

Prepared by and return to:
Village of Arlington Heights
33 S. Arlington Heights Road
Arlington Heights, Illinois 60005
Attention: Village Clerk

VILLAGE OF ARLINGTON HEIGHTS

ORDINANCE NO. 2023-_____

AN ORDINANCE GRANTING VARIATIONS FOR MINIMUM ZONING DISTRICT AREA
AND A TRAFFIC AND PARKING STUDY
(401-403 N. Chestnut Ave.)

ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF ARLINGTON HEIGHTS
THIS ____ DAY OF _____, 2023.

Published in pamphlet form
by the authority of the
President and Board of Trustees
of the Village of Arlington Heights,
Cook County, Illinois this
_____ day of _____, 2023

Village Clerk

AN ORDINANCE GRANTING VARIATIONS
FOR MINIMUM ZONING DISTRICT AREA
AND A TRAFFIC AND PARKING STUDY
(401-403 N. Chestnut Ave.)

WHEREAS, Juan Gonzalez (collectively, the “*Applicant*”) is the owner of record of that certain property located in the R-6 Multi-Family Dwelling District (“*R-6 District*”), commonly known as 401-403 N. Chestnut Avenue, Arlington Heights, Illinois, and legally described in Exhibit A attached to and, by this reference, made a part of this Ordinance (“*Property*”); and

WHEREAS, the Property has a lot size of approximately 15,150 square feet (0.35 acres) and is improved with a two-family residential structure (“*Existing Use*”); and

WHEREAS, pursuant to Section 5.1-6.1 of “The 2002 Comprehensive Amendment of the Zoning Ordinance of the Village of Arlington Heights,” as amended (“*Zoning Code*”), the minimum allowable area of any portion of the R-6 District is one acre; and

WHEREAS, the area of the R-6 District that includes the Property is less than one acre, in violation of Section 5.1-6.1 of the Zoning Code; and

WHEREAS, the Applicants desire both to continue the Existing Use on the Property and to keep the Property in the R-6 District; and

WHEREAS, pursuant to Section 12 of the Zoning Code, the Applicants have filed an application for approval of: (i) a variation from Section 5.1-6.1 of the Zoning Code to reduce the minimum area of the R-6 District including the Property; and (ii) a variation from Section 6.12-1(3) of the Zoning Code to waive the requirement to conduct a traffic study and parking analysis (collectively, the “*Requested Relief*”); and

WHEREAS, a public hearing of the Plan Commission of the Village to consider approval of the Requested Relief was duly advertised in the *Daily Herald* newspaper on June 13, 2023, and held on June 28, 2023; and

WHEREAS, on June 28, 2023, the Plan Commission made findings and recommendations in support of the Requested Relief, with conditions; and

WHEREAS, the President and Board of Trustees have determined that the Requested Relief meets the required standards for variations as set forth in Section 12.2 of the Zoning Code; and

WHEREAS, the President and Board of Trustees have determined that it will serve and be in the best interest of the Village to grant the Requested Relief, subject to the conditions, restrictions, and provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ARLINGTON HEIGHTS:

SECTION 1. RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. GRANT OF VARIATIONS. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 3 of this Ordinance, and in accordance with, and pursuant

to, Section 12 of the Zoning Code and the home rule powers of the Village, the Village hereby grants the following variations to the Applicants in connection with the Property:

- A. Minimum Area. A variation from Section 5.1-6.1 of the Zoning Code to reduce the minimum area of the R-6 District that includes the Property, from one acre to 15,150 square feet (0.35 acres).
- B. Waiver of Traffic Study. A variation from Section 6.12-1(3) of the Zoning Code to waive the requirement to provide a traffic study and parking analysis in connection with the Requested Relief.

SECTION 3. CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Zoning Code, the approvals granted pursuant to Section 2 of this Ordinance are hereby expressly subject to, and contingent upon, the development, use, and maintenance of the Property in compliance with the following condition: except to the extent specifically provided otherwise in this Ordinance, the use, operation, and maintenance of the Property must comply at all times with all applicable Federal, State, and Village statutes, codes, ordinances, and regulations, as the same have been or may be amended from time to time.

