

APPROVED AS SUBMITTED Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Tuesday, June 12, 2007, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL

PRESENT: Acting Chairman Rubinstein, Member Pratt, and Alternate Brusso

ABSENT: Chairperson Itkin and Trustee Liaison McDonough

ALSO PRESENT: Steve McNellis, Director of Community Development, Stephen Robles, Planner

CALL TO ORDER: **Acting Chairman Rubinstein** called the meeting to order at 7:00 p.m.

1.0 ROLL CALL

The roll was called by the secretary and **Acting Chairman Rubinstein** declared a quorum to be present.

2.0 APPROVAL OF MINUTES

2.1 Approval of the Minutes of the Rescheduled Zoning Board Meeting held on Thursday, May 17, 2007.

Mr. Pratt moved and **Mr. Brusso** seconded a motion to approve the minutes as submitted. The motion passed unanimously by voice vote.

3.0 GENERAL BUSINESS

3.1 **Public Hearing** to consider a variance request to Section 6-15-5(A)(4)b, Yard Fences, of the Village of Lincolnshire's Fences and Screens Zoning Regulations to permit the installation of a six-foot (6') tall solid wooden fence along the rear property line rather than the code permitted four-foot (4') tall "open" fence for a single-family residence located at 100 Surrey Court (Peter and Josephine Przysieszny).

3.2 Consideration and discussion of a variance request to Section 6-15-5(A)(4)b, Yard Fences, of the Village of Lincolnshire's Fences and Screens Zoning Regulations to permit the installation of a six-foot (6') tall solid wooden fence along the rear property line rather than the code permitted four-foot (4') tall "open" fence for a single-family residence located at 100 Surrey Court (Peter and Josephine Przysieszny).

Acting Chairman Rubenstein opened the Public Hearing and recessed the Zoning Board meeting.

Stephen Robles, Planner, summarized Staff's memorandum dated June 8, 2007, and noted that the request for a fence variation to construct a six-foot tall solid wood fence along the rear property line is necessitated by the lot's proximity to Half Day Road and the widening of Route 22 which has presented increased traffic noise and pollution. In addition, the installation of a bike trail immediately south of the subject site contributes in impeding the use and enjoyment of their backyard. While the subject site is within close proximity to Route 22, the lot does not directly abut Half Day Road, due to a strip of dedicated common space of approximately 25 feet

located between the road and the lot. Therefore, this property does not meet the exemption for a six-foot tall solid fence, and code would require that the rear yard fence be of the open type. Additionally, the removal of existing vegetation for the installation of the bike trail within the dedicated open space has decreased the natural buffer for traffic noise. Most importantly, since the strip of dedicated common space is narrow at the subject location, it would not be seen by the casual observer as anything other than right-of-way leading up to the back of this lot. Since a rear yard six-foot tall solid fence of the traditional design, and shown on Attachment A, would be consistent with the character of existing fences along Route 22, Staff is recommending approval of the requested variation, subject to the condition that any such fence shall comply with the acceptable fence design concepts indicated in "Attachment A" attached to and made part of this packet presentation. **Planner Robles** also noted that the Petitioner has submitted the Findings of Fact and requests that same be entered into and made part of the public record, to which **Acting Chairman Rubinstein** affirmed.

The Zoning Board was comfortable with the facts as presented in Staff's memorandum; however, since the subject property currently has not fence along the rear property line, **Mr. Brusso** inquired if the properties abutting 100 Surrey Court currently have fences along the rear property line.

Peter and Josephine Przysiezny, property owners of 100 Surrey Court, were sworn in by Acting Chairman Rubinstein. **Mrs. Przysiezny** responded that the adjacent property at 102 Surrey Court, the Berk residence, does have a 4' tall fence currently and would also like to have their 4' tall fence replaced with a fence identical to the 6' tall solid wooden fence we are requesting. **Mr. Przysiezny** pointed out that there is an existing 6' tall solid wooden fence on the corner of Riverwoods Road and Route 22. **Acting Chairman Rubinstein** inquired if both fences would be identical and of the same design, to which **Mrs. Przysiezny** responded affirmatively and **Planner Robles** added that the work is being done by the same fence contractor. **Mr. Brusso** inquired if the aforementioned existing fence is located at 104 Surrey Court. **Planner Robles** stated that there is an existing 6' tall solid wooden fence at both 81 Riverwoods Road and 104 Surrey Court, and are not part of this consideration and discussion. He ensured that the proposed fences would be similar in height and material, however, the design may vary slightly. Also, all fences would follow the rear property line and be contiguous.

