

APPROVED Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Tuesday, March 8, 2011, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL.

PRESENT: Chairman Manion, Members Rubinstein, Kalina, Leider, and Alternate Van de Kerckhove.

ABSENT: Member Soifer and Trustee Liaison Brandt.

ALSO PRESENT: Tonya Zozulya, Planner.

CALL TO ORDER: **Chairman Manion** called the meeting to order at 7:02 p.m.

1.0 ROLL CALL

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

2.0 APPROVAL OF MINUTES

2.1 Approval of the Minutes of the Zoning Board Meeting held Tuesday, February 8, 2011.

Member Leider moved and **Member Kalina** seconded the motion to approve the minutes of the Regular Meeting of the Zoning Board held Tuesday, February 8, 2011, as submitted. The motion passed unanimously by voice vote.

3.0 ITEMS OF GENERAL BUSINESS:

3.1 **PUBLIC HEARING** regarding a variation request to Section 6-3-5(A)(1)(e) of the Village Code to permit the construction of a detached accessory structure (fence) on the vacant property at 6 Half Day Road, prior to the establishment of a principal structure on that property, as required by the Village Code (Ellen Strauss).

3.3 **PUBLIC HEARING** regarding a variation request to Section 6-15-5(A)(4)(b) of the Village Code to permit the construction of a six-foot (6') tall solid wooden fence as measured from the existing grade, rather than as measured from the crown of the road, as required by the Village Code, along the Route 22 frontage of the properties at 6 and 8 Half Day Road (Ellen Strauss).

3.5 **PUBLIC HEARING** regarding a variation request to Section 6-15-2(A)(3) of the Village Code to permit the construction of a four-foot (4') tall solid wooden fence, rather than a Code-permitted four-foot (4') tall "open" type fence, along the west property line of 6 Half Day Road, the east property line of 8 Half Day Road, and the rear property lines of both properties (Ellen Strauss).

Chairman Manion recessed the Zoning Board meeting and opened the Public Hearing for all three variation requests, which was properly noticed in the February 17, 2011, issue of the *Lincolnshire Review*.

Planner Zozulya summarized Staff's memorandum dated March 4, 2011, and noted that the Petitioner is seeking three different variations which are all related to their proposed fence on two lots at 6 Half Day Road and 8 Half Day Road. In addition to the publication of the Public Notice in the *Lincolnshire Review*, the required certified mailings to adjacent property owners within a 250' radius of the subject site were also provided. The Petitioner has submitted responses to the required nine Standards for Variation, regarding their variation request, which will be entered into the official record. The Zoning Board must find that all standards have been met in order to recommend approval of each individual variation. She further stated that Staff is recommending approval of the variation request to build a fence on the vacant lot at 6 Half Day Road with one condition stated in Staff's memo dated March 4, 2011 regarding the removal of that portion of the 6' tall fence parallel to the Route 22 frontage prior to the Village issuance of real estate transfer stamps for that property, should it be sold separately. Staff is in support of this request as Staff believes that as long as the vacant piece of property is owned by the same person and the two lots are adjacent, it is appropriate to allow a fence on the vacant lot. Staff intends to bring a Code amendment request regarding this to the Village Board for consideration later this year, in order to incorporate this in the Code. With regard to the second variation request, Staff is in favor of a 6' tall solid wooden fence along the Route 22 frontage on 6 and 8 Half Day Road as measured from the existing grade as the existing grade is naturally uneven and only a small portion of the two properties will have a fence taller than 6' as measured from the existing grade. In addition, a similar variation was granted for other properties along Route 22. As far as the third variation request, Staff is not supportive of it as we do not believe there is a unique condition on this property as opposed to all other Village properties to permit an increase in the fence opacity. In addition, this is not in the Village's character but would be a big departure from the Village's fence regulation where the intent has always been to allow for the natural flow of yards and avoid the appearance of compounds. **Planner Zozulya** also noted that since the distribution of the Staff memo, the Petitioner has submitted a photograph of a "traditional" style fence that they propose to be constructed at 6 and 8 Half Day Road. This photograph was provided to the Zoning Board prior to tonight's meeting.

