

MINUTES
CITY OF DARIEN
PLANNING & ZONING COMMISSION MEETING
August 19, 2009

PRESENT: Beverly Meyer – Chairperson, Robert Erickson, Don Hickok, Gloria Jiskra, Ray Mielkus, Ken Ritzert, Michael Griffith – Senior Planner, Dan Gombac – Director, Elizabeth Lahey - Secretary

ABSENT: Ron Kiefer, John Lind, Susan Vonder Heide

Chairperson Meyer called the meeting to order at 7:00 p.m. at the City Hall – City Council Chambers, Darien, Illinois declared a quorum present and swore in the audience members wishing to present public testimony.

- A. Public Hearing: *Continued from the August 5, 2009 meeting.***
PZC 2009-06: 3165 Grandview Lane: Petitioner requests a variation to permit a deck to encroach 3 feet into the required 5-foot setback from an interior side lot line for a detached accessory structure and to encroach 5 feet into a 5-foot public utility and drainage easement.

Mr. Michael Griffith, Senior Planner presented the staff report. He stated that based on the comments from the previous meeting that staff visited the property and looked at the back yard activities. Mr. Griffith stated that after reviewing the drainage that there does not appear to be any negative impact. He stated that in addition, the petitioner has provided a letter from his engineer stating that the retaining wall is structurally sound.

Mr. Griffith reported that staff required the petitioner to have a surveyor mark the rear yard corner pins to verify the location of the rear lot line. He stated that the retaining wall is not a zoning issue but in the event of a utility company or the City needs to access the easement; the retaining wall may be removed and replaced at the owner's expense.

Mr. Griffith reported that at the last meeting that there were questions regarding the shed. He stated that the shed noted on the plat of survey was removed. He further stated that there were also questions regarding the fence. Mr. Griffith reported that although a permit was not issued for the fence located along both side lot lines that the fence complies with City Code in terms of location and height.

Mr. Griffith stated that he spoke with the homeowner regarding the plywood at the rear door and that the petitioner is going to cover the plywood with a suitable exterior building material. He stated that the petitioner was in the audience.

Commissioner Hickok stated that he questioned the letter from the engineer stating that the wall is supported.

Mr. Dan Gombac, Director stated that the issue for discussion is the deck and that the retaining wall was acceptable to the petitioner's engineer. He stated that if and when the retaining wall deteriorates that the City can go after the property owner to fix or remove.

Commissioner Hickok stated that the petitioner should be asked to dig out a post.

Mr. Gombac stated that the wall is not the issue and that the City does not have the authority to override a licensed engineer. He stated that the petitioner's engineer holds a valid license which expires November, 2009.

Chairperson Meyer questioned why the petitioner did not get a permit for the fence.

Mr. Richard Pauliukonis stated that he moved to the home two years ago. He stated that he is unfamiliar with the rules and that originally he tried to sell the home but that it was a mess. He further stated that he replaced the fence because it was old and that he did not think he needed a permit to replace an old one.

Mr. Pauliukonis stated that he does not have a back yard and that he tried to level it out without a permit and that he was not aware of zoning. He stated that the shed that was there was on the border of the property.

Chairperson Meyer opened the meeting to anyone wishing to present public comment.

Ms. Sylvia McIvor, Alderman Ward 6 stated that she visited the property and that she and Director Gombac spoke to a neighbor. She stated that the project as a whole is there but that she believes that there is a safety issue. She questioned if the homeowner intends to enclose the back of the deck.

Mr. Pauliukonis stated that the project is not complete because he was told by the City to stop. He stated that he has a small child and that he intends to place a 32" decorative fence along the back.

Mr. Griffith stated that the deck may require a railing and that he has asked the building inspector to review the issue.

Alderman McIvor stated that the utility lines appear to be below the retaining wall. She questioned if the homeowner contact JULIE.

Mr. Pauliukonis stated that he did contact JULIE before construction.

Commissioner Erickson asked if the utility lines are below the gravel.

Mr. Pauliukonis stated that one utility line is outside and that one is inside.

Mr. Gombac reported that the ComEd line is inside and below.

Mr. Griffith stated that the retaining wall is on the easement but on the homeowner's property.

Commissioner Ritzert asked what hardship caused the homeowner to place the deck outside of the easement.

Mr. Pauliukonis stated that he did not have a straight yard and that he tried to level out the yard. He stated that he was unaware that he needed 10 feet from the back and 5 feet from the sides especially because the shed was on the property line.

Commissioner Jiskra asked the distance in feet from the house to the back of the lot line.

Mr. Pauliukonis stated that he thought it was approximately 45 feet.

Commissioner Jiskra stated that the back slopes down from the house.

Mr. Pauliukonis stated that he leveled out the area and put in a patio but that his property is on a slope.

Ms. Diana Hubbard-Repyuk, Darien stated that all of the property in the area slopes down because there is a lake.

Chairperson Meyer stated that the discussion is not relevant to the deck.

Commissioner Mielkus asked why the petitioner built the deck in that location. He questioned if he liked to fish.

Mr. Pauliukonis stated that he is not a fisherman but that he built the deck in that location to enjoy the view and to make the yard look nicer. He stated that the City removed a lot of bushes and that he removed bushes as well and that the area is looking more cleaned up.

Commissioner Hickok questioned what was built first the wall or the deck.

Mr. Pauliukonis stated that he constructed the wall first.

Chairperson Meyer questioned if Alderman McIvor noticed other properties with retaining walls.

