MINUTES OF THE ZONING BOARD OF APPEALS

VILLAGE OF TINLEY PARK,
COOK AND WILL COUNTIES, ILLINOIS

JULY 28, 2016

The regular meeting of the Zoning Board of Appeals was held in the Council Chambers of Village Hall on July 28, 2016 at 7:30 p.m.

PLEDGE

ROLL CALL

Present and responding to roll call were the following:

Zoning Board Chairman:	Chris Verstrate
Zoning Board Members:	Bob Paszczyk Dave Samuelson Steve Sepessy Jennifer Vargas
Absent Zoning Board Members:	Michael Fitzgerald Paul Lechner
Village Officials and Staff:	Stephanie Kisler, Planner I Thomas Condon, Village Attorney

CALL TO ORDER
A motion was made by ZONING BOARD MEMBER SEPESSY, seconded by ZONING BOARD MEMBER PASZCZYK to open the regular meeting of the Zoning Board of Appeals at 7:30 p.m. ZONING BOARD CHAIRMAN VERSTRATE declared the Motion approved.

APPROVAL OF MINUTES
Minutes of the July 14, 2016 meeting of the Zoning Board of Appeals were presented for approval. A motion was made by ZONING BOARD MEMBER PASZCZYK seconded by ZONING BOARD MEMBER SEPESSY to approve the Minutes as presented. THE MOTION WAS APPROVED by voice call. ZONING BOARD CHAIRMAN VERSTRATE declared the Minutes 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 28, 2016 MEETING**

RE: **PUBLIC HEARING #1**
NELSON – 17100 FOXGROVE LANE – VARIATION FROM THE REQUIRED FRONT YARD SETBACK - FENCE

Consider recommending that the Village Board grant a Variation to the Petitioner, Russell Nelson, which would allow for a fence, including:

1. A twenty-four foot (24') Variation from Section V.B. Schedule II (Schedule of District Requirements) where the front yard setback requirement is twenty-five feet (25').

This Variation would allow the Petitioner to replace the existing fence with a six-foot (6') tall wood privacy fence at a one-foot (1') setback on the north (171st Street) side of this corner lot at 17100 Foxgrove Lane in the R-4 (Single-Family Residential) Zoning District and within the Old Oak Subdivision.

Present were the following:

Zoning Board Chairman:	Chris Verstrate
Zoning Board Members:	Bob Paszczyk Dave Samuelson Steve Sepessy Jennifer Vargas
Absent Zoning Board Members:	Michael Fitzgerald Paul Lechner
Village Officials and Staff:	Stephanie Kisler, Planner I Thomas Condon, Village Attorney
Guest(s)	Russell Nelson Nancy Koran

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

CHAIRMAN VERSTRATE confirmed Village Staff provided confirmation that appropriate notice regarding the public hearing was published in the local newspaper in accordance with State law and also sent to the surrounding area per Village requirements.

CHAIRMAN VERSTRATE requested the Petitioner, 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.

RUSSELL NELSON, 17100 Foxgrove Lane, explained that they are seeking to replace their existing six foot (6') tall wood fence with a new wood fence of the same height in the same location but need a Variance to allow for a one-foot (1') setback on the north (171st Street) side of their property.

STEPHANIE KISLER, Planner I, presented the staff report. She stated the Petitioner is requesting a twenty-four foot (24') Variation from Section V.B. Schedule II (Schedule of District Requirements) where the front yard setback requirement is twenty-five feet (25'). This Variation would allow the Petitioner to replace the existing fence with a six foot (6') tall wood privacy fence at a one foot (1') setback on the north (171st Street) side of this corner lot at 17100 Foxgrove Lane in the R-4 (Single-Family Residential) Zoning District and within the Old Oak Subdivision.

MS. KISLER has reviewed the Variation petition from the required front yard setback for the replacement of an existing fence on a corner lot at 17100 Foxgrove Lane. Staff notes that the Petitioner has an existing wood privacy fence parallel to 171st Street installed by a previous homeowner. The existing fence is in a deteriorated condition; the Petitioner wishes to replace it with a similar six foot (6') tall wood privacy fence at the same location.

MS. KISLER stated that building permit records indicate that the wood fence line along the north side of the property was permitted in 2009; however, there no Variation was issued. When the Petitioner purchased the property in 2013, he received a permit to install a connection of chain-link fencing from the north side of the home to the fence that was installed in 2009 along the north property line (parallel to 171st Street). There is also no record of a Variation for the 2013 fence. Staff also noted that a shed was also permitted within the front yard setback without a Variation in 2009.

MS. KISLER explained that the Petitioner's Variation request would formalize the existence of both the 2009 wood fence line and the 2013 chain-link fence connection and allow the fence to extend twenty-four feet (24') into the twenty-five foot (25') required front yard setback. She added that the proposed fence would align with existing rear yard fences to the west.

