



## MINUTES OF THE ZONING BOARD OF APPEALS

### VILLAGE OF TINLEY PARK, COOK AND WILL COUNTIES, ILLINOIS

NOVEMBER 10, 2016

The regular meeting of the Zoning Board of Appeals was held in the Council Chambers of Village Hall on November 10, 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:	Michael Fitzgerald Paul Lechner Bob Paszczyk Dave Samuelson Steve Sepessy
Zoning Board Member(s) Absent:	Jennifer Vargas
Village Officials and Staff:	Paula Wallrich, Interim Community Development Director Stephanie Kisler, Planner I Dominic Lanzito, Village Attorney Commission Secretary, Patricia Meagher

#### CALL TO ORDER

A Motion was made by ZONING BOARD MEMBER PASZCZYK, seconded by ZONING BOARD MEMBER LECHNER to open the regular meeting of the Zoning Board of Appeals at 7:30 p.m. THE MOTION WAS APPROVED by voice call. CHAIRMAN VERSTRATE declared the Motion approved.

#### APPROVAL OF MINUTES

Minutes of the August 25, 2016 meeting of the Zoning Board of Appeals were presented for approval. A Motion was made by ZONING BOARD MEMBER SEPESSEY, seconded by ZONING BOARD MEMBER PASZCZYK, to approve the Minutes as presented. The Motion was approved by voice call. 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 NOVEMBER 10, 2016 MEETING**

**ITEM #1: PUBLIC HEARING: SYLVAN LEARNING CENTER – 9501 171<sup>ST</sup> STREET, UNIT E – VARIATION FROM THE MAXIMUM SIGN FACE AREA AND MAXIMUM LETTER HEIGHT – WALL SIGN**

Consider recommending that the Village Board grant a Variation to the Petitioner, Jim Cronin of Sylvan Learning Center, the following Variations for a permanent wall sign:

1. A 16.08 square foot Variation from Section IX.D.3.a., where the maximum sign face area permitted for a permanent wall sign at 9501 171<sup>st</sup> Street, Unit E is twenty (20) square feet; and
2. A six inch (6') Variation from Section IX.D.3.a., where the maximum letter height permitted for a permanent wall sign at 9501 171<sup>st</sup> Street, Unit E is thirty inches (30").

These Variations would allow the Petitioner to install a 36.08 square foot permanent wall sign with thirty-six (36) tall letters at 9501 171<sup>st</sup> Street, Unit E, in the B-3 PD (General Business and Commercial, Planned Unit Development) Zoning District and the Park Hills Towne Centre Planned Unit Development and the Park Hills Towne Centre Subdivision.

Present were the following:

Zoning Board Chairman:	Chris Verstrate
Zoning Board Members:	Michael Fitzgerald Paul Lechner Bob Paszczyk Dave Samuelson Steve Sepessy
Village Officials and Staff:	Paula Wallrich, Interim Community Development Director Stephanie Kisler, Planner I Dominic Lanzito, Village Attorney Commission Secretary, Patricia Meagher

A Motion was made by ZONING BOARD MEMBER PASZCZYK, seconded by ZONING BOARD MEMBER LECHNER to open the Public Hearing at 7:35 p.m. The Motion was approved by voice call; all in favor. CHAIRMAN VERSTRATE declared the Motion approved.

CHAIRMAN VERSTRATE stated that Public Hearing #1, regarding recommending that the Village Board grant a Variation to the Petitioner, Jim Cronin of Sylvan Learning Center, the following Variations for a permanent wall sign has been WITHDRAWN.

