

APPROVED AS SUBMITTED Minutes of the **RESCHEDULED MEETING OF THE ZONING BOARD** held on Tuesday, August 4, 2009, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL

PRESENT: Chairman Manion, Members Pratt, Soifer, and Leider, and Alternate Kalina

ABSENT: Member Rubinstein and Trustee Liaison McDonough

ALSO PRESENT: Stephen Robles, Planner

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

1.0 ROLL CALL

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

2.0 APPROVAL OF MINUTES

2.1 Approval of the Minutes of the Regular Zoning Board Meeting held on Tuesday, July 14, 2009.

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

3.0 GENERAL BUSINESS

Chairman Manion recessed the Zoning Board meeting and opened the Public Hearing, which was properly noticed in the July 16, 2009, issue of the *Lincolnshire Review*.

3.1 **Public Hearing** to consider a variation to permit the installation of a six-foot tall solid wooden fence along the rear property line, as measured from existing grade, rather than the code permitted six-foot tall solid fence as measured from the crown of Route 22 (Half Day Road) for those residential properties located at 66 Berkshire Lane, 2, 4, 6, and 8 Robinhood Court, which would result in a fence no taller than nine feet from the crown of Route 22 (Thomas Jackson)

Stephen Robles, Planner, summarized Staff's memorandum dated July 31, 2009, and noted that such a request would result in some fences being up to 9' in height from the crown of the road, even though they would remain no taller than 6' in height from the grade at which they are constructed. **Planner Robles** explained that as part of the expansion of the Village's bike path network, construction has begun to extend the existing path along the south side of Rt. 22 from Berkshire Lane to Westminster Way. Prior to the bike path's construction, it was determined that the existing wooden fences that screened the backyards of the subject properties along Rt. 22 were illegally located in the right-of-way and therefore, required removal. The Village Code allows residential properties which abut Rt. 22 to construct a solid fence up to 6' in height. However, the 6' height is measured from the crown of the road and not from the grade at the property

line. Based on the topography at the rear lot lines of the subject parcels, the elevation is upwards of 2' in some areas from the crown of the road, which would prevent the installation of a 6' tall fence along the property lines. Due to their proximity to Rt. 22, the homeowners have indicated their desire to install a 6' tall fence, as measured from grade, along the rear property lines to provide privacy from the heavily-traveled roadway, and from the installation of the new bike path immediately adjacent to their lots. After seeing that several properties would be able to have fences only 4'-5' tall due to the property elevation in relation to the crown of the road, the affected property owners came forward with the variation request. **Planner Robles** pointed out that this request is similar to the privacy fences immediately west, along the rear property lines of the Sherwood Drive homes that back-up to the south side of Rt. 22, which were granted a group fence height variation in 2001. Although the grade change in that area was much greater, resulting in a greater fence height variation, the same concept to provide a continuous fence line that rolls with the topography is desired along the rear of these parcels. As encouraged by Staff, the Petitioner's are all planning to use the same fence design and contractor in order to accomplish a consistent visual appearance along Rt. 22.

Further, **Planner Robles** noted that there is a potential request for an 8' tall fence height variation, and in Staff's opinion, any increase in fence height would diminish the intent of the code to limit fence heights to a maximum height of 6' and introduce a taller fence height than the precedence that has been set for any other properties abutting Rt. 22. Therefore, Staff would not be at all supportive of any increased fence height above a 6' maximum height measured from grade. Staff would note that while the owner at 4 Robinhood Court would also require a variation to build a 6' tall fence at their property line, Staff informed the Village Board that the owner is has been out of the country for some time and the property is for sale. Since the Village Board agreed with Staff that all affected property owners are part of any request to insure consistency in fence height along this entire stretch, we have included 4 Robinhood Court in this request. **Planner Robles** stated that the Petitioner, Thomas Jackson, representing all the properties involved, has provided responses to the nine Standards for Variation that must be considered by the Zoning Board. Staff is in agreement that these responses appropriately and adequately address the nine required Standards and request that such be entered into the record. Staff agrees that the code requirement establishing fence heights from the crown of the road places an undue hardship on the Petitioners for adequate privacy. Additionally, the 6' tall fences being measured from grade at the rear lot lines would result in a continuous stretch of fencing that would follow the existing grade and offer a more consistent appearance along Rt. 22. Therefore, Staff is supportive of the variation request for the 6' tall fence heights.

