

**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING
May 18, 2022**

1. ROLL CALL

Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, May 18, 2022 at 6:30 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

Present: Members Gary Moberly, Keith Giltner, Tom Murphy, Leslie Lee, John Podliska, and Chairman Bob Neiman

Absent: None

Also Present: Village Attorney Michael Marrs, Director of Community Development/Building Commissioner Robb McGinnis and Village Clerk Christine Bruton

2. APPROVAL OF MINUTES

a) **February 16, 2022, March 16, 2022, April 20, 2022**

Member Podliska moved to approve the minutes of February 16, 2022, March 16, 2022, and April 20, 2022, as amended. Member Giltner seconded the motion.

AYES: Members Moberly, Giltner, Murphy, Lee, Podliska and Chairman Neiman

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

3. APPROVAL OF FINAL DECISIONS OR FINDINGS OF FACT

a) **V-02-22, 307 South Lincoln Street**

Member Podliska moved to approve the Findings of Fact for V-02-22, 307 South Lincoln Street, as presented. Member Giltner seconded the motion.

AYES: Members Moberly, Giltner, Murphy, Lee, Podliska and Chairman Neiman

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

4. RECEIPT OF APPEARANCES

Court Reporter Kathy Bono administered the oath to all persons intending to speak at these proceedings.

5. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE PUBLIC COMMENT OF A GENERAL NATURE – None

1 **6. OLD BUSINESS**

2 a) **APP-01-22, 110 East Ogden Avenue - Status**

3 *Item taken out of order*

4 Mr. Jared Staver, on behalf of he and his wife, Kelly Staver, addressed the Board.
5 He said they are back for status. In March, the Board gave a clear directive to the
6 owner and contractor of 110 E. Ogden Avenue to go back to the Plan Commission
7 to revisit their site plan. They have done nothing, and there has been no showing
8 of good faith effort on their part to date.

9 Mr. Michael Marrs, attorney for the Village, addressed the Board stating there is
10 not a lot to report, but there have been two significant developments. First, the
11 Village sent a letter to the property owner's representative. As a result of this
12 appeal, Mr. McGinnis and he have reviewed the transcripts on this matter and
13 there had been representations made regarding some of the landscaping along
14 the back, and fencing. The Village advised they should come in for a major
15 adjustment to clear this up so there are no issues with a Certificate of Occupancy.
16 Secondly, the Village has learned the owner is planning some additional
17 landscaping, and they have reached out to staff about the major adjustment
18 process. Things are moving, and hopefully a resolution can be reached.

19 Mr. Patrick Walsh, attorney representing Dr. Hartman, reported Dr. Hartman and
20 general contractor Mr. Michael Zalud have talked to the Village arborist about
21 additional plantings. Contrary to what has been represented, there has been
22 movement on this matter.

23 Chairman Neiman suggested that while they are under no obligation to have a
24 conversation with the homeowners, and although it seems to him they are not
25 going to resolve this amicably, it would be the least expense to his client if he
26 could. Mr. Walsh explained there is a plan to add more arborvitae and 2-3 shade
27 trees. He pointed out that previous conversations have not been productive, and
28 he is trying to get around that by working through the Village staff. He described
29 the additional plantings, and that when grown they will provide screening for the
30 homeowners.

31 Chairman Neiman acknowledged that the lawyers on the Board have been in
32 litigation when the parties cannot stand being in a room with each other, but he
33 strongly recommended that people put their egos and feelings aside, and resolve
34 the problem. Mr. Walsh said he appreciates the suggestion, and will pass it along.
35 Mrs. Staver asked the Board for clarification; a letter was sent to the owner that a
36 Certificate of Occupancy will not be issued without another review of the site plan,
37 but they are already talking about planting additional trees. Will this need
38 approval, and there is the issue of the fence.