SECTION 4. RECORDATION; BINDING EFFECT. A copy of this Ordinance will be recorded on title to the Property with the Cook County Clerk's Recording Division. This Ordinance and the privileges, obligations, and provisions contained herein inure solely to the benefit of, and are binding upon the Applicants and each of their representatives, successors, and assigns.

SECTION 5. FAILURE TO COMPLY WITH CONDITIONS. Upon the failure or refusal of the Applicants to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, as applicable, the approvals granted in Section 2 of this Ordinance may, at the sole discretion of the Village President and Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village President and Board of Trustees may not so revoke the approvals granted in Section 2 of this Ordinance unless they first provide the Applicants with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village President and Board of Trustees. In the event of revocation, the use of the Property will be governed solely by the regulations of the R-6 District and the applicable provisions of the Village Code, as the same may, from time to time, be amended. Further, in the event of such revocation, the Village Manager and Village Attorney are hereby authorized and directed to bring such enforcement action as may be appropriate under the circumstances.

SECTION 6. AMENDMENTS. Any amendments to the approvals granted in Section 2 of this Ordinance that may be requested by the Applicants after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Village Code.

SECTION 7. SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance are to remain in full force and effect, and will be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 8. EFFECTIVE DATE.

- A. This Ordinance will be effective only upon the occurrence of all of the following events:
1. Passage by the Village President and Board of Trustees in the manner required by law; and
 2. The filing by the Applicants with the Village Clerk of an Unconditional Agreement and Consent, in the form of Exhibit B attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance.
- B. In the event the Applicants does not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 8.A.2 of this Ordinance, within 30 days after the date of final passage of this Ordinance, the Village President and Board of Trustees will have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

AYES:

NAYS:

PASSED AND APPROVED THIS ___ day of _____, 2023

Village President

ATTEST:

Village Clerk

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

THE SOUTH 70 FEET OF LOT 7 AND ALSO THE SOUTH 70 FEET OF LOT 8 IN BLOCK 5 IN ATKIN'S ADDITION TO ARLINGTON HEIGHTS, A SUBDIVISION OF THAT PART OF THE EAST ½ OF THE SOUTHEAST ¼ NORTH OF THE CHICAGO AND NORTHWESTERN RAILROAD, IN SECTION 30, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 7, 1878, AS DOCUMENT 190070 IN BOOK 14 OF PLATS, PAGE 8, IN COOK COUNTY, ILLINOIS.

Commonly known as: 401-403 N. Chestnut Avenue, Arlington Heights, Illinois.

PIN: 03-30-408-008

EXHIBIT B

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Arlington Heights, Illinois (“*Village*”):

WHEREAS, Juan Gonzalez (collectively, the “*Applicant*”) is the owner of record of that certain property located in the R-6 Multi-Family Dwelling District (“*R-6 District*”), commonly known as 401-403 N. Chestnut Avenue, Arlington Heights, Illinois (“*Property*”); and

WHEREAS, Ordinance No. 2023-_____, adopted by the Village President and Board of Trustees on _____, 2023 (“*Ordinance*”), grants variations to the Applicants to reduce the minimum area of the R-6 District that includes the Property and to waive the requirement to provide a traffic study and parking analysis; and

WHEREAS, Section 8 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Applicant files, within 30 days following the passage of the Ordinance, their unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

NOW, THEREFORE, the Applicants do hereby agree and covenant as follows:

1. The Applicants hereby unconditionally agree to, accept, consent to, and will abide by, each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.
2. The Applicants acknowledge that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.
3. The Applicants acknowledge and agree that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village’s granting of the variations for the Property or its adoption of the Ordinance, and that the Village’s approvals do not, and will not, in any way, be deemed to insure the Applicants against damage or injury of any kind and at any time.
4. The Applicants hereby agree to hold harmless and indemnify the Village, the Village’s corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village’s adoption of the Ordinance granting the variations for the Property.

[SIGNATURES ON FOLLOWING PAGE]

Dated: _____, 2023

ATTEST: _____

By: _____

By: _____

Its: _____

Its: _____

ATTEST: _____

By: _____

By: _____

Its: _____

Its: _____