

**Regular Meeting-Plan Commission/Zoning Board Of Appeals
Gregory J. Bielawski Municipal Center, Carol Stream, DuPage County, Illinois**

February 26, 2007

ALL MATTERS ON THE AGENDA MAY BE DISCUSSED, AMENDED AND ACTED UPON

Chairman Don Weiss called the Regular Meeting of the Combined Plan Commission/ Zoning Board of Appeals to order at 7:30 p.m. and directed Recording Secretary Wynne Progar to call the roll.

Present: Commissioners Christopher, Smoot, Vora, Spink, Hundhausen and Weiss
Absent: Commissioner Michaelsen
Also Present: Village Planner John Svalenka and Recording Secretary Progar

Minutes:

Commissioner Spink moved and Commissioner Vora made the second to approve the Minutes of the Meeting of February 12, 2007 as presented. The results of the roll call vote were:

Ayes:	4	Commissioners Christopher, Smoot, Spink and Weiss
Nays:	0	
Abstain:	2	Commissioners Vora and Hundhausen
Absent:	1	Commissioner Michaelsen

Commissioner Hundhausen moved and Commissioner Spink made the second to open the public hearing. The results of the roll call vote were:

Ayes:	6	Commissioners Christopher, Smoot, Vora, Spink, Hundhausen & Weiss
Nays:	0	
Absent:	1	Commissioner Michaelsen

PUBLIC HEARING:

**#07009 : Jon Zgoda – 618 Bluff Street
Variation – Fence Code**

John Zgoda, 618 Bluff Street, Carol Stream, was sworn in as a witness in this matter. He explained that he is requesting to build a four-foot fence around the perimeter of the property for their two dogs. The property is on the corner of Hiawatha Drive and Bluff Street. After submitting an application for a permit, they were told that when a back yard backs up to another side yard the fence has to have a 25 ft. setback. Mr. Zgoda said that the house itself is set back 20 ft. so the fence would require the removal of a bay window, a shed and a tree. He presented pictures of the house and property.

There were no comments or questions from those in attendance at the call for public hearing. Mr. Svalenka stated that Jon Zgoda of 618 Bluff Street has filed an application for a Fence Code variation to allow construction of a four-foot tall fence in the side yard abutting Hiawatha drive. The subject lot is a corner lot at the southwest corner of Bluff Street and Hiawatha Drive. The front yard of the lot is to the east along Bluff Street. The side yard on the north side of the lot abuts Hiawatha Drive and is considered the "side yard adjoining a street" by the Fence Code. The front yard of the adjacent residence to the west (123 Hiawatha Drive) also abuts Hiawatha

Drive and abuts the "side yard adjoining a street" on the subject lot. In accordance with Section 6-12-9(E)(6) of the Carol Stream Fence Code, in this configuration, the applicant may construct a five-foot tall fence in the "side yard adjoining a street" within the area between the rear (west) property line and the rear of the dwelling unit, provided the fence is placed a minimum of 25 feet from the right-of-way line of Hiawatha Drive.

The Zgoda lot is within the Park Hill of the Greenway Planned Unit Development, which sets the minimum yard width at 20 feet along Hiawatha Drive. This means that the property owner could locate the house or accessory structures not less than 20 feet from the northern property line along Hiawatha Drive. The existing home is in fact set back 20 feet from the property line along Hiawatha Drive. There is also an existing shed set back 22.55 feet from the property line along Hiawatha Drive. If the proposed four-foot high fence were to be constructed at the 25-foot setback as required by the Fence Code, the eastern end of the fence would abut the rear wall of the house at a point where it would interfere with an existing cantilevered bay window on the first floor of the house, as seen in the attached digital photographs. At the 25-foot setback, the fence would also run over the current location of the shed.

