

**REGULAR MEETING-Combined PLAN COMMISSION/ZONING BOARD OF APPEALS
GREGORY J. BIELAWSKI MUNICIPAL CENTER, CAROL STREAM, DUPAGE COUNTY, ILLINOIS**

SEPTEMBER 24, 2007

All Matters on the Agenda may be discussed, amended and acted upon

Chairman Pro-Tem Joyce Hundhausen called the Regular Meeting of the Combined Plan Commission/Zoning Board of Appeals to order at 7:40 pm and directed Recording Secretary Wynne Progar to call the roll.

- Present: Commissioners, Ralph Smoot, Lateef Vora, Dee Spink and Joyce Hundhausen
- Absent: Commissioners Anthony Manzzullo, Angelo Christopher, and David Michaelson
- Also Present: John Svalenka, Village Planner, and Recording Secretary Progar

MINUTES:

Commissioner Smoot moved and Commissioner Spink made the second to approve the Minutes of the Meeting of September 10, 2007 as presented. The results of the roll call vote were:

- Ayes: 4 Commissioners Smoot, Vora, Spink and Hundhausen
- Nays: 0
- Absent: 3 Commissioners Manzzullo, Christopher and Michaelson

Public Hearing:

**#07225: VILLAGE OF CAROL STREAM – 245 N. KUHN ROAD
Fence Code Variation**

John A. Turner, Director of Public Works, Village of Carol Stream, was sworn in as a witness in this matter. He explained that the request is for a variation to the fence code to allow a six-foot fence with barbed wire in a residential district. Mr. Turner referred to a site plan shown in the staff report to show where fence would be added to, moved and/or replaced to provide security for the Water Reclamation Center. Once the walking path site is established, the exact location will be finalized.

In response to the call for public hearing, Irene Montana, 354 W. Shawnee asked to see the plan and Mr. Turner provided a copy and answered her questions on the location of the fences.

Mr. Svalenka stated that several years ago the Carol Stream Department of Public Works acquired a 1.5-acre parcel directly adjacent to the existing Water Reclamation Center from the former Faith Nursery property. The site is vacant and is intended to be used for future expansion of Public Works activities. The Department of Public Works wishes to install a new fence around this lot to include it within the overall fenced Water Reclamation Center site. At the same time, the Department of Public Works would

install additional new fencing along Klein Creek to separate the facility from the future bike path to be constructed along the creek as part of the adjacent Easton Park development. The new fence would be a six-foot tall chain link fence topped with three-strand barbed wire to match the existing fence elsewhere on the site. However, the Fence Code allows a maximum fence height of five feet in the residence districts, and the use of barbed wire in any district other than the I Industrial District is only permitted after approval of a variation by the Zoning Board of Appeals. As such, the Public Works Department is requesting variations from Sections 6-12-8(K) and 6-12-9(B) of the Fence Code to allow the proposed six-foot tall chain link fence with three-strand barbed wire.

In review of this request, staff notes that the proposed six-foot fence height and the use of barbed wire, not typically allowed in the residence districts, is necessary to provide for the health, safety and welfare of the Village. The Water Reclamation Center processes sanitary sewer flow for most of the Village of Carol Stream and is a vital piece of infrastructure that justifies an increased level of protection. Therefore, the Village has safety and security concerns at this site, and the protective barrier is required for the health, safety and welfare of the residents of the Village.

The fence would match existing fence at the Water Reclamation Center. The fence around the parcel from the former Faith Nursery would be set back over 500 feet from North Avenue and would be adjacent to vacant commercial properties. When these properties are developed in the future, the fence would most likely be adjacent to the rear of commercial buildings, and not have a negative effect on these properties. The fence along Klein Creek would be set back from the creek to allow space for a future bike path to be constructed by Lakewood Homes as part of the adjacent Easton Park townhouse development. The Village and Lakewood Homes have been working together to locate the specific route of the bike path, but the exact design has not yet been finalized. Therefore, if the Plan Commission/Zoning Board of Appeals were to approve the variation request, staff would advise that the approval include the condition that the exact location of the fence be adjusted to accommodate the future bike path.

Staff has concerns about the impact that the tall chain link fence with barbed wire would have along the public bike path, but recognizes the need to secure the facility. Therefore, to minimize the chances that a person could accidentally be injured by the barbed wire, if the Plan Commission/Zoning Board of Appeals were to approve the variation request, staff would advise that the approval include the condition that the barbed wire hang over the inside side of the enclosure and be over six feet above ground. With such a design it is likely that the public could only come in contact with the barbed wire if one were to attempt to climb over the fence. The fence and barbed wire should have no negative effect on residents who simply bike or walk along the path.

