

**Village of Lemont**  
**Planning and Zoning Commission**  
Regular Meeting of November 17, 2010

A meeting of the Planning and Zoning Commission of the Village of Lemont was held at 6:30 p.m. on Wednesday, November 17, 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: Armijo, Erber, Maher, Murphy, Spinelli, Schubert

Absent: O'Malley

Village Planner Charity Jones and Village Trustee Ron Stapleton were also present.

**C. Approve Minutes**

Commissioner Erber made a motion, seconded by Commissioner Maher to approve the minutes of the October 20, 2010 meeting with no changes. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

**II. CHAIRMAN COMMENTS**

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

**III. NEW BUSINESS**

**A. Case #10-16: 13154 Kinsale Court.**

Public hearing for a requested variation to place a fence within the required corner side yard setback at 13154 Kinsale Court.

Commissioner Murphy made a motion, seconded by Commissioner Spinelli to open public hearing for Case #10-16. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

Mrs. Jones stated that Mr. Mondia was requesting a variation to place a fence within the required corner side yard setback. She stated that in the R-4 zoning district for corner lots there is a corner side yard setback of 25 feet. She stated that the petitioner is requesting to place the fence at the property line. Mrs. Jones said the property line would be the west property line along Waterford Drive. She said that there are standards for variations. The first standard is consistency with the purpose and intent of the UDO but most of these are not applicable with this being a fence variation. One standard that is applicable is that the variation will not alter the essential character of an established neighborhood. She stated that this neighborhood is not established, the majority of the lots have not been built on at this time. Mrs. Jones stated that as far as the plight of the owner is due to unique circumstances, the property does not back up to other homes. She stated that the property does back up to a park. Mrs. Jones stated that she spoke to Louise Egofske, Lemont Park District, and she did not have any comments either way in regards to this case. She stated that staff does find because it backs up to a park, it can be considered a unique circumstance. She said even though it is unique, it is not entirely one of a kind. In 2006, a fence variation was approved for 12655 Thornberry Drive. These cases are similar, with one difference being that there were no homes across the street on the west side in the 2006 case.

Commissioner Murphy stated that they did a fence variation on Singer.

Mrs. Jones stated that she did not find any record on Singer, but there was one on Castlewood. She said there was another one on Ridge Road that was denied. These were the only three for a corner side yard setback.

Commissioner Murphy asked if this house was already under construction and if there would be a house directly across the street.

Mrs. Jones stated that the homes across the street to the west are already up. She stated that the park behind the house creates a unique circumstance. She said that the fence would be an open design as required by the subdivision covenants. Mrs. Jones stated that because of the style it would not have any visual impact to passers-by, neighbors, or users of the park. She said to require compliance with the corner side yard setback does create an undue burden. It limits the use of the property while not providing any offsetting benefit to the rest of the community. She stated that staff finds that strict enforcement of the UDO does create an exceptional hardship for the applicant due to these unique circumstances related to the subject site. She said one thing she forgot to mention is that the fence is outside of the vision triangle.

Mrs. Jones stated that the last standard is that it will not alter the essential character of the locality and will not be a substantial detriment to adjacent property. She said she does not see one fence altering the essential character of the locality. Also, with the design of the fence required by the subdivision covenants it would not be a substantial detriment to adjacent property.

Commissioner Spinelli stated that the permit plat shows a 30-foot yard setback

Mrs. Jones stated that it was misstated and it would be 30 feet.

Commissioner Schubert stated that his concern is that they would be setting precedence. He said that there are about five or six other properties in the area that could possibly come in for the same variation.

Mrs. Jones stated that some of those have homes behind them, which would be a different circumstance. She said there is one west of Dunmoor that could potentially be a candidate because of the Com Ed right-of-way. The difference is that the homes pick back up again with the one on Dunmoor. This property there is a park, a detention area and the Com Ed right-of-way between it and any other homes.

Commissioner Erber stated that he is trying to look at this aesthetically.

Mrs. Jones stated that it is an open design fence so it shouldn't have an aesthetic impact. She said that the fence doesn't go all the way to the front of the house. It starts halfway back past the driveway.

Mr. Stapleton asked if the fence was supposed to start at the back of the house.

Mrs. Jones stated that the fence could start at the front corner of the house.

Commissioner Murphy stated that her concern is the look of having the fence go all the way up to the driveway.

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

Sonny Mondia, 13154 Kinsale Court, Lemont, stated that fence was ornamental steel. He said that his concerns are that he backs up to a park and that people would be cutting through his yard to get to the park.

Chairman Schubert stated that he agreed, but the park is a good distance behind him. He then asked what was the reason for going all the way to the driveway.