Staff has reviewed the request to determine how the standards of the Fence Code could be met without need for the variation. As noted above, if the fence were simply installed at the required 25-foot setback the fence would conflict with the existing bay window and shed. Staff believes this arrangement would be somewhat of an eyesore. Staff notes that the lot is somewhat pie-shaped and narrower towards the rear of the lot. If the fence were to be moved further away from the street to clear the bay window and the shed, the portion of the rear yard enclosed by the fence would be only 22½ feet wide at the rear property line.

Staff has reviewed the request to determine whether granting of the variation would have any negative impacts to the area. The house is already set back 20 feet from the property line along Hiawatha Drive, and the proposed fence would not be any closer to the street than the house. The driveway on the adjacent the property to the west is on the western half of the property. The fence would be about 50 feet away from the driveway, and would not cause any visibility problems regarding this driveway. The proposed fence is only four feet tall, and would not be visually obtrusive.

In staff's evaluation of this case, we note that the fence would extend no farther into the "side yard adjoining a street" than the existing house. We note that complying with the code could create somewhat of an eyesore, or could create a hardship with regard to the area of rear yard that could be enclosed by a fence. Staff has no issues with the proposed Fence Code variation. However, staff finds no similar variation requests within the past 10 years, and therefore encourages Plan Commission discussion on the matter.

Based on the information presented, staff recommends approval of a variation in accordance with Section 6-12-9(E)(6) of the Carol Stream Fence Code to allow a fence to be placed 20 feet from the right-of-way in the side yard adjoining a street on a corner lot that has a side yard that abuts the front yard of residence. If the Plan Commission determines to recommend approval of the requested Fence Code variation, staff recommends that it only do so subject to the following condition:

That the applicant must obtain a proper building permit for the fence.

Commissioner Christopher said that he concurs with the staff recommendation.

Commissioner Hundhausen said that she does not have a problem with this.

Commissioner Vora asked if a four-foot fence would be high enough and it was stated that the owners have small dogs, and that a four-foot tall fence would be adequate.

Mr. Svalenka said that if there is concern about the height of the fence, a specific height could be included in the recommendation or the variation could be granted as to location of the fence and a subsequent owner could change the height if so desired.

Chairman Weiss noted that the question before the Board is the location of the fence in relation to the side yard setback. The height of the fence would be determined by the owner since a variance for the requested height is not required.

Commissioner Spink moved and Commissioner Smoot made the second to approve the request for a variation to the fence code in accordance with staff recommendations. The results of the roll call vote were:

Ayes:	6	Commissioners Christopher, Smoot, Vora, Spink, Hundhausen & Weiss
Nays:	0	
Absent:	1	Commissioner Michaelsen

#06362: Village of Carol Stream, 500 N. Gary Avenue
Text Amendment – Subdivision Code Article 2, Preliminary Plan and Final Plat
Text Amendment – Subdivision Code Article 3, Design Standards
Text Amendment – Zoning Code, Supplemental District Regulations
Text Amendment – Zoning Code, Planned Unit Development
Text Amendment – Zoning Code, Definitions

Mr. Svalenka reported that recent events have pointed to the need for an update to those sections of the Village Code that convey the community's standards with respect to utility structures. Historically, the community standard has been to require that utility structures be placed in rear yards only. However, utility companies and developers have been ignoring this standard of late – utility boxes have been placed in front and corner side yards, and the boxes themselves have grown larger.

In order to make the Village's requirements more clear in the Subdivision Code and the Zoning Code, a set of text amendments has been prepared. During the course of this work, staff learned that Wheaton and Roselle, both of whom recently placed a moratorium on new utility structures to allow time for the development of new standards, have brought proposed ordinances to their respective plan commissions. The draft ordinances are expected to be brought to Wheaton and Roselle's councils in the near future. Staff believes there is value in placing Carol Stream's work on pause until Wheaton and Roselle have finalized the adoption of their new standards. In this way, we will be able to achieve better consistency among neighboring communities, and also gain from the public review and comment that has taken place.

This matter was originally scheduled for Plan Commission review at their February 26, 2007, meeting. Staff recommends that this case be continued to the March 26, 2007, Plan Commission meeting.

