



**MEETING MINUTES
OF THE
PLAN COMMISSION
January 4, 2023 – 7:00 P.M.**

**LINCOLNWOOD VILLAGE HALL
6900 NORTH LINCOLN AVENUE
LINCOLNWOOD, ILLINOIS 60712**

Present: Chairman Mark Yohanna, Commissioners Mark DeAngelis, Adi Kohn, Don Sampen and Henry Novoselsky

Absent: Commissioners Steven Jakubowski and Suzanne Auerbach

Staff Present: Community Development Director Scott Mangum, Planning and Economic Development Manager Doug Hammel, Community Development Coordinator Marcos Classen, Village Attorney Hart Passman, and Village Trustee Atour Sargon

I. Call to Order

Chairman Mark Yohanna noted a quorum and called the meeting to order at 7:02 p.m.

II. Pledge of Allegiance

III. Approval of Minutes

Motion to approve December 7th Plan Commission Minutes was made by Commissioner Sampen and seconded by Commissioner Novoselsky.

Aye: Kohn, DeAngelis, Sampen, Novoselsky, and Yohanna

Nay:

Abstain:

Motion Approved: 5-0

IV. Case #PC-01-23: 7336 North Kenneth Avenue - Reasonable Accommodation for a Non-Compliant Fence

Planning and Zoning Manager Doug Hammel went over staff report. A 6-foot solid fence has already been installed along side and rear of home. Mr. Hammel went over why a special accommodation is being requested and various standards that apply specifically to a reasonable accommodation. Reasonable Accommodation standards focus on how the characteristics of an occupant may serve as the basis or justification for relief.

Mr. Hammel pointed out that the fence that is currently installed is encroaching on the neighbor's property. Staff recommends that any relief recommended for approval not take effect until the fence is relocated entirely onto the Petitioner's property.

Chairman Yohanna asked if the Commission was only supposed to look at the impact to subject property. Village Attorney Hart Passman stated that this type of request is unique as it only relates to the ability of the petitioner to be able to use their property to the same level as someone who doesn't have a disability. There is nothing in the ordinance that accounts for impact on neighboring properties outside of the intrinsic quality that the request be "reasonable".

Commissioner Novoselsky stated that the Commission would be unable to approve a request that encroaches onto a neighboring property. Mr. Passman confirmed that statement as correct.

Commissioner DeAngelis made the comparison of the allowing of a "dangerous" animal as a therapy pet could be considered unreasonable. Mr. Passman gave a few other examples of what could be considered unreasonable, such as a request that does not address the disability

Commissioner Novoselsky believes a reasonable accommodation that proposes a hardship on a neighboring property should be considered. Mr. Passman stated that this may be considered on a case-by-case basis. This process is different from variation. For a reasonable accommodation there are different applications of the rules.

Mr. Hammel went over the public comment received from the neighbor at 7340 Kenneth. He then went over what the requested action is.

The Petitioner, Elizabeta Usto-Dacic, stated that she believes she meets all criteria for a reasonable accommodation.

Chairman Yohanna asked Ms. Usto-Dacic how the Commission is to make a determination without knowing the disability, and how does the commission do so while maintaining the petitioner's privacy.

Mr. Hammel explained why personal information was not included in the packet. He also spoke about how he explained to the petitioner her burden to demonstrate why the requested relief is necessary. He advised the petitioner that there would need to be some explanation of why the requested relief would enhance her quality of life.

Chairman Yohanna stated to the petitioner that the burden of proof is up to her to show the Commission that she qualifies for the relief being sought. The Chairman asked for some assistance in addressing how to proceed in this public hearing from Mr. Passman.

Mr. Passman spoke about while the intent is to be mindful and respectful of the petitioner's condition, the duty of this Commission is to be fact finders and make a recommendation based on available information.

Commissioner DeAngelis asked if it was possible to go into a closed session for this case. Mr. Passman stated that he believes that it would not be allowed within the Open Meetings Acts exceptions.

Commissioner DeAngelis then asked if staff had made a determination on whether this request was “reasonable”. Mr. Hammel stated that staff had not made any finding either way regarding this case.

Commissioner DeAngelis then asked if the ability to make this decision was in staff’s purview or if this type of case would always come to the Plan Commission and Village Board.

Mr. Passman stated that he believes that Plan Commission and Village Board involvement is required per the code. He went on to talk about how this policy went into effect and the basis of including a process that looked at the people living at a given property instead of the characteristics of the property itself.

