

**Village of Lemont**  
**Planning and Zoning Commission**  
Regular Meeting of May 19, 2010

A meeting of the Planning and Zoning Commission of the Village of Lemont was held at 6:30 p.m. on Wednesday, May 19, 2010, in the second floor Board Room of the Village Hall, 418 Main Street, Lemont, Illinois.

**I. CALL TO ORDER**

**A. Pledge of Allegiance**

Chairman Schubert led the Pledge of Allegiance.

**B. Verify Quorum**

Upon roll call the following were:

Present: Erber, Maher, Murphy, O'Malley, Schubert

Absent: Armijo, Spinelli

Village Planner Charity Jones was also present.

**C. Approve Minutes**

Commissioner Erber made a motion, seconded by Commissioner Murphy to approve the minutes of April 21, 2010 with the following changes:

1. On page 14, second sentence from the bottom, change to read, Mr. Stevens stated that 1/3 of the lots were sold.

A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

**II. CHAIRMAN COMMENTS**

Chairman Schubert greeted the audience, then asked everyone to stand and raise his or her right hand. He then administered the oath.

**III. NEW BUSINESS**

**A. Case #10-08: 370 Kromray Deck Variation.**

Public hearing for a variation to allow a deck within a required setback at 370 Kromray Road.

Commissioner Maher made a motion, seconded by Commissioner O'Malley to open the public hearing for Case #10-08. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

Mrs. Jones stated that for decks there is a setback requirement of 15 feet from any lot line or equal to the setback in the conforming principle structure. She said that the variation request would allow the deck to be five and half feet from the south property line. Mrs. Jones then went through the criteria for the variation request. Out of the eight components of the UDO's general purpose and intent, five were applicable to this variation. She stated that protecting the character of established residential neighborhoods is the one component that the variation request would be most likely to impact, but since the deck is not visible from the street, the impact is limited to side and rear neighbors. With regard to the second variation criteria, Mrs. Jones said that the applicant claims that the unique circumstance or hardship in this case is the steep slope of the rear yard. At the end of the first deck, the deck is approximately four feet from the ground. Where the deck meets the house, the deck is grade level.

She said that if the owner wanted to meet the requirements of the UDO, he would have two options. Either he would have no access to the deck from the south side or he would have to install a service walk to the deck. Mrs. Jones stated that the applicant researched a service walk, but a substantial retaining wall would be required. She stated that staff agreed that a retaining wall would be required and it would be substantial if it were for the entire length of the deck. However, a shorter walk could provide access to the deck. Mrs. Jones stated that staff agrees with the applicant that the topography does provide difficulty in accessing the deck, but disagrees with the applicant on the degree of difficulty created by the site's topography.

Mrs. Jones stated that the variation request has little impact on the third variation criteria, altering the essential character of the community as a whole. The deck's impact is limited as far as the number of people who could see the encroachment into the side yard. She said as far as adjacent property owners, staff has received six e-mails of support from adjacent neighbors. Mrs. Jones stated that the one neighbor that would be affected the most would be the property to the south and no correspondence has been received from that property owner.

Mrs. Jones stated that staff agrees that the topography creates a challenge. The impact of the variation on the adjacent properties and the community as a whole is limited. She said that staff disagrees with applicant on the severity of the hardship. She also pointed out that the variation requested is not the minimum deviation necessary to provide relief. In conclusion, Mrs. Jones stated that the application meets the UDO standards and therefore staff is recommending approval.

Chairman Schubert asked if any of the Board members had questions for Mrs. Jones.

Commissioner Murphy asked if there was proper notification given.

Mrs. Jones stated that the public notice was posted in the front window instead of in front yard. She said that this is not the proper procedure. She said the applicant had

problems with the sign getting damaged due to the rain. Mrs. Jones said that the Village Attorney stated that because notification was given out by letter to the adjacent property owners the sign is not a big issue. If someone were to come and challenge it in court at a future date, the risk would be entirely upon the applicant.

Chairman Schubert asked if the applicant would like to come up and speak.

Chris Salomon, 370 Kromray, stated that he was the applicant. He stated that he put two signs up. The rain ruined one sign, so he tried to fix it by wrapping it in saran wrap. Another sign was in the window.