Chairman Manion offered the opportunity to the public for their comments and concerns.

Thomas Jackson, 2 Robinhood Court, and representing the affected property owners, was sworn in by Chairman Manion, and extended his appreciation to the Zoning Board for rearranging their schedules to consider this variation request, and expressed his excitement with moving the process forward to get a fence installed as soon as possible,

as the properties have been without any fencing for the past two months and the 6' fence would be most helpful in this situation.

Donald Sheridan, 6 Robinhood Court, was sworn in by Chairman Manion, and noted that in his 35 years of residency, he has seen a number of changes with Rt. 22 and the noise it can generate. He indicated that he had contracted with an engineering company to do a sound decibel reading to verify the degree of the noise situation impacting his property. **Mr. Sheridan** noted that the fences were not illegal and correlated it with “adverse possession” and “quiet title”, as 90% of the post holes still remain and are visible upon fence demolition and were not affected by the bike path construction. He also mentioned that he spoke with some of the Village Trustees who had no problem with consideration for an 8' maximum fence height. The 2' height difference in the fence offers a 20% difference in reducing both the sound level and the visibility of the rooftops of the taller vehicles. Elsewhere in the Village, he pointed out that there are fences taller than 8', such as the Lincolnshire Swim Club and the Lincolnshire Bath & Tennis Club. **Mr. Sheridan** stated that he would like the opportunity to have the option to install a fence at a maximum height of 8', and the cost variance would be \$450 to \$500. In addition to himself, his neighbors at 8 and 4 Robinhood Ct. would be interested in an 8' fence. He reiterated his request for the additional wording “up to an 8' fence” to be incorporated within the variance recommendation. **Chairman Manion** asked Mr. Sheridan if he considered the irregular appearance with the use of two different fence heights. **Mr. Sheridan** felt that the sight-line of the step-up from a 6' high fence to a 300-plus ft. run of an 8' fence and back down to a 6' fence would not look jagged, be screened by trees and landscape vegetation, and not be readily noticeable. He also pointed out that the presentation of the entire fence along the bike path would be the same style, installed by the same contractor, and contiguous from Berkshire Lane to Wood Creek Courts. Additionally, he referenced the advantage of the berming along Rt. 22 at Wood Creek Courts and the rear of the Sherwood Forest Subdivision which includes the fencing, as those property owners have the luxury of height which helps diminish noise, etc., unlike the Robinhood Court property owners without any berming. **Mr. Kalina** inquired if Mr. Sheridan had a copy of the noise study. He explained that Huff Engineering conducted the noise study with regard to the decibel readings and there was a 20%-30% difference which allowed his taxes to be lowered, as well. **Mr. Pratt** inquired as to the height of the fences which were taken down, to which **Mr. Sheridan** stated that they were 6' stockade fences.

William Corbett, 8 Robinhood Court, was sworn in by Chairman Manion, and stated that he cannot put a fence on the present proposed fence line until he gets a permit from the State, as the State owns a parcel approximately 140' long and 30' deep along the width of his rear property line, and if permission is not granted from the State, there could be a “hole” in the fence wall along the bike path. He does have the option to fall back onto his lot line with a fence, however, the State owned property drops very abruptly, as much as 3', to his lot line. If he is limited to a 6' high fence with a 3' depression, his fence would only be 3' in height. He concurs with Mr. Sheridan that having the option of an 8' fence height, or higher, would offer some solution to satisfy screening his property from Rt. 22. **Mr. Corbett** suggested putting his portion of the variance request on hold, until he receives a resolution from the State. He requested

Staff take a look at the undulation of his property and the issues involved across the rear area abutting the bike path, and to help him in any way possible to move these fence issues along. **Planner Robles** stated that Staff is working with IDOT to resolve the issues along the newly constructed bike path and Staff is confident that a building permit will be issued to get a contiguous fence to include the rear of his property.

David Parmacek, 66 Berkshire Lane, was sworn in by Chairman Manion, and respects his neighbors' choice to request an 8' fence height variance for themselves. Since his property is a corner lot and presently without a fence, he has had to deal with trespassers and his four children, who have lost the use of playing in their yard and enjoying his deck. He stated his satisfaction with the 6' fence height, and requests consideration be given to separating the 8' fence height variation, in order to hasten the Staff recommended 6' fence height and hopefully have a fence installed within the next two weeks.

