



MINUTES OF THE ZONING BOARD OF APPEALS

VILLAGE OF TINLEY PARK, COOK AND WILL COUNTIES, ILLINOIS

JULY 14, 2016

The regular meeting of the Zoning Board of Appeals was held in the Council Chambers of Village Hall on July 14, 2016 at 7:30 p.m.

ROLL CALL

Present and responding to roll call were the following:

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| Acting Zoning Board Chairman: | David Samuelson |
| Zoning Board Members: | Michael Fitzgerald Paul Lechner Bob Paszczyk Steve Sepessy |
| Absent Zoning Board Members: | Chris Verstrate, Chairman Jennifer Vargas |
| Village Officials and Staff: | Stephanie Kisler, Planner I Dominick Lanzito, Village Attorney Lisa Beck, Planning & Building Clerk |

CALL TO ORDER

A motion was made by ZONING BOARD MEMBER LECHNER, seconded by ZONING BOARD MEMBER FITZGERALD to open the regular meeting of the Zoning Board of Appeals at 7:30 p.m. ZONING BOARD ACTING CHAIRMAN SAMUELSON declared the Motion approved. The Pledge of Allegiance was recited.

APPROVAL OF MINUTES

Minutes of the June 9, 2016 meeting of the Zoning Board of Appeals were presented for approval. A motion was made by ZONING BOARD MEMBER LECHNER seconded by ZONING BOARD MEMBER SEPESSY to approve the Minutes as presented. THE MOTION WAS APPROVED UNANIMOUSLY by voice vote. ZONING BOARD MEMBER SAMUELSON declared the motion approved.

TO: VILLAGE OF TINLEY PARK PRESIDENT AND BOARD OF TRUSTEES

FROM: VILLAGE OF TINLEY PARK ZONING BOARD OF APPEALS

SUBJECT: MINUTES OF THE JULY 14, 2016 MEETING

**RE: PUBLIC HEARING #1
CIPOLLA – 17101 OVERHILL AVENUE – VARIATION FROM THE REQUIRED
FRONT YARD VARIANCE - FENCE**

Consider recommending that the Village Board grant a Variation to the Petitioners, Giuliano and Maureen Cipolla, that would allow for a fence, including:

1. A twenty-seven foot, eleven inch (27'11") Variation from Section V.B. Schedule II (Schedule of District Requirements) where the front yard setback requirement is forty feet (40').

This Variation would allow the Petitioners to construct a five foot, eight inch (5'8") tall wrought iron fence with brick pillars at a twelve foot, one inch (12'1") setback on the north (171st Street) side of this corner lot at 17101 Overhill Avenue in the R-1 (Single Family Residential) Zoning District and within Arthur T. McIntosh and Company's Southlands Subdivision.

Present were the following:

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| Acting Zoning Board Chairman: | David Samuelson |
| Zoning Board Members: | Michael Fitzgerald Paul Lechner Bob Paszczyk Steve Sepessy |
| Absent Zoning Board Members: | Chris Verstrate Jennifer Vargas |
| Village Officials and Staff: | Stephanie Kisler, Planner I Dominick Lanzito, Village Attorney Lisa Beck, Planning & Building Clerk |
| Guest(s): | Giuliano & Maureen Cipolla |

A motion was made by BOARD MEMBER SEPESSY, seconded by BOARD MEMBER PASZCZYK to open the Public Hearing at 7:32 p.m. THE MOTION WAS APPROVED by voice call. ACTING CHAIRMAN SAMUELSON declared the Motion approved.

ACTING CHAIRMAN SAMUELSON requested the Petitioner(s) and anyone present who wished to give testimony, comment, engage in cross-examination or ask questions during any of the public hearings being held this evening stand and be sworn in.

ACTING CHAIRMAN SAMUELSON introduced the Petitioner's request for Variations as noted above.

MAUREEN CIPOLLA, 17101 Overhill Avenue, explained they are seeking a 27' 11" Variance to the front yard setback requirement to allow for the construction of a five foot, eight inch (5'8") tall wrought iron fence with brick pillars at a twelve foot, one inch (12'1") setback on the north (171st Street) side of this corner lot at 17101 Overhill Avenue in the R-1 (Single Family Residential) Zoning District and within Arthur T. McIntosh and Company's Southlands Subdivision.