Ellen Strauss, 6 and 8 Half Day Road in Lincolnshire, IL, Petitioner, was sworn in by **Chairman Manion**. **Ms. Strauss** stated that she would like to distribute a copy of the Plat of Survey for her properties that includes only existing structures and depicts the location of the proposed fence on both lots. She stated that since she purchased both properties in 2010, her intent has always been to fence these properties. The process for fence installation began in September of 2010 when she and Village Staff walked the properties to discuss the proposed improvements. In November 2010, **Ms. Strauss** approached the Village Board regarding the proposed fence, at which time the discussion focused on lot consolidation. When

she realized that even with lot consolidation there would be a need for variations, she decided to pursue variations, rather than lot consolidation. Her main concerns were safety, privacy, car headlights and sound, which are compounded by the lack of tree foliage in winter months. **Ms. Strauss** indicated that she had been unable to move into her house at 8 Half Day Road as she is concerned about her security as well as that of her dogs.

Member Rubinstein inquired whether the Petitioner intends to live in the house at 8 Half Day Road and maintain the other property at 6 Half Day Road as a vacant lot, to which **Ms. Strauss** responded affirmatively.

Harlan Strauss, 6 & 8 Half Day Road, Lincolnshire, IL, was sworn in by **Chairman Manion**. He stated that they did not know that the property consisted of two separate lots until two days before the closing. He said that having a fence on both lots would create a single-lot appearance and reduce headlight and sound issues.

Member Van de Kerckhove inquired whether the proposed fence could be extended closer to Route 22 to minimize the sound and headlight concerns. **Planner Zozulya** said that the Code places limitations regarding the location of this fence whereby it may not extend beyond the front plane of the building façade and may not be located in the front yard. **Chairman Manion** added that the existing fences along Route 22 are located in close proximity to the arterial because they are rear yard fences, not front yard fences. A variation for the fence height as measured from the existing grade, rather than as measured from the crown of the road, has been recently granted for some of those fences.

Member Leider inquired about the distance between the proposed fencing along the Route 22 frontage and the property line, to which **Planner Zozulya** responded that the distance is approximately 80', based on the Plat of Survey reviewed by Staff.

Member Van de Kerckhove suggested that the Petitioner consider reducing the sound and privacy issues by installing plantings in the front yard (where there is no fence being proposed). **Ms. Strauss** responded that plantings would not solve the security issue for her dogs. She stated that she can not plant full-grown trees. **Chairman Manion** recommended that the Petitioner consider planting small evergreens along the side yards for noise reduction, although it may not completely solve the headlight issue. **Member Rubinstein** inquired how many dogs the Petitioner has, to which **Ms. Strauss** responded that she has three dogs. She would prefer to have a 6' tall solid fence in the side and rear yards, rather than her current request for a 4' tall solid fence in that location, but she was informed that the Village Staff would not support a request for a 6' tall side and rear fencing. **Chairman Manion** stated that he was not aware of any other properties in the Village that have solid interior yard fencing. **Planner Zozulya** stated that Staff is aware of one property on an interior (non-corner) lot that has previously received a variation for a 4' tall solid replacement fence along the side yard. She said that although Staff was not in support of that variation request, the Village Board

approved it as in that case, the owners wanted to replace an existing 4' tall solid fence that they had come to rely on.

Planner Zozulya noted that a solid fence is a fence that is more than 60% opaque and that a fence may have an opening no greater than 4" along the bottom of the fence. **Ms. Strauss** said she is concerned about animals with pliable bodies (such as skunks and rodents) getting in through the fence openings should an "open" fence be built in the side and rear yards. She also added that at her current residence (outside of Lincolnshire) she has a solid fence upon which she has come to rely to keep the animals out. **Member Leider** remarked that the Petitioner's request should not be evaluated based on external animal issues and that the Zoning Board's inquiries should be limited to Code requirements, which the other Zoning Board members agreed.

Member Kalina inquired about the spirit behind not permitting solid fences in interior side and rear yards. **Planner Zozulya** stated that historically the Village has regulated fences very strictly as the intent has always been to allow for the natural flow of yards.