Alderman McIvor stated that it appears that retaining walls are done in the area but with the proper permits. She stated that the petitioner's deck looks unfinished and that the gravel downhill is a drop off and then there is a deck. She further stated that there is no plan because there is no permit.

Mr. Gombac suggested that the PZC can place a contingency that the homeowner provide landscaping or a fence to prevent a drop off from the retaining wall.

Mr. Pauliukonis stated that he intends to place a fence for his own safety.

Commissioner Erickson stated that the petitioner refers to safety but that he made it a problem by not going to the City.

Mr. Pauliukonis stated that he agreed with Mr. Erickson and he stated that he was sorry.

At 7:30 p.m. Chairperson Meyer closed the public hearing.

Commissioner Hickok stated that he liked Mr. Gombac's suggestion to place a contingency on the deck for a fence or a landscaping.

Commissioner Ritzert stated that the issue is the encroachment on an easement.

Commissioner Jiskra stated that the easement has been encroached upon more than expected.

Commissioner Erickson stated that the wall is the issue and that the petitioner did not go along with the City requirements but that the stuff is in place. He stated that the ComEd line is buried too.

Commissioner Hickok stated that ComEd does not dig holes anymore.

Commissioner Jiskra made a motion, and it was seconded by Commissioner Erickson that based upon the information presented, the request associated with PZC 2009-06 is NOT IN CONFORMANCE with the standards of the standards of the Darien City Code and move that the Planning and Zoning Commission recommend disapproval of the petition as presented.

Upon roll call vote, THE MOTION CARRIED UNANIMOUSLY 5-1. Commissioner Kiefer, Commissioner Lind and Commissioner Vonder Heide were not present.

AYES: Jiskra, Erickson, Mielkus, Meyer, Ritzert

NAYS: Hickok

Mr. Griffith reported that this would be forwarded to the Planning/Development Committee.

Chairperson Meyer informed the petitioner to cease all construction.

Mr. Gombac stated that the PZC denied the recommendation and that the case will be before the Planning/Development Committee for further consideration.

B. Public Hearing. PZC 2009-07: Text Amendment to the Zoning Ordinance: Fence height along Route 83: Consideration of a text amendment to the Zoning Ordinance to increase the maximum permitted height of fences along the rear lot lines for residential lots backing up to Illinois Route 83 (Kingery Highway) from 6 feet to 8 feet.

Mr. Michael Griffith, Senior Planner presented the staff report. He stated that the proposed Text Amendment is due to the recent development of the Willowbrook Towne Centre at the southeast corner of Route 83 and Plainfield Road which has prompted sever residents to seek fences 8 feet tall.

Mr. Griffith reported that the City worked with the developer and that some residents were granted 8 foot tall fences but that there have been additional requests. He stated that the Text Amendment will address such requests amending the Zoning Ordinance to permit fences 8 feet tall along the rear lot line for residentially zoned lots abutting Route 83.

Mr. Griffith reported that there are 18 lots that would be impacted with either a rear or corner side lot abutting Route 83. He stated that currently fences are only permitted within the side and rear yards and fences are prohibited in the front yard which is the full width of the lot between the street and the house.

Commissioner Jiskra asked why not allow higher fences.

Mr. Griffith stated that the City does not want to see it turn into a wall corridor.

Commissioner Jiskra stated that she would like to see “higher” added to the language.

Chairperson Meyer stated that by allowing higher would mean that the fences would not be uniform.

Commissioner Hickok asked what Willowbrook is doing.

Mr. Griffith stated that he was unsure.

Commissioner Hickok stated that the noise is noise and that a fence will not mutter the front, back or side.

Commissioner Ritzert asked if the Text Amendment included landscaping.

Mr. Griffith stated that it did not include landscaping and that homeowners can plant whatever they want.

There was no one in the audience wishing to present public comment. Chairperson Meyer closed the public hearing at 7:45 p.m.

Commissioner Mielkus made a motion, and it was seconded by Commissioner Ritzert that based upon the information presented, the request associated with PZC 2009-07 is in conformance with the standards of the Darien City Code and move that the Planning and Zoning Commission recommend approval of the petition as presented,

- 1. To permit 8-foot tall fences along the rear and corner side lot lines abutting Route 83 only, on residentially zoned lots only.**

Upon voice vote, THE MOTION CARRIED UNANIMOUSLY 6-0.

MINUTES:

Commissioner Hickok made a motion, and it was seconded by Commissioner Mielkus to waive the reading of the August 5, 2009 Meeting Minutes.

Upon voice vote, THE MOTION CARRIED UNANIMOUSLY 6-0.

Commissioner Hickok made a motion, and it was seconded by Commissioner Mielkus to approve the August 5, 2009 Meeting Minutes.

Upon voice vote, THE MOTION CARRIED UNANIMOUSLY 6-0.

CORRESPONDENCE:

None.

OLD BUSINESS/PLANNER'S REPORT:

None.

NEXT MEETING:

Mr. Griffith reported that the next meeting will held on Wednesday, August 5, 2009 at 7:00 p.m.

ADJOURNMENT:

With no further business before the Commission, Commissioner Hickok made a motion and it was seconded by Commissioner Erickson to adjourn. Upon voice vote, THE MOTION CARRIED unanimously and the meeting adjourned at 7:59 p.m.

RESPECTFULLY SUBMITTED:

APPROVED:

Elizabeth Lahey
Secretary

Beverly Meyer
Chairman