

**MEETING MINUTES OF THE
PLAN COMMISSION
July 11, 2012
7:00 P.M.**

**LINCOLNWOOD VILLAGE HALL
COUNCIL CHAMBERS
6900 NORTH LINCOLN**

MEMBERS PRESENT:

Chairman Paul Eisterhold
George Touras
Steve Jakubowski
Mark Yohanna
Sue Auerbach

MEMBERS ABSENT:

Don Sampen
Patricia Goldfein

STAFF PRESENT:

Community Development Manager Aaron N. Cook, AICP
Community Development Coordinator Lauren Wolf

VILLAGE COUNSEL

Hart Passman

I. CALL TO ORDER

Chairman Eisterhold noted a quorum of five members present and called the meeting to order at 7:10 p.m.

II. APPROVAL OF MINUTES

Motion to approve the June 6, 2012 Plan Commission minutes was made by Commissioner Jakubowski and seconded by Commissioner Yohanna. Motion approved 5-0.

III. PUBLIC HEARING: 6501 N. Longmeadow Avenue – Reasonable Accommodation

Request: Reasonable Accommodation to Establish and Operate a Community Residence (Group Home) in R1 Residential District

Chairman Eisterhold read into the record an opening statement: Tonight we are conducting a public hearing to consider an application for Reasonable Accommodation for the operation of a community residence at 6501 Longmeadow Avenue. In accordance with Illinois law everyone who wishes to address the Commission will be afforded that opportunity. In the interest of fairness and time I will ask that if it is your turn to speak and a previously speaker has already made the same point you intend to make that you not repeat that point, just merely indicate that you are in agreement with them. Also, we ask that speakers keep their remarks to about two minutes if possible. Under the federal Fair Housing Act, the Village is prohibited from regulating Group Homes in a manner that constitutes discrimination against persons with disabilities. This prohibition includes the enforcement of zoning ordinances in a manner that treats disabled persons less

favorably than non-disabled persons. In order to ensure the Village's regulations of Group Homes is compliant with the Fair Housing Act, the Village Board has established certain standards that reflect the requirements of the Fair Housing Act, and they are to be considered by this Commission and the Board when reviewing a request for a Reasonable Accommodation for a Group Home. The Commission will hear and accept testimony on the standards. Finally, we want to remind the applicant and the public that any statements made tonight by the applicant or the public are not to be considered statements by the Plan Commission or by the Village. If we do not specifically respond to a statement, our silence should not be deemed or interpreted as approval or disapproval.

Development Manager Cook indicated that proper notification had been made. Additional correspondence was submitted today that each Commissioner has a copy of at their desks. Mr. Cook had a brief power point presentation with background information and a timeline of the process. Misericordia proposes to house eight developmentally disabled women in the proposed Group Home. There will be a full-time on-site caregiver -- either an individual or a couple. The residents would work at the main Misericordia Campus. There would be two vehicles, one for the caregiver and a van that would transport the residents. Misericordia noted there would not be routine gatherings at the Home, but there would be an annual holiday party and a summer barbeque. Also, a fence is proposed to the north of the existing home. In March of 2012, the Village Board amended the Zoning Code to establish the Reasonable Accommodation standards. Under those standards, a Reasonable Accommodation may not be granted if: (1) it is located on a lot that is within 800 feet, measured in any direction, of another lot within the Village on which a Community Residence is located; (2) the Residence will serve as the residence for more individuals than permitted pursuant to the Community-Integrated Living Arrangements Licensure and Certification Act, 201 ILCS 132/1 seq., as may be amended ("CILA"), whether or not the Community Residence is licensed pursuant to CILA; or (2) any medical treatments or services will be provided at the Residence to non-residents of the Community Residence.