Staff notes that on November 22, 2004, the Plan Commission/Zoning Board of Appeals approved a similar Fence Code variation request to allow the Department of Public Works to install an eight foot tall chain link fence with three-strand barbed wire in a residential district around Well #6, located west of the townhomes on the west side of Hoover Drive, within Armstrong Park. Staff also notes that on April 9, 2007, the Plan Commission/Zoning Board of Appeals approved a similar Fence Code variation request to allow the Department of Public Works to install an eight foot tall chain link fence with three-strand barbed wire in a residential district around a municipal sanitary sewer lift station in the public park at 1348 Charger Court.

In staff's evaluation of this case, we note that the fence is necessary to provide for the health, safety and welfare of the Village. We note the fence would match the existing fence on the property and that the barbed wire for the portion of the fence along Klein Creek should hang over the inside of the enclosure so as to minimize the chances that a person could accidentally be injured. Staff has no issues with the proposed Fence Code variations.

Based on the information presented, staff recommends approval of the variations in accordance with Sections 6-12-8(K) and 6-12-9(B) of the Carol Stream Fence Code to allow a six-foot tall chain link fence with three-strand barbed wire in a residential district. If the Plan Commission/Zoning Board of Appeals determines to recommend approval of the requested Fence Code variations, staff recommends that it only do so subject to the following conditions:

1. That the exact location of the fence be adjusted as necessary to accommodate the future bike path; and,
2. That the barbed wire hang over the inside side of the enclosure and be over six feet above ground.

Commissioner Spink asked why this won't wait until the bike path location is figured out, and Mr. Turner replied that the plant has to be secured prior to allowing any work done by the developer or anyone else. He noted that the path location will be within a certain area, but it may be slightly changed from the submitted plan, and they will make any adjustments necessary.

Commissioner Spink asked why not put up an 8-foot fence as was requested and approved for the other location and Mr. Turner replied that a 6-foot fence will join into current fencing on the property. Commissioner Spink said that with more accessibility from the townhouses an 8-foot fence seems more of a deterrent. Mr. Turner responded saying that with the barbed wire at the top of the fence, it is 7-feet high and the new fence will be consistent with the current fencing on the property.

Chairman Pro-Tem Hundhausen asked if the conditions in the staff report were acceptable and Mr. Turner said that they are.

Commissioner Smoot moved and Commissioner Vora made the second to approve the request for variation of the fence code to allow a six-foot fence with barbed wire in a residential district, in accordance with staff conditions. The results of the roll call vote were:

Ayes:	3	Commissioners Smoot, Vora and Hundhausen
Nays:	1	Commissioner Spink
Absent:	3	Commissioners Manzzullo, Christopher and Michaelsen

**#07226: POULOS, JOHN J. & CYNTHIA – 643 Blake Court
 Zoning Code Variation**

John Prempas, 7N043 Woodlawn Avenue, St. Charles, IL and John Poulos, 643 Blake Court, Carol Stream, IL were sworn in as witnesses in this matter. Mr. Prempas explained that the request is for a zoning code variation to allow taking out the current deck and adding a two-story addition to the north side of the home. The first floor addition would be in the same footprint as the original deck, which extends four feet

beyond the setback line. Due to mature trees around the house, it would not be possible to change the room dimension to the north or south and the petitioner feels that anything smaller in size would not be adequate. Mr. Prempas also stated that the irregular shape of the lot, due to the curved street, does not allow optimal use of the property.

In response to the call for public hearing, a resident from Wood Creek Drive commented that she currently has a wet basement and is concerned that this may increase the amount of drainage on her property. Terry Strohm, from Wood Creek Drive, said that she is concerned that trees would be removed and that by having a foundation put in and moving the soil that it would create more erosion. Mr. Prempas responded that there will not be any trees removed and that the foundation would be the same as was under the original deck and there would not be anything done that would increase erosion.

Commissioner Smoot commented that he does not see anything that would disrupt the absorption of stormwater or cause more water to go onto the neighbor's property.

Mr. Svalenka noted that Codes provide for 30% lot coverage and the proposed changes provide 26% lot coverage, so they could go larger.