Acting Chairman Rubinstein closed the Public Hearing and reconvened the Zoning Board meeting.

Having made Findings of Fact, along with additional facts covered in a Public Hearing held on June 12, 2007, the Mr. Brusso moved and Mr. Pratt seconded a motion to recommend approval to the Village Board of a variation for the installation of a six-foot (6') tall solid wooden fence along the rear property line rather than the code permitted four-foot (4') tall "open" fence, based on the facts and Staff's recommendation in a memorandum, dated June 8, 2007.

The motion passed unanimously by voice vote.

- 3.3 **Public Hearing** to consider a variance request to Section 6-15-5(A)(4)b, Yard Fences, of the Village of Lincolnshire's Fences and Screens Zoning Regulations to permit the replacement of a four-foot (4') tall solid wooden fence with a six-foot (6') tall solid wooden fence along the rear property line and a four-foot (4') tall solid wooden fence along the side property lines rather than the code permitted four-foot (4') tall "open" fence for a single-family residence located at 102 Surrey Court (Randy and Kathy Berk).
- 3.4 Consideration and discussion of a variance request to Section 6-15-5(A)(4)b, Yard Fences, of the Village of Lincolnshire's Fences and Screens Zoning Regulations to permit the replacement of a four-foot (4') tall solid wooden fence with a six-foot (6') tall solid wooden fence along the rear property line and a four-foot (4') tall solid wooden fence along the side property lines rather than the code permitted four-foot (4') tall "open" fence for a single-family residence located at 102 Surrey Court (Randy and Kathy Berk).

Acting Chairman Rubinstein opened the Public Hearing and recessed the Zoning Board meeting.

Stephen Robles, Planner, summarized Staff's memorandum dated June 8, 2007, and noted that this variance request is similar to the previous request with regards to the six-foot tall solid wooden fence along the rear property line. For reasons stated earlier, Staff is in support of this variance request. However, the existing rear yard fence does extend beyond the rear property lines into the dedicated open space, as submitted in the survey included within the presentation packets. While this location may have been part of a 1990 fence permit, Staff recommends a condition be placed upon the approval that the fence be located within the surveyed property lines of 102 Surrey Court. Therefore, Staff is recommending approval of a variation to install a six-foot tall solid wooden fence along the rear yard and subject to the conditions noted in Staff's June 8th memorandum.

Planner Robles noted that this variation request also differs from the previous request, wherein the Petitioner is requesting replacement of the existing four-foot tall solid wooden fence along the side yard property lines, which currently does not comply with the code-permitted maximum opacity of 60%. As aforementioned, a building permit for the current side and rear yard fences was issued to the subject site on October 1, 1990. However, based on Staff's research, it is unclear that the solid side yard fence complied with the applicable Zoning Code at the time of approval. Staff does not believe there is a unique condition on the subject site that would support allowing solid side yard fencing since the side yards do not abut Route 22, but rather neighboring residences. Therefore, Staff does not recommend approval of a variation to permit a four-foot tall solid wood fence along the side yards. **Planner Robles** also noted that the Petitioner has submitted the Findings of Fact and

requested that same be entered into and made part of the public record, to which **Acting Chairman Rubinstein** affirmed.

Randy and Kathy Berk, property owners of 102 Surrey Court, were sworn in by Acting Chairman Rubinstein. **Mr. Berk** stated that they were issued a permit to install a four-foot tall solid wooden fence which was approved 17 years ago. At the same time, they also had a choice between a six-foot or four-foot tall solid wooden fence, and chose a four-foot tall solid wooden fence be installed along the rear property, because Route 22 was only a two-lane road in 1990. He noted that the 17 year old fence has deteriorated and needs replacing. He supports the choice of a six-foot tall wooden fence along the rear property line for reasons previously discussed and would like to maintain the four-foot tall solid wooden fence along the side yard property lines. **Mr. Berk** noted that, due to their proximity to the stoplight, there is an abundance of traffic noise from the east to the west, especially from the trucks and the grooves in the road. He expressed their desire to continue the use of the solid side yard fence that they have been allowed to have all this time. He noted that the goal of eliminating some of the traffic noise would not be achieved with a solid six-foot tall wooden fence along the rear property line and the code-permitted “open” fence along the side yard property lines.