Ms. Strauss noted that she recently observed standing water and drainage issues along the north and west side of the two properties, which is why she is proposing metal posts for a small portion of the fence along the west side and north side of the 6 Half Day Road property. **Mr. Strauss** noted that the metal posts would be placed on the interior of the fence so they are not visible to the public. **Planner Zozulya** inquired about the width of the proposed metal baseboards for the small portion of the fence with the proposed metal posts. **Mr. Strauss** responded that they have amended their request for that portion of the fence to include two horizontal baseboards along the bottom of the fence designed of composite material (rather than the previously proposed metal material). She felt it would be more practical and less costly to have the majority of the fence designed of vertical boards.

Member Leider inquired about fence setbacks from the property lines on both lots as it related to the impact of the fence on the adjacent neighbors. **Planner Zozulya** said that based on the fence location noted on the Plat of Survey provided by the Petitioner it appears that the fence is approximately 80' from the front property line, 10' from the east property line on the 8 Half Day Road property and 15' from the north property lines on both properties. With regard to the setback from the west property line on the 6 Half Day Road property, **Mr. Strauss** indicated that it will be approximately 3'. **Member Van de Kerckhove** questioned Staff's recommendation regarding the removal of the 6' tall fence parallel to Route 22 on the 6 Half Day Road property prior to the sale of that property. **Planner Zozulya** said that should that property be purchased for new construction, that portion of the fence would be in the way of construction and may also be in an unpermitted location in front of the front plane of the house. **Chairman Manion** wanted the Board to clarify in their motion that the remainder of the fencing on the 6 Half Day property (side and rear yards) shall not be required to be removed prior to the sale of the 6 Half Day property. He also asked if the Petitioner had any objections to

this stipulation, to which **Ms. Strauss and Mr. Strauss** responded that they were not opposed to it. **Chairman Manion** inquired if there are any wetlands near the property. **Planner Zozulya** said that there are some wetlands north of the properties, based on her conversation with the Village's Engineering Staff.

Sylvia Rubinstein, a resident, was sworn in by **Chairman Manion**. She inquired how many hours the dogs will be outside. **Ms. Strauss** responded that she anticipated having her dogs outside no more than two hours a day, only when she is at home. She stated her dogs will have restricted playtime.

Chairman Manion asked **Planner Zozulya** if Staff has received any letters or phone calls from the adjacent residents. **Planner Zozulya** said that she has received one phone call from a resident concerned about a solid fence along the side and rear property lines due to the existing drainage problems on the subject lots. **Ms. Strauss** said that since the fence would have an opening from the ground, there would not be any drainage impacts (an opening would be less than 4" so that her Yorkie could not run out). **Planner Zozulya** noted that as a condition of approval, Staff would stipulate that the fence may not impact drainage and related inspections would be conducted to verify that.

There being no further questions or concerns from the Zoning Board, **Chairman Manion** closed the Public Hearing and reconvened the Zoning Board meeting.

Member Kalina stated that he is in support of the first two variations regarding fence location and height, but is opposed to the third variation regarding fence opacity (in the side and rear yards) as he would like to maintain the integrity of the Village's character. Although he understands the Petitioner's concern about animals, he believes it would be a problem regardless of whether the fence is solid or "open". He is not opposed to the proposed metal posts for a small portion of the fence on 6 Half Day Road. **Member Van de Kerckhove** expressed his agreement with **Member Kalina's** opinion.

Member Leider indicated that as a dog owner he understands the Petitioner's concern and he is in favor of the first two variations but is not comfortable with the third one.

Member Rubinstein said that he is in support of all three variations. He is not concerned about setting a precedent for future requests by approving a solid fence in the interior side and rear yards, as each request is to stand on its own merits, based on the location and size of each property.

After clarifying the language of the motions, **Chairman Manion** asked for a motion on each of the requests.

- 3.2 Consideration and discussion regarding a variation request to Section 6-3-5(A)(1)(e) of the Village Code to permit the construction of a detached accessory structure (fence) on the vacant property at 6 Half Day Road, prior to the

establishment of a principal structure on that property, as required by the Village Code (Ellen Strauss).