Commissioner Spink moved and Commissioner Vora made the second to continue this matter to the meeting of March 26, 2007 as staff has requested. The results of the roll call vote were:

Ayes:	6	Commissioners Christopher, Smoot, Vora, Spink, Hundhausen & Weiss
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Nays: 0
 Absent: 1 Commissioner Michaelsen

**#07004: Village of Carol Stream, 500 N Gary Avenue
 Approval of the 2007 Zoning Map**

There were no comments or questions from those in attendance at the call for public hearing. Mr. Svalenka stated that as required by state statute, the Village must publish a current zoning map by March 31 of each year. For your review and reference, staff has prepared the attached Village of Carol Stream Official Zoning Map for 2007. The 2007 map includes all annexations and zoning district amendments that have occurred since adoption of the previous zoning map on April 17, 2006. The list of map changes is presented below. For your information, this year's map has been reconfigured to show Planned Unit Development areas differently so that the reader may more clearly determine the underlying zoning. Also, please note that current stormwater regulations have made the Floodway Overlay District obsolete, so the outline of the Floodway Overlay District has been removed from the map.

1. The lots adjacent to the Car Quest Auto Parts Store and Fannie May Candy Store along Gary Avenue, just north of North Avenue, created by Duke Construction as part of the Lighting Direct Subdivision, were rezoned from I-Industrial District to B-3 Service District (**Ordinance 2006-05-24**).
2. Harlem Irving / Folio, LLC received approval of a Planned Unit Development for the property at the southwest corner of Gary Avenue and Stark Drive (**Ordinance 2006-07-31**).
3. The Ken Flanagan property at 211-231 E. St. Charles Road was rezoned from R-1 One-Family Residence District to I-Industrial District (**Ordinance 2006-09-42**).

Staff recommends approval of the Village of Carol Stream 2007 Official Zoning Map. Commissioner Hundhausen moved and Commissioner Spink made the second to recommend approval of the 2007 Official Zoning Map. The results of the roll call vote were:

Ayes: 6 Commissioners Christopher, Smoot, Vora, Spink, Hundhausen & Weiss
 Nays: 0
 Absent: 1 Commissioner Michaelsen

This matter will be heard by the Village Board at their meeting on March 5, 2007.

Commissioner Smoot moved and Commissioner Hundhausen made the second to close the public hearing. The motion passed by unanimous voice vote.

New Business:

**#06310: Integrity Development Partners, 600 E. North Avenue
 Final Plat of Subdivision**

Mr. Svalenka stated that the applicant would have had to come from Indianapolis for this "housekeeping" type of item. He continued, stating that James R. Beaty of National Surveying & Engineering, representing Integrity Development Partners, is requesting approval of a Final Plat of Subdivision for the 2.29-acre property at the southeast corner of North Avenue and

Schmale Road. The applicant is proposing to subdivide the property into two lots. Lot 1, a proposed 1.91-acre parcel, is being developed with a 19,296 square foot multi-tenant retail building that is nearing completion. Lot 2, a proposed 0.38-acre parcel, has been developed with a separate 1,924 square foot Starbucks Coffee Shop.

On February 6, 2006, the Village Board of Trustees approved a Special Use Permit for Planned Unit Development and a Preliminary/Final PUD Plan, along with Special Use Permits for a Shopping Plaza, Drive-Up Window Service, and Outdoor Seating for the subject lot. The approved Planned Unit Development allows two buildings to be constructed on one lot, so the proposed subdivision is not necessary to comply with code. However, there is no standard prohibiting subdivision of the property, and the property owner has decided to do so.

Staff finds the Final Plat of Subdivision to be in conformance with the previous approvals for this property and with the Subdivision Code and with the requirements of the B-2 General Retail District, which is the zoning classification for the property. The Engineering Services Department has reviewed the plat and recommends approval contingent upon compliance with a few minor comments, including adding PIN numbers to the plat, correcting the naming of proposed easements, and providing documentation for a commercial association to accommodate maintenance responsibilities. If the Plan Commission/Zoning Board of Appeals were to recommend approval of the Final Plat of Subdivision, staff would advise that the recommendation be conditional upon compliance with the Engineering Services Department comments.