STEPHANIE KISLER, Planner I, presented the Staff report. She stated the Petitioners are seeking a Variation from the required front yard setback for a new fence at 17101 Overhill Avenue. The Petitioners' previously had a fence that was damaged in a storm and was removed. The Petitioners' new fence is proposed to be setback twelve feet, one inch (12'1") from the north property line so that it would be in alignment with the neighbor's fence to the east. An aerial view of the property was displayed to show the differences between the Petitioners' Variation request (12'1" setback), the area where the previous fence was placed (23'8" setback), and the area showing where Staff could grant an Administrative Variation (30' setback).

MS. KISLER provided images from various perspectives of the property to demonstrate if this Variation would affect line-of-sight. There were no concerns with respect to line-of-sight since there were no intersections (street or sidewalk) directly adjacent to the fence. While the fence would not create a line-of-sight issue, it was noted that the Petitioners' currently have trees that will need to be maintained as they mature in order to ensure that visibility is not obstructed. The Petitioners' agreed to monitor these plantings.

MS. KISLER reported that she conducted a study of properties in the same subdivision and zoning district along 171st Street. There were thirteen (13) similar lots that meet the criteria, with five (5) of the lots having fences, and three (3) of the five (5) lots having fences that encroach into the front yard setback requirement. The address at 17102 Overhill Avenue was granted a twenty-six foot (26') Variation in 2006, but she could not locate Variations for the fences encroaching into the front yard setback at 17100 Oriole Avenue or 17100 Odell Avenue. She noted that if these property owners were to replace or build a fence, they would be required to go through the same Variation process as the current Petitioner.

MS. KISLER highlighted the following options for the Zoning Board of Appeals to consider:

1. Installing the fence to meet the required forty foot (40') setback;
2. Installing the fence at a thirty foot (30') setback with administrative approval;
3. Installing the fence to align with the existing garage where the previous fence was located at a twenty-three foot, eight inch (23'8") setback; or
4. Installing the fence where the Petitioners' have requested to align with the easterly neighbor's fence at a twelve foot, one inch (12'1") setback.

BOARD MEMBER FITZGERALD stated that it was difficult to see where the neighbor's fence would line up with the proposed Variation as there appeared to be a triangular section of fence on the easterly neighbor's fence. MR. CIPOLLA stated that a utility pole was located there. MS. KISLER clarified that the Petitioner wished to box it out and displayed a photo of the angled section of fencing.

MS. KISLER reviewed the following draft Findings of Fact prepared by Staff for Standards for Variations:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the district in which it is located.
 - There are other options available to the Petitioners that would not require a Variation; however, there is precedence set with the neighbor to the west (17102 Overhill Avenue) receiving a Variation in 2006 and the existing fence's location on the adjacent property to the east (17100 Oriole Avenue). The Petitioners have stated that an administrative Variation would limit the use of the rear yard. The

Petitioners' request is consistent with the fence location on the property to the east (17100 Oriole Avenue) and the property west of Overhill Avenue (17102 Overhill Avenue).

2. The plight of the owner is due to unique circumstances.
 - There was an existing fence on the property that did not meet the current setback requirements of the Zoning Ordinance. The previous fence was installed in 1991 and was removed recently due to damage from a storm. The Petitioners have had a fence and enjoyed the privacy and security that the fence provided. There are other fences in the area that also are non-conforming, some of which did not receive Variations. The Village has encountered many fences on corner lots in the community that are illegal and/or non-conforming and Staff has begun to investigate a Text Amendment to address the issue.
3. The Variation, if granted, will not alter the essential character of the locality.
 - There was a non-conforming fence previously on the property. If the Variation is granted, the fence will match the same setback as the adjacent properties to the east (17100 Oriole Avenue) and to the west (17102 Overhill Avenue).