There being no further public testimonies or comment, **Chairman Manion** closed the Public Hearing and reconvened the Zoning Board meeting.

- 3.2 Consideration and discussion regarding a variation to permit the installation of a six-foot tall solid wooden fence along the rear property line, as measured from existing grade, rather than the code permitted six-foot tall solid fence as measured from the crown of Route 22 (Half Day Road) for those residential properties located at 66 Berkshire Lane, 2, 4, 6, and 8 Robinhood Court, which would result in a fence no taller than nine feet from the crown of Route 22 (Thomas Jackson)

Mr. Soiffer expressed his concern for the residents' requesting both 6' and 8' fence height variations and the potential for a sloppy appearance rather than one that flows. **Planner Robles** offered considerations towards making a recommendation. If language is added for the opting to construct a fence no taller than 8' in height, then essentially there will be a 6' fence across the first two properties, with an 8' fence extending along the next three properties, and the already installed 6' fence completing the stretch. This creates concern with varying heights along the road, as it is not uniform and not intended to be there. The original motion is written for 6' tall fences for all properties. **Chairman Manion** is not in favor of the varying fence heights. **Mr. Leider** concurred, and noted that the lower 6' fence height at each end would give the appearance of "bookends". He also expressed concern for the close proximity of the fences to the bike path, as well as the bike path's proximity to Rt. 22. Lastly, **Mr. Leider** expressed concern for the debris remaining along the path, to which **Planner Robles** stated that the contractor is aware of this issue and it will be addressed prior to final inspection of the path construction. **Mr. Kalina** pointed out that due to the traffic flow along Rt. 22, a 2' height difference in the fence line would not be noticed. **Chairman Manion** cited the varying heights in the fences along Lake Street in Glenview, east of The Glen, which are quite noticeable. **Mr. Pratt** stated his preference for all fences to be either 6' or 8' in height and not varying heights.

Albeit the Zoning Board was empathetic with the residents' concerns for noise pollution, visibility of the traffic, and overall privacy from Rt. 22 and the bike path, limited

discussion ensued with concerns for the existing 6' fence, as well as the satisfaction from two property owners for 6' fence height preference. Therefore, based on the direction from the Village Board and the consensus to move forward with a recommendation to assist in expediting approval in order for the residents to construct their fences as soon as possible, the following motion was formed.

Having made findings based on facts covered in a Public Hearing held on August 4, 2009, Mr. Soifer moved and Mr. Pratt seconded a motion to recommend approval to the Village Board of a variation to permit the installation of a six-foot (6') tall solid wooden fence, as measured from existing grade at the rear property line, rather than the code permitted six-foot (6') tall solid fence as measured from the crown of the road, along the rear property lines for those residential properties which abut Rt. 22, commonly addressed as 66 Berkshire Lane and 2, 4, 6, 8 Robinhood Court, which would result in a fence no taller than nine feet (9') from the crown of Route 22, based on the facts and as presented in Staff's memorandum dated July 31, 2009 and further subject to the fencing being consistent in style.

*The motion carried with a roll call vote as follows: 4 Ayes - Chairman Manion,
Pratt, Soifer, and Leider
1 Nay - Alternate Kalina*

3.3 Workshop to discuss a proposed draft code regarding regulations for Alternative Energy Collection Systems (Village of Lincolnshire)

Stephen Robles, Planner, noted that Staff has been conducting research into drafting a new set of Village Code standards to regulate wind and solar energy collection facilities within the Village, and believes the best approach is to have an open dialogue on the Draft Code in a workshop format prior to holding a Public Hearing. Given the amount of information within this document, **Planner Robles** highlighted some of the more significant proposed regulations, as well as some areas that may require more discussion and commentary. The Zoning Board requested that each energy collection system be addressed on a point by point basis.

