

**APPROVED** Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Tuesday, June 14, 2011, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL.

**PRESENT:** Chairman Manion, Members Rubinstein, Kalina, Alternate Van de Kerckhove and Trustee Liaison Brandt.

**ABSENT:** Members Soifer and Leider.

**ALSO PRESENT:** Steve McNellis, Director of Community Development and 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, May 10, 2011.

**Member Rubinstein** moved and **Member Van de Kerckhove** seconded the motion to approve the minutes of the Regular Meeting of the Zoning Board held Tuesday, May 10, 2011, as submitted. The motion passed unanimously by voice vote.

### **3.0 ITEMS OF GENERAL BUSINESS:**

3.1 **CONTINUED PUBLIC HEARING** regarding an amendment to Chapter 15, Fences and Screens, to modify the requirements for a variety of residential and commercial fence types (Village of Lincolnshire)

3.2 Consideration and discussion regarding an amendment to Chapter 15, Fences and Screens, to modify the requirements for a variety of residential and commercial fence types (Village of Lincolnshire)

**Chairman Manion** recessed the Zoning Board meeting and re-opened the Public Hearing regarding Agenda Items 3.1 and 3.2, which were properly noticed in the April 21, 2011, issue of the *Lincolnshire Review*.

**Planner Zozulya** stated that the Current Fence Code has not been comprehensively updated since the 1990's and contains a number of inconsistencies and regulations that do not meet today's trends. She further noted that Staff developed a draft text amendment which was reviewed by the Village Board at its May 9<sup>th</sup> and May 23<sup>rd</sup> meetings. Ten items listed in Staff's June 10<sup>th</sup>

memo to the Zoning Board were referred to the Zoning Board for a Public Hearing. **Planner Zozulya** further stated that each individual item will be reviewed separately to keep the discussion more focused. Staff requested that no recommendation be made at the meeting as the draft Text Amendment will require Village Attorney review, based on the Zoning Board's direction.

**1. Consider eliminating ARB review of ornamental metal yard fences in residential areas:**

**Planner Zozulya** stated that allowing ornamental yard fences on residential property to be reviewed and approved at the Staff level, without additional ARB and Village Board review (provided such fences meet all Code requirements), would result in a more streamlined and efficient approval process, and would place these types of fences within the same approval process as other non-metallic fences in residential areas. In Staff's experience, ornamental metal fences have become much more prevalent throughout the region, and are likely to grow in popularity. In order to provide clear direction for Staff review (similar to the direction provided by the examples of the four existing traditional wood style fences along the Half Day Road arterial that the Village Board wishes to retain), Staff proposes examples of ornamental metal fences for incorporation into the Code (which was included in the Staff memo to the Zoning Board).

**Chairman Manion** inquired about permitted fence materials in the Village. **Planner Zozulya** responded that currently the Code allows ornamental metal and non-metallic materials (non-metallic materials include synthetic and composite wood). Chain link material is only permitted for dog run and tennis court fences. **Member Van de Kerckhove** inquired whether the four ornamental metal fence examples are intended to be all inclusive and whether the term "ornamental metal" is defined in the Code. **Planner Zozulya** said that the fence examples are intended to serve as conceptual examples to provide guidance to applicants regarding acceptable concepts for ornamental fences, similar to the existing examples for traditional wood fences for properties adjacent to Half Day Road. **Director McNellis** said that the term "ornamental metal" is an industry standard term, based on Staff's review of fence catalogues. **Planner Zozulya** noted that it was the recommendation of the Village Attorney that specific fence design examples be developed in order to graphically illustrate the concepts. **Director McNellis** added that if a resident were to propose an ornamental metal fence that is vastly different from the Code designs, then that proposal would need to receive Board approval. **Trustee Liaison Brandt** stated that the issue of ornamental metal fences was recently discussed by the Village Board in conjunction with a swimming pool text amendment as pools are now permitted close to the property lines and could be more visible than if they were placed along the periphery of pools and related paved areas, as required by the previous Swimming Pool Code. The Zoning Board members expressed their satisfaction with the four fence styles proposed by Staff.

**Chairman Manion** inquired whether the Code would permit both wrought iron and aluminum metal fences. **Director McNellis** said that both fences would be permitted.