There was a consensus among the members for this issue and the following motion was read:

Member Kalina moved and Member Leider seconded the motion to approve, and recommend to the Village Board for their approval, a variation to Section 6-3-5(A)(1)(e) of the Village Code to permit the construction of a detached accessory structure (fence) on the vacant property at 6 Half Day Road, prior to the establishment of a principal structure on that property, as required by the Village Code, based on the facts in the Petitioner's presentation packet, dated February 28th, 2011, date stamp received March 1, 2011 and March 8, 2011, and subject to Staff's recommendations, as presented in Staff's memorandum, dated March 4, 2011, and further subject to the following condition:

- 1. The 6' tall solid wooden fence of the approved "traditional" design, parallel to Route 22 (located on the south side of the vacant lot at 6 Half Day Road) must be removed prior to the Village issuance of real estate transfer stamps for the sale of the 6 Half Day Road property (should it be sold separately). The remainder of the fence (located along the west and north sides of the 6 Half Day Road property) shall not be required to be removed prior to the sale of that property.*

The motion passed unanimously by voice vote.

- 3.4 Consideration and discussion regarding a variation request to Section 6-15-5(A)(4)(b) of the Village Code to permit the construction of a six-foot (6') tall solid wooden fence as measured from the existing grade, rather than as measured from the crown of the road, as required by the Village Code, along the Route 22 frontage of the properties at 6 and 8 Half Day Road (Ellen Strauss).

There was a consensus among the members for this issue and the following motion was read:

Member Rubinstein moved and Member Kalina seconded the motion to approve, and recommend to the Village Board for their approval, a variation to Section 6-15-5(A)(4)(b) of the Village Code to permit the construction of a 6' tall solid wooden fence of the approved "traditional" design, as measured from the existing grade, rather than as measured from the crown of the road, as required by the Village Code, along the Route 22 frontage, for single-family residential properties at 6 Half Day Road and 8 Half Day Road, based on the facts in the Petitioner's Presentation Packet, dated February 28th, 2011 and date stamp received March 1, 2011 and March 8, 2011, and based on Staff's memorandum, dated March 4, 2011.

The motion passed unanimously by voice vote.

- 3.6 Consideration and discussion regarding a variation request to Section 6-15-2(A)(3) of the Village Code to permit the construction of a four-foot (4') tall solid wooden fence ((a portion of which will contain metal posts located on the interior of the fence), rather than a Code-permitted four-foot (4') tall "open" type fence, along the west property line of 6 Half Day Road, the east property line of 8 Half Day Road, and the rear property lines of both properties (Ellen Strauss).

There was a consensus among the members for this issue and the following motion was read:

Member Rubinstein moved and Member Kalina seconded the motion to approve, and recommend to the Village Board for their approval, a variation to Section 6-15-2(A)(3) of the Village Code to permit the construction of a 4' tall solid wooden fence (a portion of which will contain metal posts located on the interior of the fence), rather than a Code-permitted 4' tall "open" type fence, along the west property line of 6 Half Day Road, the east property line of 8 Half Day Road, and the rear property lines of both properties, for single-family residential properties at 6 Half Day Road and 8 Half Day Road, based on the facts in the Petitioner's Presentation Packet, dated February 28th, 2011 and date stamp received March 1, 2011 and March 8, 2011, and subject to Staff's recommendations, as presented in Staff's memorandum, dated March 4, 2011.

The motion failed to carry with a roll call vote as follows:

1 Aye –Member Rubinstein

4 Nays - Chairman Manion, Members Leider, Kalina and Van de Kerckhove

Planner Zozulya stated that this request is being forwarded to the Village Board's Committee of the Whole for their March 14, 2011 meeting. She said that it will require the Village Board's supermajority vote, should they wish to overturn the Zoning Board's recommendation not to approve a solid fence in the side and rear yards of the 6 and 8 Half Day Road properties.

4.0 UNFINISHED BUSINESS (None)

5.0 NEW BUSINESS (None)

6.0 CITIZENS COMMENTS (None)

7.0 ADJOURNMENT

There being no further business, **Chairman Manion** adjourned the meeting at 8 p.m.

Minutes Submitted by Tonya Zozulya, Planner