Mrs. Jones stated that if the applicant wanted to proceed tonight and if someone was to challenge the approval, if approved, it is his risk to have to go through the process again.

Mr. Salomon stated that he understood.

Commissioner Murphy asked why it wasn't permitted and were there any other permits for the work he had done to the home.

Mr. Salomon stated that he did have a permit for the service walk he put in a couple of years ago and for the fence. He said that his original plan was to tear apart the existing deck and reuse the existing structure to rebuild the deck. The deck was originally a composite deck and would get too hot to walk on. Mr. Salomon was planning on using wood. He said that when he was laying out the deck, he decided to keep going. He stated that the yard is useless because of its bowl shape and slope. He was not planning on going this big, and agrees he should have applied for a permit. Mr. Salomon said that he has looked at other options and the safest way was to build a deck and extend it out to the service walk for a smooth transition. He said because of safety reasons for his children he did not think a retaining wall would be a good option.

Commissioner Erber said he felt that there were other alternatives for transitioning the sidewalk along the garage to the deck that would not require a four or six foot retaining wall. He asked Mrs. Jones if there was a certain amount of ingress and egress that were required for decks because there was only one located on the south side.

Mrs. Jones stated that she was not familiar with ingress/egress requirements for decks.

Mr. Salomon stated that you needed two forms of egress. He said he has one through the kitchen door and the other is to the service walk. He stated that he looked at having another egress but because of the slope it is not possible to have stairs come down and end at level ground.

Commissioner Erber expressed concern about the egress to the south side. He stated that he was not talking about the egress to the service walk. The applicant had another egress that he was going to put in on the south side that led to the yard. Commissioner Erber expressed concern that this egress is too close to the south and there is no room to

put in landscaping, like bushes, to help with the cushion. He stated that there should be an egress on the north side so then landscaping can be done on the south side.

Commissioner Murphy asked how many other lots are sloped like the subject site and would they be setting precedent.

Mrs. Jones stated there are many lots that have a slope in the neighborhood. She does not know how many have the same kind of slope like Mr. Salomon.

Chairman Schubert asked if staff received anything regarding an objection to this variance.

Mrs. Jones stated that staff received six e-mails supporting the variation, but did not receive anything from the property owners to the south.

Commissioner O'Malley stated that he could appreciate why he would want to make his yard safer for his children and dog.

Mr. Salomon stated that now that the deck is in you could see the severity of the slope.

Commissioner Maher stated that you couldn't see the deck from the street. He said that the applicant has a fence and he could always raise the fence to within boundaries for privacy. He stated that the deck does make the backyard more usable.

Commissioner Murphy stated that she does not want to set precedent and doesn't agree with the fact that he did not have a permit to begin with.

Mr. Salomon stated that this is ultimately his fault and apologizes.

Commissioner Erber asked what Mr. Salomon thought about putting an opening on the other side with stairs going down to the yard.

Mr. Salomon stated that he would consider it but there is the slope of the yard.

Chairman Schubert asked if anyone else in the audience would like to come up and speak in regards to this case. None responded.

Commissioner O'Malley made a motion, seconded by Commissioner Erber to close the public hearing for Case #10-08. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

Commissioner Maher made a motion, seconded by Commissioner Murphy to recommend approval of Case #10-08 with the following requirement and recommendation.

Requirement:

1. No additional structures can be added to the south side of deck.

Recommendation:

1. Another egress could be added to north side of deck.

Chairman Schubert then read the Findings of Fact:

1. The variation is consistent with general purpose and intent of the Unified Development Ordinance in that it will not have a negative impact on surrounding properties, or the Village in general.
2. Strict enforcement of the UDO would pose a practical difficulty for the homeowner, due to the unusual topography of the site.

All Commissioners responded yes.

A roll call vote was taken:

*Ayes: Maher, Erber, Murphy, O'Malley, Schubert*

*Nays: None*

*Motion passed*

**B. Case #10-07: UDO Amendments.**

Public hearing for proposed amendments to the Unified Development Ordinance.