**2. Consider increasing the height of yard fences in residential areas:**

**Planner Zozulya** stated that there were a variety of opinions regarding this among the Village Board. It was felt by some members that the current 4' tall fence requirement should be retained as the Village began as a no-fence community and residents moved to Lincolnshire because they enjoy the openness of residential yards. Other members felt, however, that taller fences should be considered due to wildlife concerns, with the possibility of permitting such taller fences on larger residential lots as they tend to experience a greater intensity of deer issues. Staff researched maximum yard fence requirements in eight surrounding communities and summarized the results in a separate memo provided to the Zoning Board at the meeting. All eight communities surveyed permit 6' tall yard fences, with one community allowing a maximum of 7' tall fences. Staff has also developed two scenarios for the Zoning Board's consideration. The first scenario would permit 6' tall fences on R1 and R2 Single-Family residential lots only (since those lots have bigger sideyard and rear yard setbacks which would minimize the impact of taller yard fences on neighboring properties and structures). The second scenario would permit ornamental metal fences only to be 6' in height in the R1 and R2 Single-Family Zoning Districts.

**Member Van de Kerckhove** stated that he is not in favor of increasing the currently permitted maximum height for yard fences since he, as a long-time resident of the community, believes it would be out of character. **Member Kalina** stated that he can see both sides of the argument and acknowledges that 4' tall fences cannot offer sufficient protection from wildlife. He inquired whether the Village had received a significant number of fence height variations. **Director McNellis** said that although Staff has not received many fence height variation requests, it is unknown how many residents may have had interest in a taller fence but did not apply for a variation. **Trustee Brandt** stated that the Village Board was divided on this issue. She has been contacted by residents of subdivisions north of Half Day Road and developers wishing to build homes in that area with concerns regarding insufficient fence height permitted by Code. She has heard concerns regarding property rights, deer entering backyards adjacent to forest preserves, security for pets due to coyotes as well as concerns by some residents on local streets about being treated differently than residents along major arterial roads [Half Day Road and Riverwoods Road] who are eligible for 6' tall solid fences along those arterials. **Trustee Brandt** further stated that in her view, ornamental metal fences tend to be more open and durable than wood fences, which should be taken into consideration by the Zoning Board during their deliberations on this matter. **Chairman Manion** stated that he would be in favor of allowing 6' tall ornamental metal fences on larger lots, in the R1 and R2 Districts only as homes have greater distance separation in this area. All Zoning Board members in attendance appeared in agreement with this.

**3. Consider permitting fences adjacent to major arterials to be measured from the existing grade along the fence line, rather than from the crown of the road:**

**Planner Zozulya** stated that this amendment would allow 6' tall solid fences along major arterials (Half Day Road and Riverwoods Road) to be measured from the existing grade along the fence line, rather than from the crown of the road (which is often below the grade where the fence is proposed). The "crown of the road" requirement limits the height of fences for properties that are naturally more elevated than the center of the road they are adjacent to, which would result in shorter fences. **Planner Zozulya** further stated that Staff found that owners of properties along major arterials that are naturally positioned above the crown of the road wish to have the ability to build 6' tall fences, but are unable to do so without a variation. In almost all cases, the difference in elevation is negligible and would not result in noticeably taller fences.

**Planner Zozulya** further stated that the Village has recently approved several variations related to fences along Half Day Road to permit those fences to be measured from the existing grade, rather than from the crown of the road (e.g., the Robinhood Court and Sherwood Court fences, as well the most recent fence variation for the 6 & 8 Half Day Road properties). **Planner Zozulya** further indicated that in order to prevent "artificially tall" fences, the existing Code prohibition of fences on made-made berms or mounds is proposed to remain.

**Chairman Manion** inquired whether properties with existing berms will be permitted to have fences placed on top of existing elevated areas. **Director McNellis** responded that although it would largely depend on the area, on a case-by-case basis, if the elevation blends in with the surroundings, a fence is likely to be approved.

The Zoning Board expressed their support for this amendment.

**4. Consider eliminating the predominantly commercial Olde Half Day Road and Milwaukee Avenue arterials from the list of arterials for increased fence height and opacity:**

**Planner Zozulya** stated that in analyzing the locations that are currently permitted to have solid fences along adjacent arterials, Staff noted that Olde Half Day Road only has one single-family property adjacent to the library and Milwaukee Avenue has no single-family properties. Since the intent of the current Code is to allow 6' tall solid fences in residential areas, the Zoning Board should consider eliminating Olde Half Day Road and Milwaukee Avenue from the list of arterials that are permitted to have increased fence height and opacity.

**Chairman Manion** inquired whether the homeowners of the Heritage Creek Subdivision would be able to install a fence along Milwaukee Avenue after this text amendment. **Planner Zozulya** said that Heritage Creek is a Planned Unit

Development (PUD) zoned Multiple-Family Residential, and any fence approvals will require a PUD amendment.