A Motion was made by ZONING BOARD MEMBER PASZCZYK, seconded by ZONING BOARD MEMBER LECHNER to close the Public Hearing #1. The Motion was approved by voice call; all in favor. CHAIRMAN VERSTRATE 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 NOVEMBER 10, 2016 MEETING**

**ITEM #2: WORKSHOP: STATUS UPDATE – TEXT AMENDMENT FOR FENCE REGULATIONS**

Present were the following:

Zoning Board Chairman:	Chris Verstrate
Zoning Board Members:	Michael Fitzgerald Paul Lechner Bob Paszczyk Dave Samuelson Steve Sepessy
Village Officials and Staff:	Paula Wallrich, Interim Community Development Director Stephanie Kisler, Planner I Dominic Lanzito, Village Attorney Patricia Meagher, Commission Secretary

PAULA WALLRICH, Interim Community Development Director, presented background to the topic of Text Amendments for Fence Regulations discussions between the Plan Commission and the Zoning Board of Appeals. MS. WALLRICH stated that it is important to open a dialogue this evening regarding the context of the fence Variation requests being brought before them and the impact these requests could have on the specific neighborhood they are located in. She encouraged discussion to facilitate decision making for the three (3) variations requests before them this evening. In some instances there has been an absence of building permits and/or Variances for existing nonconforming fences. These instances were quite a long time ago but are important to note when considering a Variance request. Comparisons to neighboring communities were completed and although all zoning is not the same it is commonplace that fences are typically not allowed in a front yard as well as a corner yard for safety concerns.

STEPHANIE KISLER, Planner I, presented pictures of eleven (11) properties with front yard fences for examples to discuss. A corresponding handout also noted if a permits or record of a Variance for the fences were found in the files.

MS. WALLRICH explained that while the examples were from one specific subdivision, the same situations will most likely be found in various other older subdivisions within Tinley Park. What is being asked of the Zoning Board is recommendations for Text Amendments as well as guidelines for Staff when approving Administrative Variations.

ZONING BOARD MEMBER FITZGERALD asked if these types of concerns, past permits and/or Variances, should be disclosed at a closing of sale. DOMINIC LANZITO, Village Attorney, stated that no, this does not become a part of closing discussions. MS. WALLRICH stated that some potential homeowners have come to the Village to inquire about the property and Code but unless this is done there is no way of knowing before closing. She noted that the Village does not conduct 'Point of Sale' inspections.

CHAIRMAN VERSTRATE stated the he felt a Text Amendment would be a good idea for requests for locating fences in front yards of corner lots. He asked the ZONING BOARD MEMBERS if they agreed or not. ZONING BOARD MEMBER FITZGERALD felt that there are areas that an open-style fence would be recommended versus a six-foot (6') fence.

ZONING BOARD MEMBER SEPESSY stated that there are places that a six-foot (6') fence would be necessary, such as a busy street like 171<sup>st</sup> Street, when the side or rear yard is facing it but not in a front yard.

ZONING BOARD MEMBER PASZCZYK said that there needs to be a definition of a side yard versus a front yard in the case of a corner lot. ZONING BOARD MEMBER LECHNER feels that the Code should be followed exactly. ZONING BOARD MEMBER SAMUELSON stated his concerns with Variances when each request increases from what the last request had proposed. Also, because each lot is different, each corner lot could potentially have requests of the Board versus following the Code administratively through Staff. He asked how many residents, when asking for a Variance, opt for the ten feet (10') extra that allowed administratively. MS. KISLER stated that the majority of them take it due to the time required to wait for a Variance to be approved.

CHAIRMAN VERSTRATE asked that an item be added to the next meeting's agenda, to be placed after all Petitioner requests, to discuss the Text Amendment issue further. He asked if Staff could have written examples of properties to be discussed so that all ZBA Members can understand the language. MS. WALLRICH stated that this will be prepared as soon as possible.