Commissioner Murphy made a motion, seconded by Commissioner Erber to open public hearing for Case #10-07. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

Mrs. Jones stated that the Board has been talking since December about amendments to the UDO. She stated that she would highlight some more recent items since they have last talked. Since February someone had requested information in regards to self-storage facilities in the Village. She said the use is currently not defined in the UDO. In the draft ordinance, the use would be defined and made a permitted use in manufacturing districts and a special use in the B-3 districts.

Mrs. Jones stated that the developer from Glen Oaks asked that the UDO be amended to allow agriculture beyond where the Village currently allows. Agriculture is currently permitted on lots that are five acres or more in the R-1 and R-2 zoning districts. It is a special use in the B-3 zoning district. She said that the proposed UDO amendment would make agriculture a permitted use on lots five acres or greater in the R-3 and R-4 zoning district. Mrs. Jones presented a map of all of the R-3 and R-4 parcels within the Village that are five acres or more. Only four parcels could potentially be used for agriculture.

Mrs. Jones stated that the other changes listed in the staff report are items that the Board has discussed at previous meetings.

Commissioner Erber asked what the developer from Glen Oaks was planning.

Mrs. Jones stated that a new owner has purchased the property and has sent an informal letter in regards to possible changes to the approved development, primarily the phasing for a longer build out.

Commissioner Erber stated that if it were a longer build out they would use the property then for agriculture to lessen the tax burden.

Mrs. Jones responded yes.

Chairman Schubert asked if there was a standard as to how close the agriculture should be to a built out area and if not, could they make a standard.

Mrs. Jones stated that the PZC could recommend a buffer or standard to be included.

Commissioner Murphy asked if it could be a special use. If it is a special use then the Board can look at it case by case to determine if it should be allowed there.

Mrs. Jones said they could make that recommendation.

Chairman Schubert and Commissioner Erber agreed with the special use.

Commissioner O'Malley asked what type of farming would be permitted.

Mrs. Jones said that the draft amendment, as currently written, would allow any agriculture use but that livestock should probably be prohibited. She also said that to get the property tax exemption the property owner has to meet certain requirements with the County.

Mrs. Jones stated that the other item that wasn't addressed at previous PZC meetings was the residential design standards. She said that she and Jim Brown, Community Development Director, are proposing to eliminate the residential design standards. Mrs. Jones stated that the reason why is because the standard is written in such a way that, depending on how you want to view the plans you are looking at, either every home can be seen as monotonous or no homes can be seen as monotonous. The standards are too vague to be useful and don't hold up to a challenge. Mrs. Jones stated that the other reason is that it adds a significant burden to staff's time when processing permits for single-family homes.

Commissioner Erber stated that he was not in favor of eliminating the design standards.

He said that many towns do have an anti-monotony standard and has not heard of any issues. To maintain quality in a town it is important to have something like this. He stated that it could be looked at and maybe streamlined but not totally thrown out.

Commissioner Murphy stated that she agreed with Commissioner Erber. She said that she wanted it stricter because there was some bad stuff being built years ago.

Mrs. Jones stated that the point she and Mr. Brown were making was monotony is not always a bad thing; quality of design is more important. For example, if you look at stone row houses in an older urban area they have great architectural design and add to the character of the area. But if you look at a row of snout houses, it is not as pleasing. She said if there were things that are of poor design and that the Board doesn't want in the community, like house with garages that take up more than 50% of the front façade, staff would rather write regulations to restrict those things than have the anti-monotony standards. Mrs. Jones stated that in the past two and half years she has not had one that building permit application denied based these standards.

Commissioner Murphy stated that is because there has been less building. She said out in Aurora builders built cookie cutter homes with no basements. That was all people could afford at the time because of the economy. She said that you can't go strong enough on this issue and there is always the option to consider a change if a design comes in. She asked Mrs. Jones if staff could look at other communities and what they have as standards.

Mrs. Jones stated that they could. She stated staff that felt that Lemont's current standards are not very effective. If any builder wanted to challenge the design standards they could successfully do so.

Commissioner Murphy asked how they could change that.

Mrs. Jones stated that they would have to be more specific.

Commissioner Murphy said the Board at the time was trying to go there, but could not get there for a variety of reasons. She said knowing there are still several acres to build on; there is still a big risk.