Commissioner Sampen stated that he doesn’t feel that the Commission has enough information to make a finding in this case. Ms. Usto-Dacic stated that she is only willing to disclose additional medical information if the information is not made publicly available. She stated that she feels it’s inappropriate for the Commission to ask for specifics about any disabilities she has.

Chairman Yohanna asked Mr. Hammel if he felt that the request met the requirements of a reasonable accommodation. Mr. Hammel stated that he did not feel qualified to make a determination that relates the fencing relief sought to any provided medical diagnoses.

Commissioner DeAngelis asked if it would be possible for the Village Attorney to provide a document that maintains the privacy of the petitioner while providing enough information for the Plan Commission to make a determination. Mr. Passman spoke about how this case puts the Commission in a difficult spot. Based on how the Village code is written and the fact that this is a public hearing it can make it difficult to balance the individual’s privacy while providing enough information for the Plan Commission to render a decision.

Commissioner DeAngelis suggested that counsel work with the petitioner so they could try to create a document that would be agreeable for the petitioner to enter into evidence to the public. Mr. Passman stated that he would be willing to explore that option.

Chairman Yohanna stated that petitioner hasn’t stated why accommodations are specifically needed.

Ms. Usto-Dacic presented pictures to the commission, stated that its inappropriate to be asked specific of her disabilities. She spoke about her emotional support dogs and how she uses gardening for therapy. She spoke about work her neighbors have done on the fence. She stated that there was already a fence when she moved in.

Chairman Yohanna asked for public comment.

Mrs. Tudor of 7340 Kenneth spoke about how they were asked about how fence. She doesn't like fence that was installed and feels that another solution could be found.

Ms. Weinstein of 7344 Kenneth spoke about her issues with how fence was installed, spoke about experience with working with properties looking for reasonable accommodations and offered her help in coming up with a solution.

Mr. Tietelbaum of 7344 Kenneth spoke about support of Tudors and stated he doesn't understand the need for the fence as is.

Ms. Usto-Dacic responded to comments from neighbors, gave more pictures focusing on the shrubbery between the neighboring properties, and stated that there are other fences around her home that have the same characteristics as hers.

Commissioner Sampen asked how the shrubbery or other fences have any impact on her petition. Ms. Usto-Dacic stated that the pictures presented were to address the comments made by neighbors.

Chairman Yohanna asked if petitioner wanted to continue this case. Ms. Usto-Dacic stated that she would want the case continued.

There was discussion about the Village Attorney and the Petitioner coming up with a document that can maintain the privacy of the petitioner while providing enough information to discern how the requested fence relief relates to any disabilities.

No additional public comment was provided.

A Motion was made by Commissioner DeAngelis to continue the case to the next hearing on February 1st at the request of the applicant.

The motion was seconded by Commissioner Kohn.

Aye: Kohn, DeAngelis, and Yohanna

Nay: Sampen

Abstain: Novoselsky

Motion Approved: 3-1

Hearing continued to February 1st.

-Chairman Yohanna called for 10-minute recess –

Chairman called for a change in the order of the remaining cases and called case PC-15-22 next.

V. **Case #PC-15-22: Zoning Code Text Amendment – Regulations Related to Required Transition Yards, Setback Buffers, and Landscape Screening on Commercial Properties Abutting Residential Properties**

Planning and Economic Development Manager Doug Hammel went over updates and finding from staff since the meeting in December 2022.

Mr. Hammel presented potential zoning concepts, going over the following scenarios: Amending the code to specify that the presence of a street, making changes to the code depending on the characteristics of properties that are separated by an alley, and finally when no alley or right-of-way exists between a commercial and residential property, the current regulations would be maintained and applied with no changes.

Commissioner Sampen asked about if there is any flexibility for staff to make these types of determinations. Mr. Hammel stated that is the intent was to create flexibility for property owners first by giving options that may not have previously existed. The flexibility that Commissioner Sampen is referring to could be the next step in looking at how staff could provide additional relief from the Village Code once a baseline update has been created and codified.

Commissioner DeAngelis suggested going through the proposed concepts one by one.

Concept 1: The width of the required building setback (as established in Section 4.07(3)a) is reduced by eight feet (the width of the non-residential property's side of the alley right-of-way).