**TO: VILLAGE OF TINLEY PARK PRESIDENT AND BOARD OF TRUSTEES**  
**FROM: VILLAGE OF TINLEY PARK ZONING BOARD OF APPEALS**  
**SUBJECT: MINUTES OF THE NOVEMBER 10, 2016 MEETING**  
**ITEM #3: PUBLIC HEARING : SCHNEIDER – 6220 CARLSBAD DRIVE – VARIATION FROM THE REQUIRED FRONT YARD SETBACK – FENCE**

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

1. A fifteen-foot (15') 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 install a new six-foot (6') tall PVC privacy fence at a ten-foot (10') setback on the east (Beverly Avenue) side of this corner lot at 6220 Carlsbad Drive in the R-4 (Single-Family Residential) Zoning District and within the Lancaster Highlands Subdivision. The proposed fence would replace the existing deteriorating wood fence that was installed at a zero-foot (0') setback along the east (Beverly Avenue) side of the property.

Present were the following:

Zoning Board Chairman:	Chris Verstrate
Zoning Board Members:	Michael Fitzgerald Paul Lechner Bob Paszczyk Dave Samuelson Steve Sepessy
Village Officials and Staff:	Paula Wallrich, Interim Community Development Director Stephanie Kisler, Planner I Dominic Lanzito, Village Attorney Patricia Meagher, Commission Secretary
Guest(s):	Gail Schneider, Petitioner

A motion was made by ZONING BOARD MEMBER SEPESSY, seconded by BOARD MEMBER PASZCZYK to open the Public Hearing. 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. He swore in the members in the audience that wished to speak and explained the process of the Public Hearing.

MS. KISLER noted that this is a change in the style of the fence from the existing shorter, open-style wood fence. The proposed fence is a privacy-style, six-foot (6') tall fence. She presented the Staff Report, including pictures of the existing fence as well as diagrams showing dimensions of existing and proposed fencing. The Police Department reviewed the placement of the proposed fence and felt there were no safety concerns. MS.

KISLER noted that the location of the Administrative Variation (15' setback) may interfere with a swing, but the swing is a temporary fixture. She noted that it would not intersect with the tree, although the allowable fence location (25' setback) will most likely interfere with a large tree in the rear yard. She further noted that it was the intent of the ordinance to align the fence with the setback of the home. MS. KISLER noted that the granting of this Variation as requested by the homeowner is precedent setting since there is nothing unique about this property to warrant the Variation. She stated that the character of the street would change since the fence would no longer be an open-style fence and questioned whether the existence of a non-conforming fence is a valid defense in permitting the construction of a new non-conforming fence.

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 viable options available to the Petitioner that would not require a Variation. The property can yield a reasonable return if the fence was located in accordance with the Village's regulations, although it would decrease the fenced portion of the yard. This situation is common for corner lots and the property value may not be substantially impacted.
2. The plight of the owner is due to unique circumstances.
  - There are other viable options available to the Petitioner that would not require a Variation. The proposed fence location is requested in order to maintain the current size of the yard, which is a request not unique to only this corner lot. Additionally, the Petitioner has cited a swing located on a mature tree in the yard as part of the rationale for the need for the proposed location. If the swing were removed, this reasoning would no longer exist. A relatively temporary amenity, such as a swing, is not solely unique to this property.
3. The Variation, if granted, will not alter the essential character of the locality.
  - There are other viable options available to the Petitioner that would not require a Variation. The requested fence location (10' setback) may alter the character of the neighborhood since the previous fence was a four-foot (4') tall open-style fence and the proposed fence is a six foot (6') privacy-style fence.

CHAIRMAN VERSTRATE asked GAIL SCHNEIDER to give her presentation regarding her request. MS. SCHNEIDER stated that she purchased the home in 1994 and the fence in place is the original fence. In her request to replace the fence, she stressed her concern about losing a mature tree on the property if they went with the extra ten feet (10') that is allowed administratively. She noted that there are swings on that tree that are used by her family. There is also a mature tree on the northeast corner of the back yard that she does not want to lose. The proposed fence would also provide them with privacy.

