



Village of Lake in the Hills

600 Harvest Gate, Lake in the Hills, Illinois 60156

PLANNING AND ZONING

JANUARY 15, 2024

Call to Order

The meeting was called to order at 7:30 p.m.

Roll call was answered by Commissioners Siakel, Walker, Bolton, Dixon, and Swanlund. Commissioner Murphy and Chairman Esposito were not in attendance. In Chairman Esposito's absence, Commissioner Siakel assumed the role as the acting chairwoman for this Planning and Zoning Commission meeting.

Also present were Director of Community Development John Svalenka, Trustee Bill Dustin, and Recording Secretary Laura Carpenter.

Approval of Meeting Minutes

Commissioner Dixon stated that he approved of the December 18, 2023 meeting minutes based upon a conversation he had with staff to clarify a statement he made to the EAA Chapter President. Motion to accept the Planning and Zoning Commission meeting minutes from December 18, 2023 was made by Commissioner Dixon and seconded by Commissioner Walker. The motion was approved by a voice vote of 5-0.

New Business

Variations for a Privacy Screening Fence at 2840 Briarcliff Lane

Chairman Siakel asked for a motion to open the public hearing. Commissioner Swanlund made a motion to open the public hearing, and Commissioner Dixon seconded. On a voice vote, the entire commission voted Aye, no Nays. Commissioner Siakel opened the public hearing at 7:31 p.m. and confirmed with staff that the public was given proper notice regarding it.

Director Svalenka reviewed the Request for Public Hearing and Commission Action dated January 15, 2024.

On October 13, 2023 the Village received an anonymous complaint about a tarp installed on top of an existing six-foot-tall fence on the subject property at 2840 Briarcliff Lane. Village staff investigated and found black fabric material tied to metal poles with rope, with the fabric extending along the rear lot line over the top of an existing white vinyl privacy fence to a height of approximately ten feet, and with the poles mounted in the ground about one foot away from the fence inside the rear yard of the subject property. Village records show that the white vinyl privacy fence was installed with a valid fence permit issued on February 17, 2022, and that the final inspection for the fence was approved on May 5, 2022. When questioned by Village staff, a resident of the subject property stated that the black fabric material was installed just after installation of the fence by the same contractor. Staff informed the resident that the structure does not comply with the standards in the Village codes and must be removed. On November 16, 2023 the Village issued a written Notice of Violation that required the structure to be removed by December 22, 2023. Therefore, on December 5, 2023 one of the owners of the property, Nicole Xicotencatl, submitted an application to the Village for a zoning variation to allow the structure to remain.



Village of Lake in the Hills

600 Harvest Gate, Lake in the Hills, Illinois 60156

PLANNING AND ZONING

JANUARY 15, 2024

The application submitted by Ms. Xicotencatl requested a variation from Section 13.5 of the Zoning Code to allow the existing structure to remain in place, and described the structure as “a light and air permeable privacy screen.” Section 13.5 is the table of permitted accessory structures. The table does not list light and air permeable privacy screens as permitted accessory structures. However, the table does list “fences” as permitted accessory structures, and the existing structure meets the definition of a fence. Specifically, Section 3 of the Zoning Code defines a fence as, “a structure erected for the purpose of enclosing or visually defining an area.” As such, the structure must comply with the fence regulations in Section 15 of the Zoning Code.

Within Section 15 of the Zoning Code, Section 15.3-3 states that fences in rear yards shall not exceed six feet in height. The black fabric fence is located in the rear yard of the subject property, and the submitted application indicates that the top of the structure is located 9.5 feet above the ground, which violates Section 15.3-3. Further, Section 15.2.A of the Zoning Code states that all fences shall be constructed of one or more of the following materials: suitable plastic material (PVC, vinyl, and composite), wood that is treated or a species that is naturally resistant to withstand decay and rot, chain link, decorative aluminum, wrought iron, or other suitable material. The existing black fabric material is not listed as an acceptable material for a fence, and staff finds that such a temporary type of a material and construction is not a suitable fence material. Therefore, in order to allow the existing structure to remain in place, the applicant must receive approval of variations from Sections 15.2.A and 15.3-3 of the Zoning Code.

Director Svalenka recommended denial of the variations for a privacy screening fence at 2840 Briarcliff, per the findings noted in the staff report dated January 15, 2024.

The applicant, Ms. Nicole Xicotencatl spoke at the podium. She talked about the harassment from the neighbor living behind her that precipitated her installing the privacy screening fence above her existing fence. She recalled instances that the neighbor called the Lake in the Hills police multiple times to report excessive noise at her home or her dogs barking, even when her dogs were not even at the property. At no time had Ms. Xicotencatl received a ticket from the police. Ms. Xicotencatl provided to the commission a letter from another neighbor about a verbal exchange between them and the neighbor who causes the harassment.