Manager Cook also explained that under the Ordinance, proposed Community Residences must meet one of two prerequisites, and that this proposal meets the prerequisite of being licensed as a community-integrated living arrangement pursuant to CILA. The Reasonable Accommodation consideration factors are: whether the requested reasonable accommodation would be consistent with the general purpose and intent of the zoning district in which the property is located; whether the requested reasonable accommodation would impose an undue financial or administrative burden on the Village; whether the housing that is the subject of the request will be used by an individual or a group of individuals considered disabled or handicapped under the FHA; whether the accommodation requested is financially, therapeutically, or otherwise necessary to make specific housing available to the individual or group of individuals with a disability or handicap under the FHA; whether there are alternative reasonable accommodations available that would provide an equivalent level of benefit; whether alternative accommodations would be suitable based on the circumstances of the particular application; whether the requested reasonable accommodation will adversely affect vehicular traffic or parking on the subject property or on the streets adjacent to the subject property, or in the neighborhood in which the subject property is located; whether

the requested reasonable accommodation would require a fundamental alteration in the nature of the regulations set forth in this Zoning Ordinance; and whether the requested reasonable accommodation substantially affects the physical attributes of the subject property.

Chairman Eisterhold collectively swore in all giving testimony.

The following persons provided testimony on behalf of the applicant:

Ms. Bridget O'Keefe, partner with Daspin & Aument LLP, began with presentation on behalf of Misericordia. The Ordinance recently adopted by the Village establishes strict considerations that must be met before a Reasonable Accommodation is granted. Misericordia hopes to address all the questions and concerns the public and Village may have. Misericordia is aware there is a concern that by granting a Reasonable Accommodation at 6501 Longmeadow Avenue will set a precedent. Misericordia will commit to not seek approval of another group home in Lincolnwood if this proposal is granted. It is not known whether other groups will seek a Reasonable Accommodation, but given the property values in Lincolnwood it will make it very difficult. Approving one group home doesn't mean that another will get approved due to the strict process that was put in place by the Village Board when it was proactive in looking at this issue. The Village Board understood the federal mandate to comply with the Federal Fair Housing Act when it approved the enabling Ordinance. This Act prohibits discrimination against disabled people in the sale or rental of housing. The disabled people are a protected class, and have the right to live in a beautiful home in Lincolnwood just like everyone else; however, they have to go through a process. During the nine months of public hearings for the adopted Ordinance, several gave testimony that the prior Ordinance that only allowing group homes in a multi-family district which makes up only 3% of Lincolnwood was most likely discriminatory. Misericordia has made efforts to be a good neighbor in Lincolnwood. Misericordia began by sending a letter out explaining what they were hoping to do to 25 homes. Next, Misericordia invited residents of the homes within 500 feet of the subject property to a coffee gathering held on June 26, 2012. 82 invitations were sent, and only four neighbors came to the event. Next, Misericordia posted an additional sign on the property indicating the zoning was not being changed and the date and time of the July 11, 2012 hearing. A list of frequently asked questions was delivered to homes within the 500 feet, and throughout this time, Misericordia representatives went door to door trying to speak to the neighbors. Misericordia desires to be a good neighbor and hope to fully address any concerns that exist. All documents that were sent to neighbors were entered into the record.

Sister Rosemary Connelly, R.S.M., Executive Director of Misericordia, gave a brief introduction of the history of Misericordia. Misericordia began operations in 1921. In 1955, Misericordia changed from a maternity hospital to a home for children with disabilities under the age of six. Misericordia is a non-for-profit organization and today has 600 residents, 1,000 staff and hundreds of thousands of supporters. Presently, Misericordia operates seven group homes in the area and the eighth will open in the fall. 6501 Longmeadow Avenue would be the ninth group home. Misericordia has a hard earned reputation for giving its children and adults the best lives possible. She stated that

she knows there are kind and compassionate wonderful people in Lincolnwood and she is truly sorry for any agitation this has brought to the community.