CHAIRMAN VERSTRATE asked the ZONING BOARD MEMBERS if they had any questions for MS. SCHNEIDER. ZONING BOARD MEMBER PASZCZYK asked if the swings on the tree will be used. MS. SCHNEIDER said that yes, they will be used. He also asked if the fence was installed in the allowable location would the tree be uprooted due to the fence. MS. SCHNEIDER stated that that was also a concern. ZONING BOARD MEMBER PASZCZYK asked if a fifteen-foot (15') setback is comfortable for MS. SCHNEIDER; she stated that yes she is. It was also noted that MS. SCHNEIDER has a pool in the back yard that is put up and taken down year-to-year. MS. KISLER pointed out that, per the Building Code, the fence must be a minimum height of five-feet (5') tall if a pool is present. CHAIRMAN VERSTRATE asked if there were any other questions; there were none.

CHAIRMAN VERSTRATE asked for a Motion to close the Public Hearing. BOARD MEMBER PASZCZYK made the Motion, seconded by BOARD MEMBER SEPESSY. CHAIRMAN VERSTRATE asked for a voice vote to close the Public Hearing. THE MOTION WAS APPROVED by voice vote.

CHAIRMAN VERSTRATE open the meeting up for deliberation regarding this request. ZONING BOARD MEMBER SAMUELSON stated that he did not see this request to cause any safety risk. CHAIRMAN VERSTRATE agreed with this statement. ZONING BOARD MEMBER PASZCZYK stated that with the curvature of the street and fence does not cause any visibility issues, even considering the proposed fence height of six feet (6'). MS. KISLER presented pictures showing the surrounding neighborhood for a better view. ZONING BOARD MEMBER FITZGERALD inquired about the fence, if the tree was removed, not aligning with the neighbor's fence. MS. SCHNEIDER stated that the current neighbor does not have a problem with this. CHAIRMAN VERSTRATE stated that this issue could be a condition within the Motion if necessary.

Hearing no other comments, 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 that the Village Board grant the Petitioner, Gail Schneider, a fifteen-foot (15') Variation from Section V.B. Schedule II (Schedule of District Requirements) of the Zoning Ordinance where the front yard setback requirement is twenty-five feet (25'). This Variation would allow the Petitioner to install a new six foot (6') tall PVC privacy fence at a ten foot (10') setback on the east (Beverly Avenue) side of this corner lot at 6220 Carlsbad Drive in the R-4 (Single-Family Residential) Zoning District and within the Lancaster Highlands Subdivision. The proposed fence would replace the existing deteriorating wood fence that was installed at a zero foot (0') setback along the east (Beverly Avenue) side of the property.

Based on the evidence provided at this hearing and the following:

1. That the Petitioners have provided evidence establishing that they have met the standards for Variations contained in Section X.G.4. of the Zoning Ordinance.

AYE: Zoning Board Members Bob Paszczyk, Dave Samuelson, Steve Sepessy, Paul Lechner, and Chairman Chris Verstrate

NAY: Michael Fitzgerald

ABSENT: Jennifer Vargas

THE MOTION WAS APPROVED by roll call. CHAIRMAN VERSTRATE declared the Motion approved.

CHAIRMAN VERSTRATE explained to the Petitioners that this recommendation will be presented to the Village Board of Trustees for a final decision.

**TO: VILLAGE OF TINLEY PARK PRESIDENT AND BOARD OF TRUSTEES**  
**FROM: VILLAGE OF TINLEY PARK ZONING BOARD OF APPEALS**  
**SUBJECT: MINUTES OF THE NOVEMBER 10, 2016 MEETING**  
**ITEM #4: PUBLIC HEARING: LUKASZCZYK – 17658 HIGHLAND AVENUE – VARIATION FROM THE REQUIRED FRONT YARD SETBACK – FENCE**

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

1. A thirty-foot (30') Variation from Section V.B. Schedule II (Schedule of District Requirements) where the front yard setback requirements is thirty feet (30').

This Variation would allow the Petitioner to replace an existing dilapidated wood fence with a new six-foot (6') tall wood privacy fence at a zero foot (0') setback on the south (177<sup>th</sup> Street) side of this corner lot at 17658 Highland Avenue in the R-2 (Single-Family Residential) Zoning District and within the Elmore's Ridgeland Avenue Estates Subdivision.