Mrs. Jones stated that the developments that are approved have design standards in the annexation agreement. Mrs. Jones stated that the anti-monotony standards don't address materials. She said it just ensures that a home cannot be identical or overly similar to a home within two lots of it.

Commissioner Erber stated that if you eliminate the residential design standards you would have builders building the same house right down the block.

Mrs. Jones stated that the residential design standards would not prevent that from happening.

Commissioner Maher stated that there are houses by him that are the same, but just flipped. He said what they need to do is further define the standards.

With regard to commercial design standards, Mrs. Jones stated that they were presented to the Village Board and there wasn't much support for further restricting commercial building materials.

Chairman Schubert said that EIFS is not allowed in other communities but is still allowed here in the Village. It goes over wood and leaks, which creates mold. He said the product was designed in another country that does not have the same climate as the Midwest. He said if the Board and staff would like information regarding EIFS he would be willing to provide it for them. Chairman Schubert said it applies mostly to residential because with commercial they use metal studs and therefore it is not as invasive.

Commissioner Murphy stated that she strongly agrees.

Chairman Schubert said that hardy brick or also called quick brick is not discussed in the commercial materials. He said it should also not be allowed to be used.

Chairman Schubert asked if anyone in the audience had any comments.

Jeanette Daubaras, 13490 Derby Road, Lemont, stated that she has read through the changes. She said it should have required more public notice, especially the one in regards to agriculture. She is against allowing agriculture in R-3 and R-4 zoning districts. Ms. Daubaras stated that the Village and schools in this area need money, so why would we encourage lowering taxes from \$300,000 down to hundreds of dollars in just three years. In regards to the Glen Oaks, she said they have another developer who cannot afford to develop this property properly. She stated that this development was approved with many conditions and with not full support from neighbors. It is all thrown up in the air except for the 250 homes that might be built. She said it was her understanding that in the PUD or in the re-zoning it stated that if building wasn't started within a year, the zoning would go away. She said it has been a year and the property should have reverted to R-1. Ms. Daubaras discussed further problems with the Glen Oaks development. She said that property should go back to R-1 zoning and then let him farm the property.

Mrs. Jones reminded the audience that comments should be limited to the proposed UDO amendments. She said they are not here to discuss the Glen Oaks development plans.

Ms. Daubaras stated then that she is totally against allowing agriculture in an R-3 and R-4 zoning.

Greg Nicklas, 13211 Red Drive, Lemont, stated that he was also against agriculture in R-3 and R-4 zoning.



Linda May, 13210 Derby Road, Lemont, stated that she agreed with Mrs. Daubaras. She said that the Glen Oaks is a lot of property and needs to be watched carefully.

Chairman Schubert asked if anyone else would like to speak. None responded.

Commissioner Murphy made a motion, seconded by Commissioner Maher to close the public hearing for Case #10-07. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

Commissioner Erber made a motion, seconded by Commissioner Murphy to recommend approval of amendments as discussed with the following recommendations:

1. For agriculture in R-3 and R-4 zoning districts: Require it to be a special use, excluding all livestock operations.
2. Allowable building material: Prohibit EIFS on residential buildings. Prohibit quick brick on commercial buildings.
3. Residential Design Standards: Do not eliminate. Directed staff to propose revisions in future UDO amendments to make the standards more effective.

*Ayes: Erber, Maher, Murphy, O'Malley, Schubert*

*Nays: None*

*Motion passed*

#### **IV. GENERAL DISCUSSION**

Mrs. Jones stated that unless more things are schedule next month they would try to have the training with the Village Attorney.

Mrs. Jones state that the presentation made at the State of the Village would be available on the Village's website.

Commissioner Erber asked about the Old Quarry Office Center. Mrs. Jones stated that they have removed the dirt pile in the back of the property.

Chairman Schubert asked about any new business coming in to the Village.

Discussion continued about new businesses coming into the Village and the Front Street Lofts.

#### **V. ADJOURNMENT**

Commissioner Erber made a motion, seconded by Commissioner O'Malley to adjourn meeting. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

*Minutes prepared by Peggy Halper*