39 Director of Community Development Robb McGinnis said the letter that went to
40 the property owner stated they should come back to the Board, the record is muddy
41 enough, that it would be a benefit to all parties to get clarification with respect to
42 the fence, existing landscaping, and the treatment of the south lot line. The
43 application for major adjustment will be brought to the Village Board in an attempt
44 to clarify the intent of the Board when the project was originally approved. The
45 Board will review, there will be notice, and the Stavers will be able to attend the
46 meetings.

47 Mr. McGinnis said he would encourage the Stavers to agree to some date certain
48 for a continuance. Mr. Marrs added that at the last meeting the Board generally
49 agreed that count two of the appeal is not ripe, so this was continued to see how

1 things went. It appears things are still pending, and if the Board wants to continue
2 the matter, the Stavers would need to agree to the continuance, because that is
3 what the code says. Mr. Stavers said he would agree to continue the matter for
4 status to July.

5 Mr. Walsh expressed concern regarding putting the status date out too far. If the
6 Village and the arborist agree, they would like to get that done. Mr. Marrs
7 explained that the stay on the south lot line was lifted. Discussion followed. Mr.
8 McGinnis explained that the major adjustment goes to the Board of Trustees, it is
9 their right to decide if the matter gets remanded back to the Plan Commission.
10 Mrs. Staver said there is another neighbor who is not happy with the fact that a
11 fence will not be built, and this neighbor wanted to go to the Board of Trustees to
12 express their displeasure. She referenced previous discussion where it was
13 indicated that there would be enough arborvitae planted that a person could not
14 walk through the barrier created by the arborvitae.

15 Dr. Cara Hartman addressed the Board stating that this neighbor is Mr. Greg
16 Peters. She explained that the Plan Commission meeting was postponed twice
17 for the benefit of Mr. Peters, but he never came to the meetings to voice his
18 concerns. Additionally, his property is not adjacent to her property; Mr. Peters
19 lives on the other side of Fuller. Mr. Marrs said that being said, the Village would
20 be happy to give notice to Mr. Peters.

21 The matter was set for status in July.
22

23 **7. PRE-HEARING AND AGENDA SETTING**

24 a) **V-04-22, 457 South Clay Street**

25 Chairman Neiman introduced the item and informed the Board that this matter
26 has been withdrawn by the applicant.
27

28 **8. PUBLIC HEARING**

29 a) **V-01-22, 527 – 541 Kensington Court Subdivision**

30 Chairman Neiman opened the public hearing. Ms. Julie Laux, developer and
31 applicant, and Mr. Patrick Fortelka, architect, approached the podium. Mr.
32 Fortelka explained they have more information on their fence, partial gate and wall
33 for the proposed new development on Monroe. Following feedback from the
34 Board, they have made some adjustments to the design, reducing the amount of
35 masonry at the gates, and lowering the fence from 8" feet to 6" feet. He referenced
36 the new color renderings that were provided to the Board. A 4" foot high open
37 fence is allowed on the property line, they are asking for 2' feet more. Nothing
38 would be taller than 6' feet, except the piers that hold the gate in order for the gate
39 operating mechanism to work.

40 Mr. McGinnis explained the Village Board will consider this as a major adjustment,
41 and could either approve it themselves or refer it to the Plan Commission. The
42 ZBA has jurisdiction over the height of the fence, and the gate only as it is defined
43 as 'fencing'. Member Moberly admitted being stuck on the look of the fence. Ms.
44 Laux pointed out this is a different situation than that in the Woodlands because
45 that location looks at a park. Mr. Fortelka added this is not just about security, it
46 is an aesthetic consideration, too. Their goal is a more communal and courtyard
47 feel for the development, and the gate will help this. Discussion followed regarding
48 the 'transparency' of the gate. Ms. Laux offered a more open option with a wooden
49 gate; she does not care for wrought iron. Member Giltner commented he is not

1 comfortable with a gated community. Mr. Fortelka said if this property was located
2 more in town, he agrees the gates would become an imposition to the community,
3 however, this is at the edge of Hinsdale in a commercial situation. Ms. Laux added
4 there is no buffer district there. Member Moberly agreed, but pointed out there are
5 other areas in town with similar commercial/residential situations.