Present were the following:

Zoning Board Chairman:	Chris Verstrate
Zoning Board Members:	Michael Fitzgerald Paul Lechner Bob Paszczyk Dave Samuelson Steve Sepessy
Village Officials and Staff:	Paula Wallrich, Interim Community Development Director Stephanie Kisler, Planner I Dominic Lanzito, Village Attorney Patricia Meagher, Commission Secretary
Guest(s):	Edyta Lukaszczyk, Petitioner Anna Hyjek, Friend of Petitioner

A motion was made by ZONING BOARD MEMBER SEPESSY, seconded by BOARD MEMBER PASZCZYK to open the Public Hearing. 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.

MS. KISLER presented the Staff Report, including pictures of the property, dimensions and the fence in its current condition. She discussed the existing fence and its state of disrepair and its relationship to surrounding properties. She noted that she had spoken to the property owner to the west who stated that there were no visibility issues with their driveway and the existing privacy fence. MS. KISLER also noted that there was

potential for 177<sup>th</sup> Street to be widened in the future and for the street to be located closer to the fence than it is currently.

MS. KISLER noted that the property is unique in that there is a patio door located on the south side of the house and a deck was constructed outside the patio around a mature tree. If the fence were made to conform to the setback requirements the deck would no longer be enclosed by the fence. She also noted the character of the neighborhood and the number of unincorporated non-conforming properties. She stated that the findings will illustrate that the granting of the Variation would not be precedent setting due to the uniqueness of the property.

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.
  - Without the granting of a Variation, the property cannot yield a reasonable return and utilization of the south side of the home with the existing floor plan and deck would be significantly impacted. Conformance with permitted or administratively permitted setbacks negatively affect the functionality and privacy of the existing deck area in the yard; the deck and floor plan were not constructed by the Petitioner. Significant changes to the interior floor plan of the home would have to be made to accommodate the existing location of the patio door and the existing deck.
2. The plight of the owner is due to unique circumstances.
  - The existing floor plan and location of the deck presents a unique hardship for the owner. . Conformance with code would require significant remodeling or restricted use of the outdoor area on the south side of the home. The Petitioner's existing patio door and deck (which were constructed by a previous homeowner) create a unique circumstance where the logical location for a fence is surrounding the deck in its current location. There are no other properties in the vicinity that have the same circumstances.
3. The Variation, if granted, will not alter the essential character of the locality.
  - If the Variation is granted it will not alter the essential character of the area since it is consistent with the location and design of the current fence. There is limited aesthetic consistency in this area because many lots in the area of the Village are still unincorporated and are subject to county regulations rather than Village regulations.

CHAIRMAN VERSTRATE asked the Petitioner about the type and height of the proposed fence. EDYTA LUKASZCZYK stated that she is requesting to put in a six-foot (6') wood fence that is privacy style.

ZONING BOARD MEMBER SEPESY asked MS. KISLER to show an aerial view of the property showing dimensions to the street.

CHAIRMAN VERSTRATE asked the Petitioner to present her case. ANNA HYJEK, on behalf of MS. LUKASZCZYK, stated that they are trying to make the fence look better by replacing the current fence. She noted that the current fence is in bad shape and they currently have no privacy due to the pieces that have fallen down. She added that the Petitioner has a dog and a child.

CHAIRMAN VERSTRATE asked if the fence would go all the way around the yard. MS. HYJEK stated that it would. ZONING BOARD MEMBER SAMUELSON asked MS. HYJEK if any changes are proposed for the existing deck. MS. HYJEK stated that they plan to clean it up by washing and painting.

CHAIRMAN VERSTRATE asked the ZONING BOARD MEMBERS if there were any additional questions for the Petitioners or Staff; there were none.

CHAIRMAN VERSTRATE asked for a Motion to close the Public Hearing. BOARD MEMBER SEPESSY made the Motion, seconded by BOARD MEMBER PASZCZYK. CHAIRMAN VERSTRATE asked for a voice vote to close the Public Hearing. THE MOTION WAS APPROVED by voice vote.