Mr. Mondia stated that he would like to utilize as much of his yard as he could. He stated that he has children and two dogs.

Commissioner Spinelli stated that he would recommend having the fence five feet off of the property line and 15 feet south of the driveway edge. He said if you have a car backing out of the driveway and kids on the sidewalk the fence can block the view. He stated that you also need a little room on the sidewalk so kids do not hit their handlebars on the fence.

Commissioner Murphy stated that she agreed.

Chairman Schubert said that he would not recommend having a gate that leads out to a sidewalk and a street. He would rather see a gate that leads out to the driveway.

Mr. Mondia stated that he did take that into consideration and plans to have that gate locked.

Commissioner Maher asked what was the spacing of the fence. He said that this isn't a solid structure and feels that 15 feet might be too excessive.

Commissioner Spinelli stated that the applicant could put landscaping up later on and then it could become a solid barrier.

Chairman Schubert asked the applicant if he had any issues with the possible recommendations.

Mr. Mondia stated that he did have a dog run going in off of the garage that leads to a service door. He said that he wanted to make sure that it looks okay with the dog run.

Discussion continued on the requirements of the UDO.

Commissioner Spinelli stated that he would agree with four feet off of the property line instead of five, but still would recommend 15 feet off the driveway.

Mr. Mondia asked where that would put it with the dog run.

Mrs. Jones stated that it would be five feet north of the southwest corner of the house. She said it would not be even with dog run, that there would be a five feet overlap.

Commissioner Maher said that he thinks that the 15 feet is still too high.

Chairman Schubert stated that they were trying to help the gentleman from getting his yard trampled on. He said he did not want to set precedent when there are still corner lots that are waiting to be built on in this subdivision.

Mrs. Jones stated that she spoke with a couple of the neighbors and they had no concerns or comments.

Edward Kowalewicz, 13108 Kinsale Court, Lemont stated that his reason for coming was that he had two children, and he was wondering if the fence was going up all the way to the sidewalk. He said he did not have a problem with any of the recommendations. He said he agreed that the 15 feet was a little excessive, but did not want to see the fence right up to the sidewalk.

Chairman Schubert asked if there were any other comments.

Commissioner Spinelli made a motion, seconded by Commissioner Murphy to close the public hearing for Case #10-16. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

Commissioner Spinelli made a motion, seconded by Commissioner Maher to recommend approval of Case #10-16 with the following recommendations:

1. The fence is placed with a four-foot setback from the west property line adjacent to the sidewalk and five feet north off the southwest corner of the house, or 15 feet from driveway.

Chairman Schubert then read the Findings of Fact:

1. Since the fence is open in design and there are no adjacent homes to the rear of the subject site, the proposed variation will not be a substantial detriment to adjacent property.
2. The variation will not have a negative impact on the general health, safety or welfare because it will be placed outside the vision triangle identified in the UDO.
3. The rear of the subject site is not adjacent to any homes and the fence will be open in design. Compliance with the corner side yard fence setback requirement limits the applicant's use of his property while not providing any offsetting benefit to the rest of the community. Therefore, strict enforcement of the UDO creates an exceptional hardship for the applicant due to the unique circumstances related to the subject site.

*All Commissioners agreed.*

A roll call vote was taken:

*Ayes: Maher, Spinelli, Erber, Murphy, Armijo, Schubert*

*Nays: None*

*Motion passed*

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

Mr. Kowalewicz stated that he has spoken with the Village about having a street cleaner come clean the streets in the subdivision. He said that the Village stated that they don't usually come until the subdivision was 75% occupied.

Mrs. Jones stated that the roads still belong to the developer at this time.

Mr. Kowalewicz asked if anyone could speak to the developer because he has had three flat tires due to nails and construction debris.

Mrs. Jones said she would talk with the developer.

Commissioner Murphy stated that it was very dark out there and was concerned why there were no streetlights.

Commissioner Spinelli asked why in Mayfair Estates they put the surface on half of the roads.

Mrs. Jones stated that there was a reason, but she could not recall why. She stated that she could have Mr. Brown contact him.

Mr. Stapleton stated that there have been problems with letters of credit.

Discussion continued in regards with letters of credit.

Commissioner Erber asked if the southwest corner of 131<sup>st</sup> and Parker was zoned commercial. He said that there was a sign stating it was available for commercial.

Mrs. Jones stated that it was residential. She said that it was commercial on the southeast corner.

Chairman Schubert stated that the holiday party was on December 3<sup>rd</sup>. He wished everyone a Happy Thanksgiving.

## **V. ADJOURNMENT**

Commissioner Maher made a motion, seconded by Commissioner Murphy to adjourn the meeting. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*