

**MINUTES OF A REGULAR MEETING OF THE**  
**VILLAGE OF NEW LENOX ZONING BOARD OF APPEALS**

**Held in the New Lenox Village Hall, 1 Veterans Parkway**

**Tuesday, November 6, 2012 7:00 p.m.**

**#12-11-A ZBA**

**CALL TO ORDER**

A regular meeting of the Village of New Lenox Zoning Board of Appeals was called to order at 7:06 p.m. by Chairman Mark Muehlnickel, with a quorum present.

**ROLL CALL**

Upon roll call, the following were present: Chairman Mark Muehlnickel, Commissioners Rob Moss, John Kuchler, Gary Berner and Joan Byerley.

The following were absent: Commissioners Annette Boyd and Tony Orsini.

Also present were: Senior Planner Jeff Smith and Secretary Lorrie Sowko.

**REQUEST FOR APPROVAL OF MINUTES OF A REGULAR ZONING BOARD OF APPEALS MEETING OF OCTOBER 16, 2012**

Chairman Muehlnickel entertained a motion to approve the minutes of the October 16, 2012, Zoning Board of Appeals meeting. Commissioner Berner made a motion, seconded by Commissioner Moss. Voice vote was taken. Motion carried.

**REQUEST FOR VARIANCE FOR A GATE (Public Hearing)**

**18175 South Gougar Road**

**Luis Guzman/LC Builders - Petitioner**

Chairman Muehlnickel entertained a motion to open the public hearing at 7:06 p.m. Motion was made by Commissioner Berner, seconded by Commissioner Moss. Voice vote was taken. Motion carried.

Luis Guzman of LC Builders was present to request a variance for a gate for the property located at 18175 South Gougar Road.

Mr. Guzman has obtained a permit for a fence and would like to install a gate in front of the property. He claims that uninvited people are driving onto the driveway, with the assumption that a famous person lives in the home, and feels a gate will deter this activity.

The proposed gate will have a peak height of 18 feet, 6-inches. The decorative gate will consist of stone and iron construction, and the overall design will match the house.

The AG District has a minimum front yard building setback of 100 feet from the centerline of Gougar Road. The proposed gate would be erected approximately 75 feet from the centerline of the road. A variance is being requested for the proposed peak gate height since only a maximum 3-foot tall gate is permitted within the front yard setback.

Senior Planner Jeff Smith presented an aerial view of the current home, driveway and other site features on the property, which replaced the former home, driveway layout and accessory structures that were previously removed. The proposed gate is proposed to be located at the circular drive in front of the home, which would be situated 75 feet from the centerline of the road. The AG District requires a minimum 100-foot front yard setback from the centerline of the road.

In terms of permitted encroachments in the front yard setback, a fence or gate is only allowed to be a maximum of 3 feet tall. When located at or beyond the minimum 100-foot front yard building setback line, a fence or gate can be increased to a maximum height of 6 feet.

The petitioner is proposing an attractive gate at the entrance with a peak height of 18 feet 6 inches, which is a substantial deviation from the maximum height allowance stipulated in the Zoning Ordinance.

The pending fence in the front yard setback will meet the 3-foot height requirement, but the proposed gate will not comply.

There is an existing fence along a portion of the north and south property lines. The fence is 3 feet tall in the front yard setback, which increases to 6 feet beyond the front yard setback.

Staff consulted the petitioner and stated concerns regarding meeting the criteria of the Zoning Ordinance for the granting of a variance. It is Staff's opinion that the request does not meet the three criteria for granting an ordinance.

1. The owner could achieve a reasonable return when complying with the Zoning Ordinance. The maximum 3-foot height allowance for the gate in the front yard setback would still allow for the security and restricted access that was desired by the property owner. The proposed gate, with a peak height of 18 feet 6 inches tall, would represent an extreme deviation that does not meet the spirit and intent of the Zoning Ordinance.

The hardship was created by the petitioner by previously demolishing the former home and redesigning the driveway. It may have not been intentional that the looped driveway entrance was designed to commence approximately 75 feet from the centerline of the road. Even if the looped driveway entrance was designed to commence at the minimum 100-foot front yard setback, the maximum permitted height of a gate would only be 6 feet tall.

It is Staff's opinion that the requested 18-foot 6-inch gate does not meet the intent of the Zoning Ordinance.

2. There is nothing unique with this property, such as physical features and topography, which would justify a taller gate. The gate is attractive and matches the design of the home, but Staff's concern is that if the variance is granted, it could set precedent for other property owners in the area. The Prairie Ridge Subdivision is located to the north, while there are a number of other AG zoned lots that differentiate in size that are adjacent to or in close proximity to the subject property. The Village has also recently rezoned some nearby properties to the Estate Single-Family Residence District. If a taller gate is approved for this property, it can generate additional requests for taller gates or fences in the front yard setback.
3. It is Staff's opinion that the proposed taller gate would alter the character of the locality.