CHAIRMAN VERSTRATE opened the meeting up for deliberation amongst the ZONING BOARD MEMBERS regarding this request. ZONING BOARD MEMBER SEPESSY inquired about the possibility of widening the street and the dimensions. MS. WALLRICH explained the possible dimensions and also explained that this area is more rural and has many unincorporated properties. ZONING BOARD MEMBER SAMUELSON explained that 177<sup>th</sup> Street might not be widened in the future and will most likely stay in a rural road condition.

CHAIRMAN VERSTRATE asked if there were any further questions or concerns. ZONING BOARD MEMBERS PASZCZYK stated that he did not feel there were any sight safety concerns with this request.

Hearing no other comments, CHAIRMAN VERSTRATE asked for a Motion to consider the Petitioner's request. A Motion was made by BOARD MEMBER PASZCZYK, seconded by BOARD MEMBER SEPESSY to recommend that the Village Board grant the Petitioner, Edyta Lukaszczuk, a thirty foot (30') Variation from Section V.B. Schedule II (Schedule of District Requirements) of the Zoning Ordinance where the front yard setback requirement is thirty feet (30'). This Variation would allow the Petitioner to replace an existing dilapidated wood fence with a new six foot (6') tall wood privacy fence at a zero foot (0') setback on the south (177th Street) side of this corner lot at 17658 Highland Avenue in the R-2 (Single-Family Residential) Zoning District and within the Elmore's Ridgeland Avenue Estates Subdivision.

...Based on the evidence provided at this hearing and the following:

1. That the Petitioners have provided evidence establishing that they have met the standards for Variations contained in Section X.G.4. of the Zoning Ordinance.

AYE: Zoning Board Members Bob Paszczyk, Dave Samuelson, Steve Sepessy, Paul Lechner, Michael Fitzgerald, and Chairman Chris Verstrate

NAY: None

ABSENT: Jennifer Vargas

THE MOTION WAS APPROVED by roll call. CHAIRMAN VERSTRATE declared the Motion approved.

CHAIRMAN VERSTRATE explained to the Petitioners that this recommendation will be presented to the Village Board of Trustees for a final decision.



**TO: VILLAGE OF TINLEY PARK PRESIDENT AND BOARD OF TRUSTEES**  
**FROM: VILLAGE OF TINLEY PARK ZONING BOARD OF APPEALS**  
**SUBJECT: MINUTES OF THE NOVEMBER 10, 2016 MEETING**  
**ITEM #5: PUBLIC HEARING: HICKEY – 16509 66<sup>TH</sup> COURT – VARIATION FROM THE REQUIRED FRONT YARD SETBACK – FENCE**

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

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

This Variation would allow the Petitioner to install a new four-foot (4') tall open-style aluminum fence at a zero foot (0') setback on the east (163<sup>rd</sup> Place) side of this corner lot at 16409 66<sup>th</sup> Court in the R-4 (Single-Family Residential) Zoning District and within the Tinley Terrace Subdivision.

Present were the following:

Zoning Board Chairman:	Chris Verstrate
Zoning Board Members:	Michael Fitzgerald Paul Lechner Bob Paszczyk Dave Samuelson Steve Sepessy
Village Officials and Staff:	Paula Wallrich, Interim Community Development Director Stephanie Kisler, Planner I Dominic Lanzito, Village Attorney Patricia Meagher, Commission Secretary,
Guest(s):	Kevin Hickey, Petitioner

A motion was made by ZONING BOARD MEMBER SEPESSY, seconded by BOARD MEMBER PASZCZYK to open the Public Hearing. 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.