The Zoning Board expressed their support for this amendment.

**5. Consider clarifying that yard fences may not extend beyond the front plane of the house:**

**Planner Zozulya** explained that the current Village Code permits fences to be located up to the front yard setback, which can cause a variety of non-uniform results. Many older homes in the R3 Zoning District are set back at the 30' front yard setback, and their yard fence is effectively restricted to the front plane (façade) of their home. However, in some larger-lot districts, as well as some teardowns in the R3 District, the homes may be 10-20' behind a minimum required front yard setback line. This would mean that fences could end up as close as halfway between the house and the street. This text amendment would clarify that yard fences may not be permitted beyond the front plane of the house, regardless of the required front yard setback on any lot.

The Zoning Board expressed their support for this amendment.

**6. Consider eliminating landscape screening requirements for yard fences taller than 4':**

**Planner Zozulya** stated that the Code only requires landscape screening for fences that are taller than 4' (4' tall and shorter fences are currently not required to be screened via landscaping), in order to conceal such fences from adjacent properties and public right-of-ways throughout the year. Since fences that are taller than 4' are currently only permitted along major arterials, adjacent to non-residential and incompatible uses and as swimming pool barriers, the existing landscape requirement applies to a very small percentage of all yard fences in the Village. **Planner Zozulya** noted that the Village Board recently eliminated landscape requirements for pool fences which are now regulated by the Building Code. Pool fences are permitted to be up to 6' in height (a maximum height of 5' for non-arterial roads and 6' along major arterial roads).

**Planner Zozulya** further stated that in analyzing the current Code requirements and reviewing standards in other local communities, Staff noted that a great majority of communities do not require landscaping in conjunction with fences. Although Staff recognizes that fences taller than 4' could have a more "heavy" appearance than shorter fences, Staff believes that requiring such fences to be screened with landscaping on the exterior side of the fence is oftentimes not practical from a maintenance perspective, as the majority of perimeter yard fences are placed close to property lines and right-of-ways, making the planted areas hard to get to, and subject to the impacts of road salt spray.

**Chairman Manion** and **Member Van de Kerckhove** expressed concern regarding the elimination of the landscape requirement for taller wooden fences

(solid or open) as such fences usually require plantings to break them up visually. **Member Kalina** noted that, in his opinion, landscaping that is not well maintained, could make the fence look worse than if there were no landscaping.

**Chairman Manion** inquired whether all prior fence approvals along Half Day Road contained an approved landscape plan. **Director McNellis** responded that some of the areas where the fences were installed had existing landscaping. The main issue is landscaping maintenance. In the case of Robinhood Court fences along Half Day Road, watering of plants on the exterior side of the fence is a challenge as it is very difficult for a homeowner to access this area. **Trustee Brandt** said that in some cases there was no space for additional plantings, due to a variety of easements granted to the Village for biking paths and retaining walls. In addition, she stated that she believes it is best left to the homeowner to determine whether or not to add landscaping along the fence so as not be overly restrictive. **Trustee Brandt** stated that another item to consider is whether the Village would want homeowners to remove existing vegetation from their wooded lots in order to plant landscaping along yard fences.

**Director McNellis** clarified that the Code permits 8' tall solid yard fences adjacent to incompatible land uses.

After extensive discussion, the Zoning Board determined that since the majority of fences likely approved by the Village in the future will be 4' in height, the impact of eliminating the existing landscaping requirements from the Fence Code for fences that are taller than 4' in height will be minimal.

The Zoning Board expressed their support for this amendment.

#### ***7. Consider permitting yard fences on vacant residential lots:***

**Planner Zozulya** stated that the Code currently prohibits fences (as well as other detached accessory structures) on vacant lots that are not improved with a residential dwelling. Staff believes that this prohibition was created in order to maintain a consistent residential use and character in the Village by not having free-standing structures that are not associated with, or are accessory to, a primary use. She said that while we continue to believe that detached structures such as swimming pools and gazebos should be prohibited on vacant lots that do not contain a house, in Staff's opinion, consideration should be given to permitting fences on vacant lots, with certain requirements (so that property owners do not have to seek lot consolidation in order to build a fence on the vacant portion of a property).