6 Chairman Neiman wondered if the application itself needs to be amended as the
7 applicant has reduced the requested variance. Mr. McGinnis believes the
8 application is still accurate. There is an exception in the fence code that allows
9 for a driveway gate to be up to 8' feet, but the fences themselves are limited to 4'
10 feet.

11 Member Murphy is not bothered by the look of the proposed fencing since it is will
12 be lower than originally proposed, and he understands the impact of the parking
13 lot across the street. Member Lee agrees, and appreciates the applicant's efforts
14 to bring things closer to the actual requirement. She added that she is sympathetic
15 to the security concerns with this location so close to Ogden Avenue and the
16 expressway. She prefers the 50% open version of the gate.

17 Member Podliska said he likes the open wrought iron, but thinks this is about the
18 view through that fence as opposed to the security issues. He is uncomfortable
19 with moving quickly toward gating off our homes and creating a bunker mentality.
20 He doesn't want to open up that trend. He believes this is in the realm of special
21 privilege, and not appropriate to grant a variance.

22 Member Murphy does not think that precedence is worrisome because this is an
23 unusual circumstance.

24 Chairman Neiman reminded the applicant they need four affirmative votes, and the
25 ZBA is short a Board member until next month. He cannot know if there will be
26 support for the variance, and noted their application does not fully explain why
27 they believe they meet the approving criteria. He asked them if they would like to
28 continue the matter until the ZBA has a seventh member. Discussion followed.

29 Ms. Laux offered a third option for the gate for Board consideration that is a hybrid
30 of an iron gate and a solid gate. Member Giltner believes there is a compromise
31 and alternatives to what is proposed. He understands aesthetics are subjective,
32 and that this is also market driven, but it is his responsibility to look at it from the
33 community as a whole. Perhaps an approval with a condition, so there could be
34 further discussion about what the gate looks like. Mr. McGinnis explained the
35 aesthetics should be left to the Village Board, but acknowledged it is difficult to
36 entirely separate that aspect. However, the ZBA is within their rights to put
37 conditions on their approval.

38 Member Moberly commented he would have liked all these options included in the
39 packet so they could have been better digested. Member Podliska reminded the
40 applicant of their burden to prove the seven criteria to grant a variance. He
41 believes they are creating a problem with special privilege and no other remedy.
42 Ms. Laux agreed to continue the hearing.

43 Member Podliska moved to **continue the public hearing on V-01-22, Kensington**
44 **Court to the June meeting of the Zoning Board of Appeals.** Member Moberly
45 seconded the motion.
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1 **AYES:** Members Moberly, Giltner, Murphy, Lee, Podliska and Chairman Neiman
2 **NAYS:** None
3 **ABSTAIN:** None
4 **ABSENT:** None

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6 Motion carried.

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8 Chairman Neiman urged the applicant to fully address the approving criteria for
9 next month's public hearing.

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11 b) **V-03-22, 933 South Grant Street**

12 Chairman Neiman introduced the item stating the applicant has asked the matter
13 be continued to the next meeting of the Zoning Board. The Board agreed to the
14 continuance.

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16 **9. NEW BUSINESS – None**

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18 **10. OLD BUSINESS**

- 19 a) **APP-01-22, 110 East Ogden Avenue - Status**
20 *Item previously addressed.*

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22 **11. ADJOURNMENT**

23 With no further business before the Zoning Board of Appeals, Member Podliska made
24 a motion to **adjourn the Zoning Board of Appeals of May 18, 2022.** Member
25 Moberly seconded the motion.

26
27 **AYES:** Members Moberly, Giltner, Murphy, Lee, Podliska and Chairman Neiman
28 **NAYS:** None
29 **ABSTAIN:** None
30 **ABSENT:** None

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32 Motion carried.

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34 Chairman Neiman declared the meeting adjourned at 7:39 p.m.

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36
37
38 _____
39 Christine M. Bruton

Approved: _____