Mary Pat O'Brien, the Assistant Executive Director of Residential and Program Services of Misericordia, testified: she has been employed by Misericordia for thirty-five years and has much knowledge about people with disabilities. The proposed Group Home will house eight developmentally disabled women. Many have lived on campus for several years; they have potential for more independence and would be appropriate for a community residence. The home is licensed and regulated by the Illinois Department of Human Services and is surveyed annually. Misericordia examines resident records, talks to families and residents, conducts background checks, all to help ensure that residents can have a quality life and care with quality staff in the Group Home. All the proposed residents have disabilities and are protected by the Fair Housing Act; all residents have to go through a pre-screening through a state monitored program and must meet the criteria to be considered for this home. These residents are medically stable and can relate to staff and peers and they can enjoy independence the home would offer. There are approximately 450 people on a waiting list for housing. The residents go to work Monday through Friday, they leave the home around 8:30 AM and arrive back around 4 PM. Many have jobs on campus and several have jobs in the public sector. There is a nurse and doctor at Misericordia Campus. There are live-in house parents, who are on duty from 11 PM until the residents leave in the morning. Whenever the residents are at the home, a staff member is present. All the residents in the group home are medically stable, all staff trained in CPR and First Aid. On campus there is nursing twenty-four hours a day. In the event of an emergency, the staff would call 911. There is a security detail that can assist in the home as needed. The live-in parents would have a car and there is a van for the residents who live there. The home has a two car garage and a two car driveway. Also, the residents do not have driver's licenses and do not own cars. Misericordia does have an open visitation policy but generally parents do not visit in the home. The floor plan for the 6501 Longmeadow home is a perfect space for Misericordia's needs. The group home will be enhanced in the interior: a bathroom will be added in basement, a furnace replaced, and one bedroom on the second floor will be converted to two bedrooms. Also, the landscaping will be improved, the front door replaced, a fire escape will be added from the basement, a fence will be erected in the backyard, and Misericordia will clean up the exterior of the home. The licensing procedures prohibit admitting any residents that will propose any danger to residents or neighbors.

Dick Devine testified: for over a decade, he has been the next door neighbor of a Misericordia group home for six young men on Pratt Avenue, in West Rogers Park. The residents have been excellent neighbors. He has had no problems, and the property is well-maintained. He found that having a group home in the neighborhood has enhanced the quality of life. Lincolnwood should look at this as an opportunity.

Marlene Flaherty testified: she is the next door neighbor of a Misericordia group home for six young women on Tripp Avenue, in Sauganash Park. The home is very well maintained and all neighbors are appreciative of the care given to the property. It is a pleasure to have them; she stated that one wouldn't know that this was anything other

than a family home. It looks no different to any other home, and it's a wonderful addition to the block.

Daniel Lauber testified: he is an expert land use planner with thirty-nine years of experience working with group homes. His resume was entered into the record. Mr. Lauber explained he inspected the property and neighborhood and three existing homes run by Misericordia. He explained that he was not testifying as an advocate for group homes, but as an advocate for rational and fact based treatment of group homes and accordance with sound zoning practices. In an institutional environment, one learns how to live in an institution but does not learn how to live in a society. He advocates that disabled persons be given opportunities to live in as normal of a living environment as possible, to let people with disabilities become all they can be. Misericordia is proposing a home that has functional families this group of eight women who emulate a biological family in order to achieve normalization and integration into the community. Mr. Lauber entered his chart into the record. Lauber testified that the eight young women deserve to have an equal opportunity for the housing of their choice, and every city and village is supposed allow them to do so. For these reasons and these facts, Lauber opined that the Misericordia proposal meets the standards that are required under Lincolnwood's zoning code to grant a reasonable accommodation.

Mary Wagner testified: she is a certified appraiser and her resume was entered into the record. She conducted a study of Misericordia homes in Chicago and their impact on surrounding homes. She considered each of seven homes. Her scope of work was a complete analysis, and the same criteria were used for all homes. First, she considered the homes on the same block as the Misericordia homes and attempted to identify homes which sold slightly before Misericordia acquired the subject properties and then resold within a reasonable time thereafter. She calculated the percent change in price between the sale prior to Misericordia coming in and the price after Misericordia had been there for a period of time. In most cases the prices increased, to isolate the impact of change in the market values compared the increase in value to the Case Shiller Index for the Chicago Metropolitan area. Overall, her study showed the impact of a group home run by Misericordia did not have a negative impact on surrounding property values. A written report of the case study performed entered into the record. The impact on property taxes with this home would be an additional \$1.96 on the property tax bill for each Lincolnwood property owner.

Mary Ellen Ryan testified: she is a sixteen year Misericordia group home resident. She gave testimony of her day to day activities.

Joe Ferrara gave testimony on the reports and inspections from the State of Illinois. He stated that Misericordia typically scores 99-100% on its inspections.