MS. KISLER stated that the property is zoned R-4, so a twenty-five foot (25') setback is required for front yards per Section V.B. Schedule II (Schedule of District Requirements). The Variation request is for the fence to be installed at a one foot (1') setback. Per Section III.H.1. of the Zoning Ordinance, Staff is able to grant an Administrative Variation of up to ten feet (10') from the required setback. This would allow the Petitioner to maintain a setback for the fence fifteen feet (15') from the property line parallel to 171st Street. If granted, the administrative Variation would place the fence fourteen feet (14') further south than what the Petitioner is requesting, and would intersect with the non-conforming shed. While the shed was permitted without proper adherence to the front yard setback regulations, she noted that ideally the shed is best enclosed within the fence rather than outside of the fence and visible from the public right-of-way.

MS. KISLER explained that the Planning Department notes that there are no concerns with this Variation request with respect to line-of-sight since there are no intersections (street, driveway, or sidewalk) directly adjacent to the fence. The proposed fence would be one foot (1') off the property line, which is actually about two feet, six inches (2'6") from the sidewalk. In addition, the fence would align with other existing fences to the west, which are considered rear yard fences due to the orientation of their lots. She stated that the Petitioners' north property line is abutting a relatively major thoroughfare (171st Street) and the fence would be in a consistent location in comparison to fences at other properties along 171st Street.

MS. KISLER stated that Staff examined the existing conditions of fences along 171st Street between 84th Avenue and 88th Avenue. She gestured to a diagram found in the staff report, showing how the proposed fencing (retaining the location of the existing fence) would be consistent with the existing fencing along 171st Street. She also noted the difference in the orientation of the lots, which cause the majority of these fences to be considered as rear yard fences rather than front yard fences.

MS. KISLER then presented pictures that show how the existing fence is in deteriorating condition and may impede drainage due to the way the bottom of the fence was installed. Additionally, the overall height of the fence is inconsistent along the fence line. Installation of a new fence could address these concerns and correct the drainage.

MS. KISLER reported that Staff is currently investigating possible Text Amendments for fence setbacks in an attempt to alleviate the numerous requests for fence Variations. As a mature community that has developed over time under various codes and enforcement policies, there are many non-conforming fences that need to be addressed. Staff encourages dialogue amongst the Zoning Board of Appeals regarding this issue and seeks direction regarding future Text Amendments.

MS. KISLER reviewed the following draft Findings of Fact prepared by Staff for Standards of 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 an existing fence that was permitted in the proposed location in 2009 and the fence aligns with other existing fences to the west. The previous property owner also received a permit for a shed in 2009, which is located within the required front yard setback. If the fence were to be installed to meet code at a twenty-five foot setback, the shed would be outside of the fence. The proposed fence is consistent with the location of other fences along 171st Street.

2. The plight of the owner is due to unique circumstances.
   - There is an existing fence on the property that was permitted to a previous homeowner without a Variation in 2009. The Petitioner has had a fence in the proposed location and enjoyed the privacy and security that the fence provided. The proposed fence location is consistent with the location of other fences along 171st Street. 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 is currently a deteriorating fence on the property in the same location as the proposed fence. If the Variation is granted, the fence will replace the existing fence and be aligned with existing fences to the west. It is not uncommon for fences along major thoroughfares, such as 171st Street, to be installed near or along the property line adjacent to the road.

CHAIRMAN VERSTRATE asked if there were any questions for Staff.

CHAIRMAN VERSTRATE asked MR. NELSON if there were any sight line problems with the extended fence. MR. NELSON stated there were none. MS. KISLER stated there were none. BOARD MEMBER VARGAS stated that she did in fact visit the property to view this issue and she too felt there were no sight line problems.

NANCY KORAN, 17110 Foxgrove Lane, requested to be sworn in to speak on this topic.

CHAIRMAN VERSTRATE swore MS. KORAN in.

MS. KORAN, a neighbor of MR. NELSON, stated that the fencing makes a large difference regarding noise, privacy, and the beautification of Tinley Park. MR. NELSON added that the new fence would reduce noise from traffic along 171st Street and that it would also be an aesthetic improvement. He added that it would be the same fence that is seen adjacent to his fence on the west side.

CHAIRMAN VERSTRATE asked if there were any other questions or comments. Seeing no further questions or comments, CHAIRMAN VERSTRATE opened the meeting up for deliberations among the Board Members.

BOARD MEMBER PASZCZYK stated that this type of issue should be an Administrative Staff case due to the facts that 1) the fence was approved to prior owner according to code, 2) this fence is replacing the existing one and 3) it beautifies Tinley Park.

BOARD MEMBER SAMUELSON stated that this fence does not alter the character of the existing neighborhood. He also discussed the zoning concerns regarding corner lots and the opportunity to discuss alternatives in the future.