MS. KISLER presented the Staff Report, including pictures and diagrams. The Petitioner, Kevin Hickey, is requesting a twenty-three foot (23') Variation from Section V.B. Schedule II (Schedule of District Requirements) of the Zoning Ordinance where the front yard setback requirement is twenty-five feet (25'). This Variation would allow the Petitioner to install a new four-foot (4') tall open-style aluminum fence at a two foot (2') setback on the north (163<sup>rd</sup> Place) side of this corner lot at 16309 66<sup>th</sup> Court in the R-4 (Single-Family

Residential) Zoning District and within the Tinley Terrace Subdivision where no fence previously existed. In addition the Petitioner is planning on replacing a 6' wooden fence along the east side of this property that was erected by the adjacent property owner and encroaches onto the Petitioner's property. A portion of this fence would extend into the front yard setback and therefore is prohibited without a Variation.

MS. KISLER presented pictures and diagrams showing dimensions of the property. She stated that in 1970 there was a permit for a fence, but there was no Variance found in that permit paperwork. Therefore, the Petitioners were required to come before the ZBA to request a variance. She noted that if a Variance was granted on the original fence permit paperwork, then Staff would honor the Variance and allow a fence to be located in the same place as the 1970 fence permit indicated. She noted that there were permits found for the adjacent property (6607 163<sup>rd</sup> Place) in 1968 and 1990; however, no records of a Variance for that fence were found. She noted the importance of the adjacent property's fence and the Petitioner's fence since the Petitioner's approved fence location will impact the fence location for the adjacent neighbor's property. She noted that if the Hickey property were to adhere to the permitted fence setback, it would not align with the neighbor's existing fence and they would be able to enclose about 40% less of their yard than the proposed fence would allow.

ZONING BOARD MEMBER SAMUELSON inquired about what the neighbor would be doing with their fence. TIM FORSTER, 6607 163<sup>rd</sup> Place, stated that they would replace their fence after their neighbor's Variance is approved.

ZONING BOARD MEMBER PASZCZYK asked the Staff if there has to be a formal authorization from the neighbor (MR. FORSTER) to remove their fence if the Petitioner replaces the east line of the fence. MR. LANZITO stated that typically that is a civil issue, but tonight provides Public Record of consent.

MS. KISLER asked the Board to also consider if an open-style fence in a front yard setback is what they would like to see or a privacy fence. She also reviewed the considerations from the Staff Report as a reminder of the Workshop discussion, including:

1. Safety
  - Does the proposed fence have an impact on clear sight for driveways, sidewalks, or intersections?
2. Aesthetics
  - Does this fence alter the character of the neighborhood?
  - Is there a difference between height, style, and material of fencing when considering an appropriate location for the fence?
  - Should any portion of privacy fencing be allowed to be located on a front property line or within the required front yard setback?
3. Hardships
  - Does the Petitioner have a hardship?
  - Is the Variance request due to an inconvenience or is the request based off unique circumstances?
  - What is considered a 'reasonable return of the property' or reasonable amount of private rear yard?
4. Precedence
  - Is this situation unique to this lot?
  - By granting this Variation request, will other corner lots be able to be approved for the same kind of fence location?

- What impact does the decision regarding this variation request play on the future requests for the adjacent property?

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.
  - The use of a private rear yard is considered a reasonable return on property. According to Staff's measurements, the Petitioner's east side of their yard has about 1998 total square feet of area. If the fence location meets code (at the 25' setback) there would be a loss of about 899 square feet of private rear yard space (approximately a 45% reduction, leaving about 1,099 square feet of private yard space within a fence. If the fence were to be located at the administrative variance location (15' setback), then there would be a loss of about 500 square feet of yard (approximately a 25% reduction) leaving about 1,498 square feet of private yard space.
2. The plight of the owner is due to unique circumstances.
  - The nonconforming setback of the existing home is unique to this lot and impacts the amount of usable private yard space. The location of the existing detached garage also impacts the usable amount of yard space at the rear side of the home.
3. The Variation, if granted, will not alter the essential character of the locality.
  - The erection of a four-foot (4') tall open style fence at the property line will alter the essential character of the vast majority of the street face along 163<sup>rd</sup> Place because there are no other fences within the northern front yard setback along 163<sup>rd</sup> Place other than the existing privacy fence at 6607 163<sup>rd</sup> Place, which was not granted a Variation and would require a Variation for replacement in the future.