ACTING CHAIRMAN SAMUELSON noted for the record that Village Staff provided confirmation that appropriate notice regarding the Public Hearing was published in the local newspaper in accordance with State law and Village requirements.

ACTING CHAIRMAN SAMUELSON inquired if anyone in the audience would like to speak or ask questions. No one in the audience requested to address the Zoning Board of Appeals, Staff, or the Petitioners.

There being no further questions or comments, a motion was made by BOARD MEMBER SEPESSY, seconded by BOARD MEMBER LECHNER to close the Public Hearing at 7:56 p.m. for deliberation.

A MOTION WAS MADE BY BOARD MEMBER PASZCZYK, SECONDED BY BOARD MEMBER LECHNER to recommend the Village Board grant the Petitioner Variation. BOARD MEMBER PASZCZYK clarified the Motion as follows:

Consider recommending that the Village Board grant a Variation to the Petitioners, Giuliano and Maureen Cipolla, that would allow for a fence, including:

A twenty-seven foot, eleven inch (27'11") Variation from Section V.B. Schedule II (Schedule of District Requirements) where the front yard setback requirement is forty feet (40'). This Variation would allow the Petitioners to construct a five foot, eight inch (5'8") tall wrought iron fence with brick pillars at a twelve foot, one inch (12'1") setback on the north (171st Street) side of this corner lot at 17101 Overhill Avenue in the R-1 (Single Family Residential) Zoning District and within Arthur T. McIntosh and Company's Southlands Subdivision.

AYE: Zoning Board Members Bob Paszczyk, Steve Sepessy, David Samuelson, and Paul Lechner

NAY: Zoning Board Member Fitzgerald

ABSENT: Zoning Board Member Jennifer Vargas and Chairman Chris Verstrate

THE MOTION WAS APPROVED by voice vote. ACTING CHAIRMAN SAMUELSON declared the Motion approved.

BOARD MEMBER FITZGERALD questioned if there was a time to have open discussion between closing the public hearing and the vote.

DOMINICK LANZITO, Village Attorney, clarified this could take place after the motion is made but before the vote.

MS. KISLER stated that the vote had already been taken tonight but asked BOARD MEMBER FITZGERALD to provide his comments for the record. She stated that these minutes will be presented to the Village Board for further consideration.

BOARD MEMBER FITZGERALD stated for the record that he voted no on the Variation request due to the aesthetics of the triangular section of fence. He felt that the fence should be installed at the same location as the previous fence.

GOOD OF THE ORDER

BOARD MEMBER PASZCZYK requested that Staff decrease the amount of documentation provided in the ZBA packets. He stated that much of it is redundant. Discussion ensued regarding the streamlining of information distributed to the Zoning Board of Appeals and whether it was possible to use only digital copies of the packets rather than printed copies. Several Zoning Board Members mentioned different preferences, so in lieu of providing different materials to each person, it was decided that Staff would continue with current procedure and investigate ways to consolidate the information into smaller packets.

ACTING CHAIRMAN SAMUELSON asked if there was any public comment and no one from the audience addressed the Zoning Board of Appeals.

MS. KISLER queried the Zoning Board regarding future Text Amendments related to fences. A discussion ensued with varying opinion on what should or should not be allowed regarding front yard setback requirements. MS. KISLER stated that she would like the Zoning Administrator to have more authority to make decisions rather than have Petitioners go through a 2-3 month process to have a Variation granted. She also noted that other communities sometimes allow fences in front yards when they choose lower heights and open style versus privacy style fences. Additionally, she noted that the front yard fence regulations could be somehow determined based on the classification of the street adjacent to the lot. She requested that the Zoning Board Members provide additional feedback at the next meeting.

ACTING CHAIRMAN SAMUELSON stated that the Zoning Board should take a hard look at these requests.

ADJOURNMENT

A motion was made by BOARD MEMBER PASZCZYK, seconded by BOARD MEMBER LECHNER to close the regular meeting of the Zoning Board of Appeals of July 14, 2016 at 8:20 p.m. THE MOTION WAS APPROVED by voice call. ACTING CHAIRMAN SAMUELSON declared the Motion approved.