CHAIRMAN VERSTRATE commented on the current location of the shed possibly causing a hardship if it would have to be relocated.

BOARD MEMBER SEPESSY discussed the hardship of individuals purchasing a home and having to work with an old fence line thus not being able to utilize the majority of their property.

CHAIRMAN VERSTRATE inquired if there were any further questions or comments. No one offered any additional questions or comments.

There being no further questions or comments, a Motion was made by BOARD MEMBER SEPESSY, seconded by BOARD MEMBER PASZCZYK to close the Public Hearing at 8:00 p.m. CHAIRMAN VERSTRATE asked for a voice vote to close the Public Hearing portion of the first Agenda item. THE MOTION WAS APPROVED by voice vote.

CHAIRMAN VERSTRATE asked for a Motion to consider the Petitioner's request. A Motion was made by BOARD MEMBER SAMUELSON, seconded by BOARD MEMBER PASZCZYK to recommend the Village Board grant the Petitioner, Russell Nelson, a twenty-four foot (24') Variation from Section V.B. Schedule II (Schedule of District Requirements) where the front yard setback requirement is twenty-five feet (25'). This Variation would allow the Petitioner to replace the existing fence with a six foot (6') tall wood privacy fence at a one foot (1') setback on the north (171st Street) side of this corner lot at 17100 Foxgrove Lane in the R-4 (Single-Family Residential) Zoning District and within the Old Oak Subdivision.

CHAIRMAN VERSTRATE added that the findings are based upon the Findings of Fact to replace an existing fence. He noted that there was a permit issued for the previous fence in the past. Additionally, he noted there are no line-of-sight issues and that it will be an aesthetic improvement.

AYE: Zoning Board Members Bob Paszczyk, Dave Samuelson, Steve Sepessy, and Jennifer Vargas

NAY: None

ABSENT: Zoning Board Members Michael Fitzgerald, Paul Lechner

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

RECEIVE COMMENTS FROM THE PUBLIC

CHAIRMAN VERSTRATE asked if anyone had a Public Comment. No one in the audience wished to comment.

GOOD OF THE ORDER
STEPHANIE KISLER introduced the new Commission Secretary, Patricia Meagher.

CHAIRMAN VERSTRATE inquired if the items requested by MS. KISLER in the prior meeting regarding variance issues should they added to the Agenda for this evening. BOARD MEMBER PASZCZYK prepared some considerations for Staff approval on Variances. MS. KISLER read the considerations as follows:

1. Approval by Police, Fire, Utilities, and Planning Department. *MS. KISLER stated that these approvals, except for the Fire Department, are handled during the building permit review process.*

2. No conflict with line-of-sight, either vehicular or pedestrian. *MS. KISLER stated that this is reviewed administratively also and it can be found within Section III.G. of the Zoning Ordinance. Further clarification could be added to this section.*

3. Replacement of existing fence that has been approved (with or without Variance Approval).

4. Consistency with neighboring properties.

5. Aesthetics (nothing that would be considered offensive, obscene, degrading or otherwise degrade the value of the property and/or neighborhood).

6. Setbacks determined by property location, i.e., thoroughfares (171st) different from side streets.

7. Standard dimensions for business signs listed as "not to exceed" measurements, either in square feet or eight/width. These can be segregated by type of business and location within the property as on the building or curbside. *MS. KISLER stated that there are already dimensional standards for signs overall, not by business use. She noted that sign regulations must be by Zoning District, not by use.*

8. What needs to be considered how parties can object to variations if not via open discussion/meetings? *MS. KISLER stated that, by law, Variation requests must be heard at a Public Hearing, a recommendation from the Zoning Board of Appeals or Plan Commission, and a final approval from the Village Board. The only way it would not follow this process is to alter the Zoning Ordinance with a Text Amendment giving more administrative authority to approve these types of situations within the Zoning Ordinance. She added that objectors are not heard if something is able to be approved administratively since there is no Public Hearing for projects that meet the Village's codes.*

CHAIRMAN VERSTRATE inquired about the Zoning Board's participation regarding Text Amendments. MS. KISLER stated that opinions from the Zoning Board would be welcomed when Staff investigates feasible solutions for future Text Amendments.

CHAIRMAN VERSTRATE addressed the concern of vegetation coming through fencing onto the sidewalks. MS. KISLER stated that it is each property owner's responsibility for keeping all vegetation trimmed and out of the right-of-way. She noted that anyone can submit a complaint for property maintenance issues to the Building Department's Code Enforcement Officers and they will follow up with the property owner.

ADJOURNMENT
A Motion was made by BOARD MEMBER SEPESSY, seconded by BOARD MEMBER PASZCZYK to close the regular meeting of the Zoning Board of Appeals of July 28, 2016 at 8:16 p.m. THE MOTION WAS APPROVED by voice call. CHAIRMAN VERSTRATE declared the Motion approved.