Staff recommends to accept and make findings of fact as discussed at this Plan Commission meeting and within the Staff Report dated October 9, 2024,

And

Staff Recommends that the Plan Commission approve the Land Development Code Amendment removing Hearing Officers as presented in the Staff Report dated October 9, 2024.

**PLAN COMMISSION RECOMMENDED MOTION**

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Regarding Case Number 2024-0765, I move to approve the Staff Recommended Action as presented in the Staff Report to the Plan Commission for this case.