Planner Robles opened the workshop with Small Wind Energy Systems (SWES), which are primarily intended for individual residential use, and therefore, the proposed standards are focused on permitting such facilities in residential districts without having to pursue a Public Hearing prior to obtaining a building permit. In order to accomplish this, he referenced the Draft Code wherein regulations should be specific and straight forward to limit the amount of interpretation that can be exercised by an interested party. He requested input with regard to this direction, or should further Board review be required prior to installation. **Chairman Manion** inquired if this technology currently exists, to which **Planner Robles** noted that a home in Highland Park had recently installed a vertical turbine on its roof. As wind turbines become more known, manufacturers will become more available and make systems for smaller applications. He expressed concern for consideration be given to the requirement of a Special Use permit for such systems, as well as Standards in place to ensure that there would be no negative effects. Also, it may deter residents from pursuing these wind systems in light

of the significant start-up costs and extra public scrutiny, etc. involved in the Special Use process. Additionally, **Planner Robles** stated that any wind system within a residential district would be limited to one per parcel, free standing, located outside of the side and rear yard setbacks and not within the front yard, imposed height restrictions, noise levels, material finish, shadow flicker, and enforcement of overall compliance conformity. **Mr. Leider** pointed out that technology will be changing over the next 12-18 months and a conservative approach should be considered. **Mr. Soifer** added his concurrence and does not feel comfortable allowing a wind system installation without a Special Use request, until it becomes mainstream, to which there was immediate concurrence among the members.

Planner Robles eluded to the sound issues related to wind turbines due to the continuous noise generated during the turbine's operation. In Staff's research, 60dB has been a consistent limit in community codes for maximum noise levels at an abutting property line. He referenced the decibel level chart by Quiet Solutions within in the presentation packet, which indicates that 60dB is equal to normal conversation at 3-5 feet. During Staff's internal discussions, there was much debate about whether 45dB (typical neighborhood levels) or 60dB (normal conversation levels) would most be acceptable. Given the varying decibel levels and their impact, **Planner Robles** requested further input as to what noise level is acceptable, which may involve additional research with turbine manufacturer's and/or industry experts. **Mr. Soifer** pointed out that more than one wind turbine within a neighborhood would aggregate to increase the noise level. **Chairman Manion** noted that the lower decibel level of 45dB, as considered by Staff, may be more acceptable. **Mr. Pratt** also suggested that a time limitation for the hours of operation for wind turbines be considered. Limited discussion ensued and there was consensus among the members to have Staff provide further insight regarding industry standards.

With regard to SWES location and height, **Planner Robles** noted that, as proposed, no SWES would be permitted to be attached to a residential house, but rather must be a free-standing pole at a height no greater than the existing home or maximum height permitted by the Zoning District and not in a front yard. Staff was concerned that permitting a SWES to be attached to a home would draw attention to the unit and could be more visible, especially from the street. Upon further consideration, the same could be said for a free-standing SWES located within a rear yard. **Planner Robles** requested the Zoning Board's consideration of the positives and negatives of attached versus detached SWES in residential areas and their impacts on the immediate surrounds. **Mr. Leider's** initial reaction was to consider the SWES on a case-by-case basis, to which **Mr. Soifer** noted architecture of the house and its height should also be considered in terms of aesthetics. **Chairman Manion** expressed concern for placement limitations with regard to attached versus detached to the residence. There was a consensus to allow for options of the SWES placement.

Planner Robles proceeded to Commercial Wind Energy Systems (CWES) and noted that they are intended primarily for commercial use where a larger, taller turbine may be necessary. As proposed, such facilities would be permitted in multi-family, commercial, and industrial zoning districts, with opportunities to increase their height above the

maximum structure height of the zoning code, under specific conditions and proven hardships. As a result, any CWES would require the granting of a Special Use permit prior to installation and use, to which there was immediate consensus among the members for same. Another factor of consideration within the proposed code would permit a CWES to be at the maximum height permitted by the zoning district, which may be taller than the principal structure. Currently, the Industrial District maximum height limitation is 80', while the commercial district ranges from 30'-40'. As proposed, a CWES may be attached to the principal structure or free standing. A height exception provision has been included, which is similar to the cell tower code, when a tower height is either less or greater than 50% of the maximum permitted height for that zoning district. **Planner Robles** explained that, in such events, a Certificate of Necessity must be provided by a State licensed professional engineer, along with Compliance Reports regarding FAA airspace and seasonal migration negatively affected by the increased turbine height. **Chairman Manion** is less concerned with the height issues impacting the placement of CWES in the O/I District, wherein there would be a greater height impact within retail or multi-family districts. He feels that the Zoning Board should have more control. **Mr. Soifer** noted that a maximum height should be set. **Mr. Leider** cautioned that with the new technology evolving rapidly, we need to be better educated to determine an acceptable height. Limited discussion ensued with regard to allowing a structure to be constructed at the maximum height of the zoning district versus the installation of a CWES at less than the same maximum height. There was a consensus to consult with the Village Attorney regarding same. Further, in addition to the aforementioned height requirements, **Planner Robles** highlighted a few proposed CWES regulations which include limiting one turbine to a parcel, a free-standing CWES not permitted within the front yard, and if a taller turbine height option is pursued, the minimum setbacks would have to be increased to equal the total height of the turbine at the highest point. Also, whenever such turbine abuts a residential property, the setback shall be increased to 150% of the total height of the turbine system. The issues of noise levels, material finish, shadow flicker, and enforcement of overall compliance conformity are addressed, as well.