Mr. Svalenka said that John and Cynthia Poulos are planning some major improvements to their home in the Tall Oaks subdivision at 643 Blake Court. They plan to construct a two-story addition along the north side of the house to provide additional garage/storage space on the first floor and additional living space on the second floor. The addition would be set back 7.69 feet from the side property line, in compliance with the required minimum 7.5-foot side yard setback. Therefore, no variation request is necessary in regard to the addition along the north side of the house. Along the east side of the house in the rear yard, Mr. and Mrs. Poulos plan to remove an existing 500 square foot deck and replace it with a 297 square foot room addition and a new 370 square foot deck. The room addition and deck would provide space for entertaining business clients. The required rear-yard building setback in the R-3 District is 30 feet. The room addition is proposed to be set back approximately 26 feet from the rear property line. Therefore, John L. Prempas of Windharbor Construction, on behalf of John and Cynthia Poulos, is requesting a zoning variation to allow a reduction of the rear yard setback requirement in the R-3 District from 30 feet to 26 feet. The existing deck is set back approximately 29 feet from the rear property line, and the proposed deck would be set back approximately 27 feet from the rear property line. Decks are accessory structures, and have a less stringent rear yard setback requirement of 10 feet. Therefore, the existing deck complies with the code requirement and the proposed deck would be in compliance with the code requirement, and no variation request is necessary in regard to the proposed deck.

In review of the variation request, staff has attempted to determine whether there are any unique circumstances or any particular hardship that would prevent the owner from complying with the 30-foot rear yard setback. Mr. Poulos owns a small business in Carol Stream on Geneva Road and a part of his business involves entertaining clients at his home. The deck and the 297 square foot room addition along the rear of the house would be used specifically for this purpose. Staff notes that the addition could be designed to comply with code by simply removing the rear four feet of the room. However, in the attached cover letter, the applicant maintains that the proposed room size is necessary in order for the space to be useful for entertaining. In the responses on the attached Variation Application, the applicant states that any smaller size would hinder the business entertainment activities and would cause a financial hardship by

limiting their business potential. Staff notes that a hardship for a zoning variation is typically associated with the physical characteristics of the property rather than the property owner's wishes regarding the use of the property.

In consideration of the applicant's statement that the proposed area of the room is necessary in order for the space to be useful for entertaining, staff has reviewed the site plan to determine whether a room of the same area could be constructed on the lot in compliance with the rear yard setback requirement. As can be seen on the site plan, there are large rear yard areas to the north and south of the proposed room addition and deck. A room of the same square footage could be constructed by removing the rear four feet of the room and extended the room to the north or south. However, as can be seen on the attached digital photos, many native trees exist throughout much of the rear yard. A large, mature tree exists just north of the proposed room addition. Several smaller naturally occurring trees exist just south of the proposed deck. Extending the room to the north or extending the room and deck to the south would require removal of the existing trees. Staff notes that relief from the bulk requirements of the zoning ordinance could be justified for a property when mature and native trees are being preserved.

Staff has reviewed the proposal to determine whether the physical shape of the property would cause a hardship. Although the subject property is similar in square footage to other lots in the subdivision, the lot is located along a curve in the street where the pavement widens in a fashion similar to a cul-de-sac. As can be seen on the attached aerial photograph, the curve causes the house to be set back further on the lot than the houses to the north on standard rectangular lots, thus reducing the size of the rear yard. If the front lot line were straight like the adjacent lots instead of being curved, the house would not need to extend as far into the rear yard as it currently does, which would make it possible to comply with setback requirements. Staff notes that relief from the bulk requirements of the zoning ordinance could be justified for a property when there are unusual dimensions of the subject lot.

Staff has reviewed the proposal to determine the impact the proposed room addition might have on adjacent properties. Under normal situations, the rear yard of one lot would abut the rear yard of another lot. The rear yard of the subject lot adjoins the front yard of the lot to the east. As can be seen on the attached aerial photograph, the adjacent front yard is very large and oddly shaped. As can be seen on the digital photos, the front yard of the adjacent lot is also rather densely landscaped and includes several mature trees. The adjacent front yard is much larger than a typical rear yard in the area, and includes a greater amount of landscaping than a typical rear yard. There is also a tall, dense hedge along the property line between the two lots. Therefore, staff believes the room addition would have minimal impact on the adjacent lot. If the Plan Commission/Zoning Board of Appeals were to recommend approval of the variation, staff would advise that the recommendation include the condition that the existing hedge along the property line not be removed.