Staff recommends approval of the Final Plat of Subdivision in accordance with §7-2-6 of the Subdivision Code, subject to the following conditions:

1. That the applicant add the proper PIN numbers to the Final Plat;
2. That the applicant add to the Final Plat a description of the purpose of the "20' Wide Permanent Easement" shown at the southwest corner of the lot;
3. That the applicant change the description of the "Comm-Ed Electric Easement" to Utility Easement; and,
4. That the applicant provides documentation of a commercial association that accommodates maintenance responsibilities for the two lots.

The commissioners had no comments or questions.

Commissioner Smoot moved and Commissioner Hundhausen made the second to approve the Final Plat of Subdivision for Integrity Development Partners, 600 E. North Avenue. The results of the roll call vote were:

Ayes:	6	Commissioners Christopher, Smoot, Vora, Spink, Hundhausen & Weiss
Nays:	0	
Absent:	1	Commissioner Michaelsen

**#07008: Village of Carol Stream, 500 N. Gary Avenue
 Plat of Dedication of Right-of-Way and Grant of Easement
 Plat of Vacation of Public Right-of-Way and Grant of Easement**

Mr. Svalenka stated that Lakewood Homes has constructed Bennett Drive as a new street connection to Surrey Drive in accordance with plans that the Village Board approved for the *Easton Park* subdivision. The point of connection is located at a vacant 0.5-acre lot, owned by the Village of Carol Stream, that once served as a detention basin outlot for the *Park Hill of Quail Run* subdivision. The detention capacity of that basin was incorporated into the stormwater management facilities for *Easton Park* as part of that project, thus enabling the street connection and converting the remainder of the parcel into a buildable lot. Public right-of-way needs to be dedicated for Bennett Drive where it crosses the former detention outlot. Right-of-way for the remainder of the public streets in *Easton Park* was dedicated as part of the plat of subdivision for that project.

Because of the construction of Bennett Drive next to the property at 198 Surrey Drive, that property is now classified by the Zoning Code as a corner lot, and the corner side yard setback does not conform to the requirement of the Zoning Code. This condition was considered by the Village when the *Easton Park* subdivision was approved, and since the roadway construction took place after the home at 198 Surrey was constructed, the existing corner side yard setback is legal and can continue. However, if at sometime in the future the homeowner wishes to make modifications to the property, it would be helpful if the lot were to conform to the Code. It is for this reason that the Plat of Vacation of Public Right-of-Way and Grant of Easement was prepared. Village staff is in the process of coordinating with the owners at 198 Surrey, offering to vacate approximately 1,977 square feet of intentionally created surplus right-of-way, which would then become part of the property at 198 Surrey and bring the setback into conformance with the Zoning Code.

Staff finds the Plat of Dedication of Right-of-Way and Grant of Easement for Bennett Drive at Surrey Drive and the Plat of Vacation of Public Right-of-Way and Grant of Easement to be in conformance with the previous approvals for the *Easton Park* subdivision and with the requirements of the R-3 One-Family Residence District, which is the zoning classification for the property. The Engineering Services Department has reviewed the plats and recommends approval contingent upon adding PIN numbers to the plats. If the Plan Commission/Zoning Board of Appeals were to recommend approval of the two documents, staff would advise that the recommendation be conditional upon compliance with the Engineering Services Department comment.

Staff recommends approval of the Plat of Dedication of Right-of-Way and Grant of Easement for Bennett Drive at Surrey Drive, and the Plat of Vacation of Public Right-of-Way and Grant of Easement for the surplus right-of-way adjacent to 198 Surrey Drive, in accordance with §7-2-6 of the Subdivision Code, subject to the condition that the proper PIN numbers be added to the two plats.