Mr. Brusso inquired if either adjacent neighbors have solid side yard fences, to which **Mr. Berk** stated that 81 Riverwoods Road has a solid six-foot tall wood fence surrounding most of his property, as does the park on the corner of Route 22 and Old Mill Road, a six-foot solid wood fence is on the side yard. **Mr. Berk** also noted that the fence replacement would be identical to the existing side yard fence.

There being no further public comment, **Acting Chairman Rubinstein** closed the Public Hearing and reconvened the Zoning Board meeting.

Having made Findings of Fact, along with additional facts covered in a Public Hearing held on June 12, 2007, Mr. Pratt moved and Mr. Brusso seconded a motion to recommend approval to the Village Board of a variation for the replacement of a four-foot (4') tall solid wooden fence with six-foot (6') tall solid wooden fence along the rear property line rather than the code permitted four-foot (4') tall “open” fence, based on the facts and Staff’s recommendations in a memorandum, dated June 8, 2007.

The motion passed unanimously by voice vote.

Mr. Brusso alluded to Item No. 1 of the Standards for a Variation wherein the Petitioner mentioned securing their dog from a pit-bull and rottweiler that roam the area frequently. **Mr. Berk** clarified that they have one dog, and the pit-bull and rottweiler get out of their yard at 81 Riverwoods Road. With the security of the existing four-foot tall solid side yard and rear yard fences, the other two dogs have not yet posed a danger to their dog or their children. **Mr. Brusso** noted his

satisfaction with the responses to the Standards for a Variation and is acceptable with a four-foot tall solid wooden fence along the side yard property line, as it has been in place for the past several years and does not appear to have an impact upon the adjacent neighbors.

Having made Findings of Fact, along with additional facts covered in a Public Hearing held on June 12, 2007, Mr. Pratt moved and Mr. Brusso seconded a motion to recommend approval to the Village Board of a variation for the installation of a four-foot (4') tall solid wooden fence along the side property lines rather than the code permitted four-foot (4') tall "open" fence, based on the facts.

The motion passed unanimously by voice vote.

- 3.5 **Continued Public Hearing** regarding a request for a Special Use to permit a proposed new cellular tower, with a height exception from the R5 maximum permitted height of 40', to allow the maximum height to be no greater than 155' above grade, for a replacement for an existing nearby tower, with a total of 5 wireless carriers on that structure, to be located on the north side of the former Riverside Drive, approximately 650' east of Milwaukee Avenue (American Tower Corporation)
- 3.6 Consideration and discussion of a request for a Special Use to permit a proposed new cellular tower, with a height exception from the R5 maximum permitted height of 40', to allow the maximum height to be no greater than 155' above grade, for a replacement for an existing nearby tower, with a total of 5 wireless carriers on that structure, to be located on the north side of the former Riverside Drive, approximately 650' east of Milwaukee Avenue (American Tower Corporation)

Acting Chairman Rubinstein recessed the Zoning Board meeting and opened the Continued Public Hearing.

Steve McNellis, Director of Community Development, noted that Staff continues to work with the Petitioner with regard to the necessary background information to complete the plan set for this project. American Tower has apologized for this further delay, and are confident that they will be prepared for the regularly-scheduled July Zoning Board meeting. Therefore, they are requesting that the Public Hearing be continued to the next regularly scheduled meeting.

On behalf of the Zoning Board, **Acting Chairman Rubinstein** honored the Petitioner's request, continued the Public Hearing to the next regularly scheduled Zoning Board meeting, and reconvened the Zoning Board meeting.

At the Petitioner's request, the Continued Public Hearing was opened and continued to the next regularly-scheduled Zoning Board meeting, with no discussion or public comment. The Petitioner requested this continuance, as the materials required for the meeting were not yet complete.

4.0 UNFINISHED BUSINESS (None)

5.0 NEW BUSINESS

Steve McNellis, Director of Community Development, noted that, since Krysti Barksdale-Noble left the employ of the Village June 1st, Tonya Zozulya, has been hired to begin June 25th as a second planner and brings to the Village 6 ½ years experience. She is currently a planner in Romeoville and was previously employed in South Bend, Indiana.

6.0 CITIZEN COMMENTS (None)

7.0 ADJOURNMENT

There being no further business, **Mr. Brusso** moved and **Mr. Pratt** seconded a motion to adjourn. The motion passed unanimously by voice vote and **Acting Chairman Rubinstein** adjourned the meeting at 7:26 p.m.

Respectfully submitted,

Linda S. Jones, Secretary