Mr. Hammel spoke about how a typical Lincolnwood alley is 16 feet in width so this provision would be to allow half of that 16 feet (8 feet) to be reduced from any required setback on the commercial property. So as an example, if a commercial property would require a 30-foot setback from their lot line, if there was an alley separating the two adjacent properties, then the setback would only need to be 22 feet from the lot line.

There was some additional discussion about some different examples and how setbacks are determined, and how that could impact setbacks. There was some discussion about showing some additional examples so the Commission can better visualize the impacts on a potential property.

Concept #2: The required solid fence up to six feet in height (as per Section 3.13(13)b) would be waived.

Mr. Hammel stated that this was to remove the requirement for a business to install a 6-foot solid fence along the alley as the alley itself provides separation from any residential properties. He also pointed out that the residential properties have the option of installing a 6-foot solid fence along the alley if they wanted.

Concept 3: When the height of the non-residential structure exceeds 30 feet, an additional setback from the residential property of two feet for each foot above 30 feet in building height would be required.

Mr. Hammel stated that this concept was taken from the current code in the R-4 district which has a sliding scale that increases the required setback the taller a building is.

There was some discussion about how much of an impact this could have, the example being if an 80-foot-high building was being developed the setback requirement would be over 100 feet.

Concept 4: The construction of a non-residential building with fenestration at an elevation of at least above 20 feet above grade and facing toward a residential property requires a double row of landscape screening and the integration of trees that would grow to a mature height greater than what is currently required by Section 4.07(3)d and Section 6.16.

Mr. Hammel stated that this concept was created to allow for more privacy for adjacent residential properties that have taller commercial properties with windows overlooking their back yards.

Concept 5: The construction of a solid fence with a height of six feet along the shared lot line would allow the encroachment of parking, loading, servicing or storage into the transition yard.

Mr. Hammel stated that this is typically prohibited, however, when considering the separation provided by an alley and the installation of a fence, it may allow for parking, loading, servicing or storage in the setback buffer.

Concept 6: Any portion of the transition yard not utilized for parking, loading, servicing or storage would have to include landscape screening in compliance with Section 4.07(3)d.

Mr. Hammel stated this concept is to make sure that any areas not being used for ancillary needs be used to allow for more screening.

Concept 7: Any portion of a fence visible from a public street would have to be screened with landscaping materials, regardless of whether the area is a portion of a transition yard encroached upon by parking, loading, servicing or storage.

Mr. Hammel stated that this concept is so that the screening can be used to soften the edge of any fence being used between the properties.

No public comment

A Motion was made by Commissioner Novoselsky to approve recommendations potential zoning concepts from the staff reports.

The motion was seconded by Commissioner Sampen.

Prior to any vote there was some additional discussion about continuing a portion of the case while recommending the rest for approval which resulted in Commissioner Novoselsky rescinding his original motion.

A Motion was made by Commissioner Novoselsky to continue the case to the next meeting on February 1st.

Aye: Kohn, Sampen, Novoselsky, and Yohanna

Nay: DeAngelis

Abstain:

Motion Approved: 4-1

VI. Case #PC-10-22: Zoning Code Text Amendment – Permissibility of Certain Use in Various Zoning Districts Throughout the Village
This matter is continued from the June 1, July 6, September 7, and September 28, 2022, meetings.

A Motion was made by Commissioner Sampen to continue the case to February 1st.

The motion was seconded by Commissioner Kohn.

Aye: Kohn, Sampen, Novoselsky, and Yohanna

Nay: DeAngelis

Abstain:

Motion Approved: 4-1

Commissioner DeAngelis suggested using one of the scheduled workshop dates as a continuance date for the pending cases. Mr. Passman spoke about ways to move already approved motions to a different dates.

There was a discussion about how full the February 1st meeting is anticipated to be.

VII. Next Meeting

The next meeting of the Plan Commission is scheduled for Wednesday February 1, 2022.

VIII. Public Comment

Chairman Yohanna announced the opportunity for additional comments from the public. Let the record show that no one came forward.

IX. Adjournment

Motion to recommend adjournment was made by Commissioner Novoselsky and seconded by Commissioner Sampen.

Aye: Kohn, Sampen, Novoselsky and Yohanna

Nay: DeAngelis

Abstain:

Motion Approved: 4-1

Meeting adjourned at 9:11 p.m.

Respectfully submitted,

Marcos Classen
Community Development Coordinator