Chairman Eisterhold questioned Ms. O'Keefe concerning the several different types of disabled persons covered under the Fair Housing Act. Ms. O'Keefe stated that the only people that will be in this home are developmentally disabled persons. Ms. O'Keefe stated that there would be no alcohol addicts, no halfway house, no juvenile delinquents,

no criminal records, no sex offenders, no current illegal drug users, no drug pushers or illegal manufactures, and no persons of any condition that present a direct threat.

The following Village residents offered testimony and comments concerning the application:

In Support:

Mary Wand – 4830 Coyle
Mary Beth Ginley – 6650 Tower Circle Drive
Anita Filip – 6542 Kenton
George Rourke – 6718 Longmeadow
Alan Goldstein – 7044 Kenton
Nancy Otter – 6609 LeMai
Susan Colletti – 6500 Keating
John Vodopic – 6915 East Prairie

Against:

Marcie Ruben - 6511 Longmeadow
Stephen Ruben - 6511 Longmeadow – Submitted 101 Petitions Against into record.
Cary Schiff – 6721 Longmeadow
Robert Stulac – 6481 Longmeadow
Marilyn Levy – 6843 Lamon
Ms. Kreimont – 4650 Lunt
Boris Tomacic – 6424 Kilpatrick
George Fountas – 6500 Tower Circle Drive
Irene Dominelli – 6648 Sauganash
Michael Jones – 6713 Lemai
Jerry O’Neill - 6610 Tower Circle Drive
Dr. Khaja Aliuddin – 6440 Longmeadow
Iqbal Akhter – 6400 Longmeadow
Mohammad Haque – 4403 Greenleaf

Village Attorney Passman corrected a couple of statements for the benefit of the Plan Commission as well as for the public:

1. The Federal Fair Housing Act prohibits the Village from discriminating against persons with disabilities. A person with disability is defined under the Fair Housing Act as “someone who has a physical or mental impairment which substantially limits one or more of such persons major life activities.” There are a number of types of people who generally fall under that definition; persons with mental disabilities or developmentally disabled are, generally speaking, persons with disabilities for purposes of the Fair Housing Act.
2. A few statements were made during the public comments that approving the pending application would set precedent for halfway houses or hospitals. There is no precedential value by whatever the Village does with this application; each application for a Reasonable Accommodation will be reviewed under its own merits. Hospitals and

halfway houses do not fall under the definition for group homes. Also, the Fair Housing Act explicitly excludes sex offenders from its protections.

3. To clarify some of the proceedings that happened before these proceedings and notice: the earlier proceedings concerning was the Text Amendment to the Zoning Code; that was not a Zoning change. Under the Village Code, notice for text amendments is general and is not required to be sent to any particular properties. The Village notification for those proceedings was proper. This application is also not a Zoning change; the subject property will remain zoned R-1. There are no other pending requests for a Reasonable Accommodation at this time. With respect to notice for this application, there was publication in the newspaper, a sign, and letters sent to 250 feet of the subject property. Misericordia or any applicant does have the right to operate a group home with persons under disabilities but only if they show they qualify to operate and run the home under the Fair Housing Act and the Village Zoning Code's standards. Lincolnwood's Ordinance is among the most stringent in the area with regards to Group Homes.

4. Finally, the documents that were submitted to the Commission this evening should be considered part of the formal record.

Chairman Eisterhold thanked everyone for participation. Commissioner Yohanna made a motion to continue the public hearing until August 1, 2012. The motion was seconded by Commissioner Jakubowski. Motion approved 5-0.

**III. PUBLIC HEARING: Restaurant Parking – Zoning Code Text Amendment
(Continued from June 6, 2012 & May 2, 2012)
Request: Text Amendment to Modify the Minimum Off-Street Parking
Requirements for Eating & Drinking Establishments**

Commissioner Yohanna made a motion to continue this Public Hearing to a date certain of August 1, 2012 at 7:00 PM and seconded by Commissioner Jakubowski. Motion passes 5-0.

VI. PUBLIC COMMENT: None.

VII. ADJOURNMENT:

The next Plan Commission meeting is scheduled for August 1, 2012 at 7:00 PM. Hearing no further business, Motion to adjourn made by Commissioner Yohanna. Seconded by Commissioner Auerbach. Motion approved unanimously 5-0. Meeting adjourned at 12:14 A.M.

Respectfully submitted,

Lauren Wolf
Community Development Department Coordinator