In review of this case, staff researched past residential rear yard setback variation requests dating back to 1997 to attempt to gain an understanding of the degree of setback relief that the Plan Commission and Village Board have typically been willing to grant. In our review of seven residential rear yard setback variation requests for proposed room additions, we found that the largest variation that has been approved

was five feet from a 30 foot required rear setback. Two of the requests, which were both seeking setback relief of 14 feet or greater, were denied. The subject request is for a four-foot variation.

In staff's evaluation of this case, we note that the proposed room addition could be constructed in compliance with the rear yard setback standards of the Zoning Code by simply reducing the size of the proposed addition. However, the petitioner maintains that the proposed room size is necessary in order for the space to be useful for business entertaining. We do not believe this justifies the request because a hardship for a zoning variation is typically associated with the physical characteristics of the property rather than the property owner's wishes regarding the use of the property. However, we note that there are mitigating factors that favor the petitioner's request. Staff reviewed the site plan to determine whether a room of the same area could be constructed on the lot in compliance with the rear yard setback requirement, and note that such a room could not be constructed without removal of existing mature and native trees. Preservation of the existing trees could be justification for the variation request. Staff notes that the widened curve in the street causes the house to be set back further on the lot than the houses to the north, thus reducing the size of the rear yard. The unusual shape of the lot could be justification for the variation request. Staff also notes that the adjacent land to the east is a large, densely landscaped front yard that is screened by a dense hedge along the property line, and, therefore, the room addition would have minimal impact on the adjacent lot. Finally, the Village has approved several similar rear yard setback variations in the past.

As noted above, a hardship for a zoning variation is typically associated with the physical characteristics of the property rather than the property owner's wishes regarding the use of the property. However, there are several mitigating factors that favor the petitioner's request. If the Plan Commission determines to recommend approval of the requested rear yard setback variation, staff recommends that it only do so subject to the following conditions:

1. That the existing hedge along the property line not be removed; and,
2. That the applicant must obtain a proper building permit for the room additions and deck as necessary to comply with the standards of the Building Code.

Commissioner Spink commented that it seems that these neighbors should talk to each other about these concerns.

Mr. Poulos said that he has told the Homeowner's Association about approval for the plans. He noted that Association rules provide that nothing larger than a 5-inch diameter tree can be cut down without a fine being assessed because the tall oak trees are the best part of the neighborhood. In response to the question, Mr. Poulos said that his house is not on well and septic. Mr. Prempas said that what is proposed to be built should in no way effect any well and septic system.

Commissioner Spink asked if there is a landscape plan and she was told that the proposal would not touch any natural growth and that while they would move the bushes to prevent damage they will be replaced at the same site.

Commissioner Vora asked what type of business the petitioner was in and was told that he does on-line training for the hospitality service industry that supplies training for employees of restaurants and hotels. Mr. Poulos said that he entertains customers in his home approximately once or twice a month. He noted that he generally transports

his guests from their hotels to his home and that there are six to ten people at such a gathering.

In response to the question, it was stated that the current hedge will be replaced around the new addition and that there is a rock border installed north to south at the end of the lot to protect against run-off.

Chairman Pro-Tem Hundhausen asked if the engineering department approved the elevation plans for each site and it was stated that engineering did inspect and approve the site when the house was constructed to be sure that it conformed to the regulation that there cannot be any more run-off from a property than there was prior to development.

Commissioner Spink moved and Commissioner Smoot made the second to recommend approval of a variation for a rear yard setback in accordance with staff recommendations at 643 Blake Court. The results of the roll call vote were:

Ayes:	4	Commissioners Smoot, Vora, Spink and Hundhausen
Nays:	0	
Absent:	3	Commissioners Manzzullo, Christopher and Michaelson

The petitioner was reminded that this matter will be heard by the Village Board at their meeting on October 1, 2007 and was advised to attend that meeting.

Commissioner Spink moved and Commissioner Vora made that second to close the public hearing. The results of the roll call vote were:

Ayes:	4	Commissioners Smoot, Vora, Spink and Hundhausen
Nays:	0	
Absent:	3	Commissioners Manzzullo, Christopher and Michaelson

At 8:52 PM, Commissioner Smoot moved and Commissioner Spink made the second to adjourn. The motion passed by unanimous voice vote.

FOR THE COMBINED BOARD