She said that when problems started many years ago, she planted large trees along the back fence line to provide her privacy in her yard. However, the trees died despite her taking care of them. She then installed a six-foot privacy fence. Most concerning to her was that the neighbor installed a security camera at the back of her own home that allegedly had Ms. Xicotencatl’s backyard in its view. It resulted in a court case in McHenry County, where it came to light that the neighbor recalled details of Ms. Xicotencatl’s family members’ comings and goings. The court ruled that the camera could remain. It was suggested by the judge that Ms. Xicotencatl seek permission at the local level for privacy from the neighbor. It was Ms. Xicotencatl’s interpretation with Village staff that a backyard privacy screening fence would be permissible. It was installed without a permit. Since the privacy screening fence has been installed, she says there have been no problems with the neighbors.

Commissioner Walker asked if this was a temporary structure that does not need a permit, and Director Svalenka said it was not. Commissioner Dixon asked if civil arbitration was ever ordered by the court, and Ms. Xicotencatl said it was not. Commissioner Walker stated he disagreed with some of the Village’s findings, and he felt that the privacy



Village of Lake in the Hills

600 Harvest Gate, Lake in the Hills, Illinois 60156

PLANNING AND ZONING

JANUARY 15, 2024

screening was not negatively altering the property values. He suggested that the privacy fence stay to maintain peace in the neighborhood. Ms. Xicotencatl suggested that the poles remain and be used as flag poles to display her flags, which are permitted in the ordinance. Acting chairwoman Siakel said that she hoped this issue could be resolved within the parameters of the Village's zoning and building ordinances.

Ms. Pamela Kubiowski, spoke at the podium. She vouched for the efforts that the petitioner has made to protect her family. She stated that this variation request was more about "tweaking the rules" so everyone can live in peace.

Ms. Marrison Xicotencatl spoke at the podium. She spoke about the harassing instances by the neighbor and confirmed that there have been multiple police calls in the past.

Ms. Brittany Merin spoke at the podium. She stated that the privacy fence screening has done what the community can't do, which is to provide a safe place for her family to enjoy their backyard.

Director Svalenka stated that as the privacy screening fence stands today, it meets the criteria as a permanent structure. Also, the privacy screening fence poles are located in the easement and need to be moved back out of the easement. There was discussion and deliberation between Director Svalenka, Ms. Xicotencatl, and the commissioners about the privacy screening fence, trees as screening, flagpoles, raising the fence height requirements in the Village, accessory structures, and their location requirements. Commissioner Swanlund spoke to the commission that this issue needs to be decided upon based on the zoning code.

There being no further public comments or discussion, Commissioner Siakel asked for a motion to close the public hearing. Commissioner Dixon made a motion to close the public hearing, and Commissioner Walker seconded. On a voice vote, the entire commission voted Aye, no Nays. Commissioner Siakel closed the public hearing at 8:20 p.m.

A motion to recommend denial of the requested variation from Section 13.5 of the Zoning Code to allow a fence to be considered a privacy screen and to allow a privacy screen as a permitted accessory structure, a variation from Section 15.3-3 of the Zoning Code to allow a fence that exceeds 6 feet in height, and variation from Section 15.2A of the Zoning Code to allow a fence made of temporary fabric instead of a suitable approved fence material, all on the property at 2840 Briarcliff Lane, per the findings noted in the staff report dated January 15, 2024 was made by Commissioner Swanlund and seconded by Commissioner Dixon. On a roll call vote, Commissioners Siakel, Bolton, Dixon, and Swanlund voted Aye. Commissioner Walker voted Nay. Motion to deny passed 4-1.

Old Business

None.

Item for Discussion

None.



Village of Lake in the Hills

600 Harvest Gate, Lake in the Hills, Illinois 60156

PLANNING AND ZONING

JANUARY 15, 2024

Staff Report

Director Svalenka reported that the Village Board was presented with the petition for a conditional use at 8545 Pyott Road. The Board generally agreed that the conditional use should be approved, but with conditions. The Board asked staff to return with the agenda item at a later date with conditions for them to approve.

Audience Participation

None.

Trustee Liaison

Trustee Dustin spoke regarding the petition from the owner of Arias Truck Repair, Inc. and the subsequent public hearing on December 18, 2023 requesting a conditional use for an automotive service and a conditional use for accessory outdoor storage of vehicles to allow the operation of a truck repair business at 8545 Pyott Road, which is at the airport. He said the VBOT and current property owner discussed that the property sale could go ahead as the seller of 8545 Pyott was agreeing to sign over the entrance easement to the Village, and Village was no longer going to require the fence.

Adjournment

A motion to adjourn the meeting was made by Commissioner Walker and seconded by Commissioner Dixon. The motion was approved on a voice vote of 5-0.

There being no further business to discuss, the meeting of the Lake in the Hills Planning & Zoning Commission was adjourned at 8:25 p.m. The next Planning and Zoning Commission meeting is scheduled for February 12, 2024.

Submitted by,

A handwritten signature in blue ink that reads "Laura Carpenter".

Laura Carpenter
Recording Secretary