CHAIRMAN VERSTRATE asked if there were any additional questions for Staff or the Petitioner; there were none.

CHAIRMAN VERSTRATE asked for a Motion to close the Public Hearing. BOARD MEMBER SEPESSY made the Motion, seconded by BOARD MEMBER LECHNER. CHAIRMAN VERSTRATE asked for a voice vote to close the Public Hearing. THE MOTION WAS APPROVED by voice vote.

CHAIRMAN VERSTRATE opened up the meeting for deliberation amongst Board. ZONING BOARD MEMBER FITZGERALD stated that that particular corner is a high traffic area and dangerous and would grant the Variation based on safety. ZONING BOARD MEMBER PASZCZYK agreed that it is a highly-travelled area and safety is at risk.

CHAIRMAN VERSTRATE stated that he did not have a problem with an open-style fence but brought up a privacy fence for discussion. ZONING BOARD MEMBER SEPESSY felt that if both the Petitioner and his neighbor were in agreement with a privacy fence he would not have issue with it. ZONING BOARD MEMBER SAMUELSON stated that he was not comfortable with the burden placed on the neighbor to the east based on the Variance granted to the Petitioner this evening. CHAIRMAN VERSTRATE feels comfortable with an open-style fence for the Petitioner and when the neighbor wants to put in a fence they will have to apply for a Variance and it can be decided upon at that time. MR. HICKEY stated that they are having Cedar Rustic put in the fence which will look very nice and the open-style portion of the fence looks like wrought iron.

Hearing no other comments, CHAIRMAN VERSTRATE asked for a Motion to consider the Petitioner's request. A Motion was made by BOARD MEMBER LECHNER, seconded by BOARD MEMBER PASZCZYK to recommend that the Village Board grant the Petitioner, Kevin Hickey, a twenty-three foot (23') Variation from Section V.B. Schedule II (Schedule of District Requirements) of the Zoning Ordinance where the front yard setback requirement is twenty-five feet (25'). This Variation would allow the Petitioner to install a new four-foot (4') tall open-style aluminum fence at a two foot (2') setback on the north (163<sup>rd</sup> Place) side of the property and allow a 6' PVC privacy fence extending along the east property line to a two-foot (2') setback on this corner lot at 16309 66th Court in the R-4 (Single-Family Residential) Zoning District and within the Tinley Terrace Subdivision.

...Based on the evidence provided at this hearing and the following:

1. That the Petitioners have provided evidence establishing that they have met the standards for Variations contained in Section X.G.4. of the Zoning Ordinance.

AYE: Zoning Board Members Bob Paszczyk, Dave Samuelson, Steve Sepessy, Paul Lechner, Michael Fitzgerald, and Chairman Chris Verstrate

NAY: None

ABSENT: Jennifer Vargas

THE MOTION WAS APPROVED by roll call. CHAIRMAN VERSTRATE declared the Motion approved.

CHAIRMAN VERSTRATE explained to the Petitioners that this recommendation will be presented to the Village Board of Trustees for a final decision.

## **GOOD OF THE ORDER**

CHAIRMAN VERTSRATE stated that he agrees with what was discussed in the Workshop earlier regarding a Text Amendment. There needs to be verbiage changes to allow more Administrative authority.

## **RECEIVE COMMENTS FROM THE PUBLIC**

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

## **ADJOURNMENT**

CHAIRMAN VERSTRATE asked for a Motion to adjourn the meeting. A Motion was made by BOARD MEMBER FITZGERALD, seconded by BOARD MEMBER PASCZYK to close the regular meeting of the Zoning Board of Appeals of November 10, 2016 at 9:50 p.m. THE MOTION WAS APPROVED by voice call. CHAIRMAN VERSTRATE declared the Motion approved.