Based the three criteria not being met, Staff recommends denial of the requested variance to increase the height of the gate in the front yard setback from 3 feet to a maximum of 18 feet, 6 inches.

Mr. Guzman added that he assumes the surrounding properties are zoned AG and includes some Forest Preserve property.

Jose Alvarado of United Architects was the original architect for the house, and he noted that the height request was only for the proposed gate since the pending fence in the front yard setback would comply with the maximum 3-foot height allowance. He also felt that this home was unique, and disagreed that the 18-foot 6-inch entrance gate would not be appropriate for the neighborhood.

Mr. Alvarado mentioned that the Village Commons has a nice entranceway, and the owner of the subject property is trying to accomplish the same for this home. He is open to suggestions for constructing a gate and is willing to decrease the height to a maximum of 12 feet.

Chairman Muehlnickel entertained a motion to close the public hearing at 7:14 p.m. Motion was made by Commissioner Moss, seconded by Commissioner Berner. Voice vote was taken. Motion carried.

Jeff Smith stated that a 3-foot gate would provide the desired security. There are nearby adjacent properties, such as Prairie Ridge subdivision and other surrounding properties that may be subdivided for single-family subdivisions in the future. If the variance was granted, it could set precedent for similar variance requests, while the taller gate would not be aesthetically pleasing to existing and future surrounding homeowners.

It is Staff's opinion that there is nothing unique to the property that could warrant a taller gate.

Commissioner Berner asked if Gougar Road will eventually be designated as a Strategic Regional Arterial (SRA) with 6 lanes. He also asked for the length of the gate.

Jeff Smith responded that Gougar Road, which is under Will County jurisdictional authority south of U.S. Route but transitions to the Village's authority north of U.S. Route 6, will likely be designated in the future as an SRA

Mr. Guzman informed that the gate consists of two 10-foot doors and a 3-foot pillar on each end.

Commissioner Kuchler asked what the stipulations would be if the gate was moved beyond the 100-foot setback.

Jeff Smith replied that if the gate was positioned beyond the minimum 100-foot setback, the gate could be a maximum of 6 feet tall.

Mr. Guzman added that there is a home across the street in Joliet that has an approximate 18-foot high gate.

Chairman Muehlnickel agreed with Staff's recommendation for denial of the variance. A 3-foot gate will achieve the security and access restriction that was desired by the property owner.

Mr. Alvarado asked for the reasons why the Zoning Ordinance permitted only a maximum 3-foot tall gate and fence within a front yard setback.

Jeff Smith responded that streetscape aesthetics, proper visibility and safety were taken into consideration when establishing a maximum gate height requirement within a front yard setback. The Village Board would have to approve a text amendment to the Zoning Ordinance in order to allow for taller gate and fence within a front yard setback, and it is very unlikely that an 18-foot tall gate or fence would be approved.

Mr. Guzman asked if the Village could compromise and meet in the middle to allow for a taller gate.

Jeff Smith notified that the recommendation would not change if the gate was proposed to be significantly taller than 3 feet, such as a maximum height of 12 feet that was previously suggested by the petitioner. The Zoning Board of Appeals is a recommending body and the Village Board will make the final decision.

Mr. Guzman asked Jeff Smith if there have been any gate or fence height variances granted in the last 10 years.

Jeff Smith replied that he was not aware of any gate height variances granted, while there may have been some fence height variances granted but not to the extent of what the petitioner was seeking for the proposed gate on the subject property.

Luis Guzman asked for a variance to grant a 6-foot tall gate.

Chairman Muehlnickel stated that the request would need to be presented to the Village Board with an alternative plan.

Chairman Muehlnickel entertained a motion recommending that the Village Board deny the variance to increase the height of the decorative gate located within the front yard setback of the AG District from 3 feet to a maximum peak height of 18 feet, 6 inches for the property located at 18175 South Gougar Road. Commissioner Kuchler made a motion, seconded by Commissioner Berner. Roll call vote was taken. Motion carried unanimously.

### **OLD BUSINESS**

None.

### **NEW BUSINESS**

Chairman Muehlnickel announced that he will not be present at the December 4, 2012, Zoning Board of Appeals meeting.

### **ADJOURNMENT**

Chairman Muehlnickel entertained a motion to adjourn the meeting at 7:29 p.m. Motion was made by Commissioner Byerley, seconded by Commissioner Moss. Voice vote was taken. Motion carried.