Mr. Soifer inquired about a recently installed wind turbine in Libertyville. **Planner Robles** provided further detail regarding the Aldridge Electric wind turbine and the current litigation surrounding said turbine. Staff further mentioned another location of recently installed vertical turbines at Devon Bank in Wheeling. Staff suggested, if the Zoning Board desired, to forward additional information regarding both locations so that each Zoning Board member could visit these locations personally. The Zoning Board concurred and requested this information be provided via e-mail.

Planner Robles noted that another form of Alternative Energy are Solar Energy Systems (SES), which are categorized into two different applications, single-family use and multi-family/non-residential uses and, as proposed, shall only be installed on the existing roof of a principal structure. An SES for a residence would be permitted through the issuance of a building permit prior to installation. Multi-family and non-residential uses would be required to obtain approval from the Architectural Review Board to ensure such installation is compatible and harmonious with the aesthetic character of the structure. As proposed, a SES may only be installed on the roof of an existing principal

structure ensuring the lowest profile permissible. All components of the SES shall not extend above the maximum building height permitted by the zoning district or beyond the existing limits of the roof. In the case of a flat roof, no component of the SES, including mounting racks, shall be permitted to tilt or rotate at a slope greater or less than the roof to which the device is attached. A SES shall not be permitted on a roof which faces a street, and shall occupy not more than 50% of the outside roof area to which the device is attached. If a SES is installed on multiple roofs on a single structure, the SES shall occupy not more than 30% of each outside roof area to which the device is attached, and it shall be designed and installed to prohibit sun reflection towards vehicular traffic and adjacent properties. The Zoning Board offered immediate consensus with Staff's proposed SES general regulations and roof-mounted placement requirements for both residential and non-residential uses.

Since ground-mounted solar energy systems are another available type of system, **Planner Robles** referenced the photographs of same attached to the packet presentation. Staff has not included ground-mounted SES in the Draft Code due to its greater visibility as ground-mounted equipment versus roof-mounted equipment. Therefore, should consideration be given to permitting ground-mounted SES facilities, albeit a Special Use permit would be required. **Chairman Manion** stated that he was not in favor of ground-mounted SES facilities as an available alternative energy system, to which there was an immediate consensus by the Zoning Board.

Lastly, **Planner Robles** summarized the Decommissioning and Restoration Plan proposed for Small Wind Energy Systems, Solar Energy Systems, and Commercial Wind Energy Systems which would ensure that constructed alternative energy collection devices are properly removed after their term of use or in a case of abandonment, such provisions have been established to ensure proper removal and restoration of any disturbed land. Due to the differences in residential facilities compared to non-residential facilities, different removal criteria have been outlined based on the type of system. The Zoning Board noted its satisfaction with same.

Given the Village Board has approved a four-month moratorium on Alternative Energy Collection Systems, **Planner Robles** requested feedback with regard to scheduling a public hearing for next month's Zoning Board. There was consensus among the members to allow for additional research and data, potential site visits to area turbines, and the opportunity to continue the workshop at the September Zoning Board meeting.

Following Staff's presentation of the proposed draft code regarding regulations for Alternative Energy Collection Systems, the Zoning Board directed Staff to conduct additional research and provide technical data for discussion at the next regularly scheduled Zoning Board meeting in September, as part of the continued workshop prior to holding a public hearing.

4.0 UNFINISHED BUSINESS (None)

5.0 NEW BUSINESS (None)

6.0 CITIZEN COMMENTS (None)

7.0 ADJOURNMENT

There being no further business, **Mr. Pratt** moved and **Mr. Soifer** seconded a motion to adjourn, **Chairman Manion** adjourned the meeting at 9:24 p.m.

Respectfully submitted,

Linda Jones, Secretary