**Planner Zozulya** further noted that the Village recently approved a variation for a yard fence on the vacant 6 Half Day Road lot in conjunction with a fence on the adjacent improved lot at 8 Half Day Road. Staff proposes that specific stipulations be incorporated into the Code (i.e., a vacant lot must be contiguous to the improved lot, both lots must be under the same ownership, and the proposed fence

may not create a physical barrier between the two lots) so that the two lots maintain a single-lot appearance.

**Chairman Manion** sought clarification regarding the placement of a fence in a two-lot scenario, to which **Planner Zozulya** stated that the vacant lot would not be permitted to be physically separated from the developed lot with a fence. The Zoning Board expressed their support for this amendment.

**8. Consider revising design requirements for privacy screens:**

**Planner Zozulya** noted that the Code currently establishes specific requirements for the design of privacy screens (a screen may not be more than 24' in length, it may not extend more than 16' in one direction, and it must have a 45-degree angle or greater between panels that change direction). Staff requests that consideration be given to eliminating the 16' length and 45-degree angle restrictions for privacy screens (while maintaining the overall length restriction of 24 feet). This is based on the current trend for larger outdoor spaces (such as patios and decks) that are constructed as accessory uses. This trend is particularly evident on larger residential lots that allow a greater percentage of impervious surfaces than other lots in the Village. In Staff's view, maintaining the current length and angle restrictions can prove ineffective in achieving the required level of screening for some property owners. As an example, a property with a 24' x 24' patio would currently only be permitted to have a screen cover 16' of one side of the patio.

**Member Van de Kerckhove** inquired what constitutes a screen and whether there is a Code definition for the same. **Planner Zozulya** said that a screen is typically a 6' tall solid fence installed adjacent to decks or patios for privacy. **Director McNellis** added that the Code does not define any types of screens and Staff will work with the Village Attorney to create a definition for it. He further stated that a screen is not permitted to extend beyond a deck or patio, per Code.

**9. Consider clarifying that 6' tall solid yard fences that front on a major arterial can be placed no further from a major arterial than the rear plane of the house:**

**Planner Zozulya** stated that the Code currently permits 6' tall solid fences adjacent to (and parallel to) major arterial roads. However, it is not clear what "adjacent" means (how far or how close to an arterial road). In discussing this item at the referral meeting, the Village Board stated that those fences that are located parallel to the front property line facing a major arterial road should be permitted to be 6' in height and of the solid type, provided that such fences are located no further from the said arterial road than the rear plane of the house. In other words, a 6' tall solid fence along a major arterial road can be placed anywhere between the front plane of the house and the rear plane of the house. She noted that the current Code permissibility for 6' tall solid fences along rear yards facing major arterials would remain unchanged.

After Staff explained the concepts of “front plane” and “rear plane”, the Zoning Board expressed their support for this amendment.

***10. Consider prohibiting a heavy-duty plastic mesh material for residential yard fences:***

**Planner Zozulya** distributed an example of an 8’ heavy-duty synthetic fence recently discovered in the Village. At the May 23<sup>rd</sup> referral meeting, the Village Board determined that this type of non-metallic fence material (which is not self-supporting, unlike other permitted fence materials, and tends to be fairly fragile and non-durable, which can create an aesthetically-unpleasing appearance) is not appropriate in residential areas and should be prohibited. Last year, Staff received a request from an Oakwood Lane resident regarding a heavy-duty plastic mesh yard fence. Since the Code does not specifically prohibit this type of material, the Village had no choice but permit it to remain (that resident has since installed a more traditional fence).

**Director McNellis** stated that Staff is pursuing the synthetic fence height and material violations. He also noted that mesh fences will continue to be permitted for garden enclosures on a limited basis, provided that such a fence encloses a reasonable garden area only, as opposed to the entire yard.

As a general comment, **Planner Zozulya** noted that Staff made other changes to the Fence Code, which include a revised Intent and Purpose section; several new terms and reorganized Code sections to display both existing and proposed regulations in a more logical and clear fashion.

**Member Van de Kerckhove** noted that he reviewed the Draft Text Amendment and would like to offer suggestions regarding specific areas for improvement (including creating a definition of an “ornamental metal fence” and a “screen” as well as revising tennis court regulations to permit full tennis court enclosures). **Director McNellis** thanked **Member Van de Kerckhove** for his comments and stated that Staff will take his suggestions into consideration while making further revisions to the Code.

**Chairman Manion** closed the Public Hearing and stated that the Zoning Board will reconvene its meeting on this matter on July 12<sup>th</sup>, 2011.

- 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 8:28 p.m.

Minutes Submitted by Tonya Zozulya, Planner