Commissioner Spink said that the correct number of units for *Easton Park* is 270 not 350. Commissioner Spink asked if once they dedicate this street will the Village be responsible for taking care of that street. Mr. Svalenka replied that with any subdivision, when it is approved, it includes dedicating the right-of-way, but the Village does not maintain it until the public improvements have been accepted. Commissioner Spink asked if street signs would have to wait until the public improvements have been accepted and Mr. Svalenka said that he can bring that issue to the Public Works Department to have the signs done now. Commissioner Spink asked if the homeowner was notified of this meeting and Mr. Svalenka responded that this is not a public hearing so there were no notifications made. He said that he knows that the homeowner was made aware of the process happening. Commissioner Spink commented that she is not sure that the homeowner understands what is happening due to a language problem. Her objection is that this home was built in 1979 and the fence that is there has been there since then and she would not want to have the burden of getting a variance if this owner or the

next wants to change things on the property. It was stated that in the event of something like that happening, just the circumstance of this part of the project would make for a uniqueness that would allow a certain amount of change. Commissioner Spink said that if she reads the staff report correctly there will be some amount of property given to the current owners in order to make the lot compliant. Mr. Svalenka said that the Village needs 66 ft for a right of way and the original plat of dedication gives the Village approximately 82 or 83 feet so the remaining approximately 16 feet would be given to the property owner through a vacation. Chairman Weiss asked if this will be recorded as such and Mr. Svalenka said that both the dedication and the vacation documents will be recorded. Commissioner Spink asked if the Village will be paying for a new plat of survey for the residents at 198 Surrey and was told that most likely not. Commissioner Spink said that since the builder made this change, they should provide the homeowner with a new plat of survey. The homeowner should not have to absorb that additional cost as well. Mr. Svalenka said that if the person needed a survey it would be for the sale of the property. If the Village was to give them a survey now, they would have to get a new survey done anyway at the time they sell the property. Commissioner Spink asked why doesn't the builder provide a new plat of survey when the road is done. Mr. Svalenka said that it is Village Policy that a plat of survey is required for improvements, it is not the Village Code and very often decades old surveys are provided to show where improvements are going to be made. Chairman Weiss asked if there is any way to be sure the resident of 198 Surrey Drive will be given a copy of the documentation showing the dedication of right of way and the grant of easement? Mr. Svalenka said that administratively, he will be sure that those residents get the paperwork as well as a cover letter that explains all of the details.

Commissioner Hundhausen asked how the intersection is going to be controlled and Mr. Svalenka said that he recalled that on the engineering plans there will be a stop sign at Bennett. But there is no stop sign at Shawnee and Surrey.

Chairman Weiss commented that he does see the need to keep communication open with the resident at 198 Surrey so that they are aware of what is going on.

Commissioner Spink asked why this action has to be taken at this point and Mr. Svalenka said that the timing for this paperwork would normally be done when the plat for the whole subdivision was done, it is not normally done when the construction is complete. In this case the Village owns the property as opposed to the developer owning it and that is why it has taken this long. This is so there is no delay at the end of the project. It was determined that another lot to the south of Surrey is also owned by the Village and until and unless it is sold and the potential owner wants to develop it, there will be no change to the plat. It was also noted that the southern lot is large enough to be subdivided for two homes.

Commissioner Hundhausen moved and Commissioners Vora made the second to recommend approval of a Plat of Dedication of Right-of-Way and Grant of Easement and a Plat of Vacation of Public Right-of-Way and Grant of easement in accordance with staff recommendations and the addition of the notification of the homeowner. The results of the roll call vote were:

Ayes:	5	Commissioners Christopher, Smoot, Vora, Hundhausen & Weiss
Nays:	1	Commissioner Spink
Absent:	1	Commissioner Michaelsen

This matter will be heard by the Village Board at their meeting on March 5, 2007.

Commissioner Spink moved and Commissioner Hundhausen made the second. The motion passed by unanimous voice vote.