



## **RIVER FOREST ZONING BOARD OF APPEALS**

### **MEETING AGENDA**

A meeting of the River Forest Zoning Board of Appeals will be held on Thursday, September 19, 2019 at 7:30 P.M. in the Community Room of the River Forest Village Hall, 400 Park Avenue, River Forest, Illinois.

- I. Call to Order
- II. Approval of the Minutes from the meeting of the Zoning Board of Appeals on August 8, 2019.
- III. Approval of the Findings of Fact for the proposed Fence Variation Request for 842 Harlem Avenue from the meeting of the Zoning Board of Appeals on August 8, 2019.
- IV. Public Comment
- V. Adjournment

**VILLAGE OF RIVER FOREST**  
**ZONING BOARD OF APPEALS MEETING MINUTES**  
August 8, 2019

A meeting of the Village of River Forest Zoning Board of Appeals was held at 7:30 p.m. on Thursday, August 8, 2019 in the Community Room of the River Forest Village Hall, 400 Park Avenue, River Forest, Illinois.

**I. CALL TO ORDER**

The meeting was called to order at 7:30 p.m. Upon roll call, the following persons were:

Present: Chairman Frank Martin, Gerald Dombrowski, Tagger O'Brien, Michael Smetana, David Berni and Ronald Lucchesi

Absent: Member Joanna Schubkegel

Also Present: Secretary Clifford Radatz and Village Attorney Carmen P. Forte, Jr.

**II. APPROVAL OF JULY 11, 2019 ZONING BOARD OF APPEALS MEETING MINUTES**

A MOTION was made by Member O'Brien and SECONDED by Member Smetana to approve the minutes of the July 11, 2019 Zoning Board of Appeals meeting.

Ayes: Chairman Martin, Members Dombrowski, O'Brien, and Smetana  
Nays: None.

Motion passed.

**III. APPROVAL OF FINDINGS OF FACT FOR THE PROPOSED ZONING VARIATIONS FOR 1201 PARK AVENUE FROM THE MEETING OF THE ZONING BOARD OF APPEALS OF JULY 11, 2019**

A MOTION was made by Member O'Brien and SECONDED by Chairman Martin to approve the Findings of Fact and recommendation for the proposed Zoning Variation for 1201 Park Avenue from the meeting of the Zoning Board of Appeals on July 11, 2019.

Ayes: Chairman Martin, Members Dombrowski, O'Brien, and Smetana  
Nays: None.

Motion passed.

#### **IV. VARIATION REQUEST FOR 842 HARLEM AVENUE – FENCE VARIATION**

Chairman Martin stated that the next item on the agenda was a Variation Request for the property at 842 Harlem Avenue. All those present at the meeting who planned to testify were sworn in. Chairman Martin explained the process to the applicant.

Richard Taveras, 842 Harlem Avenue, stated that he had put together a response to the requirements for a variation. He stated that being on Harlem Avenue is different than most homes in River Forest. There are more traffic and safety concerns for children on Harlem Avenue. He said that he wants to make an investment in his home for safety and beautification. The proposed fence design provides eighty percent (80%) coverage but leaves the driveway open. The proposed fence also leaves a connection to the neighbors and roadway. He stated that he included with his application a chart of homes on Harlem Avenue to demonstrate that there is common thread amongst these homes of significant plantings in the front which shows the need for greater privacy along Harlem Avenue. He said that he believes the proposed fence upholds the spirit of the Zoning Code by using durable and high quality materials. Mr. Taveras also provided the Board with samples of the composite material he is planning on using for the fence, which is a wood grain material, which requires no maintenance, and will not degrade over time. He stated that he believes that the proposed composite material will last as long as a metal fence would, that the proposed fence will be aesthetically pleasing and will reflect well on the Village.

In response to a question from Member Dombrowski, Mr. Taveras clarified that the proposed fence would be six feet (6') tall. Mr. Taveras further spoke to the design depiction in the application materials, clarifying that the orange color is highlighting the measurements and the pink color shows where the fence will be located.

In response to a question from Member Berni, Mr. Taveras advised that there would be a space between the edge of the sidewalk and the base of the fence. He stated that there would be room for plantings and would allow pedestrians walking along the sidewalk to be visible to a vehicle leaving the driveway. Mr. Taveras stated that the fence would be located two and a half feet (2½') inside of his front property line. He also stated that he would be removing much of the current vegetation along the front property line.

Mr. Taveras clarified that the boards used for the fence would be smaller than the samples he provided for the Board members at the meeting. The boards would each be two and three quarter inches (2¾") in size, with a three quarter inches (¾") gap between the boards.

Secretary Radatz explained the difference between a Type 2 fence which is permitted and a Type 3 fence which is what is being requested. He explained that when the Village rewrote fence regulations, it kept all technical requirements from the previous fence requirements but in order to make it easy to understand, it grouped fences into four types. Type 1 is for commercial properties. Type 2 and 3 are for residential areas. Type 2 fences can be up to

six feet (6') in height and must be at least eighty percent (80%) open and made with fabricated metal material. A Type 2 fence is allowed in a front yard.

In this case, the applicant's proposed fence meets the height requirement but does not meet the openness or material requirements of a Type 2 fence. Type 3 fences are privacy fences and are allowed on side yard lines and along rear lot line. Type 3 fences are allowed to be of any type of approved material. They are allowed to be solid up to six feet (6') and can be another foot higher provided the extra foot is at least fifty percent (50%) open. The proposed fence falls into Type 3 as a default category. Secretary Radatz noted that the requested fence does not cover the entire front yard and does not entirely enclose the front yard.

Mr. Taveras clarified that he is not asking for a variation for any kind of Type 3 fence. He is only asking for a variation for the specific fence design submitted in his application.

In response to a question from Member O'Brien asking for the pros and cons for a metal material compared to what is being proposed, Mr. Taveras stated that he wants to invest in his home. The proposed fence is aesthetically consistent with the plans for home as it provides a more modern look. He also noted that his home is not in the Historic District.

Member Smetana asked Secretary Radatz if the requested fence was considered a front yard fence or a privacy fence, given that there were two parts to the proposed fence. Secretary Radatz clarified that as no use is permitted in the required front yard, a fence such as the proposed fence must be regulated as a fence and not an accessory use.

Mr. Taveras stated that the safety concerns he included in this application could theoretically be accomplished with a Type 2 fence that complies with the Zoning Code requirements, but he is trying to find a way to improve the appeal of his home as well as the safety.

Member Smetana asked Mr. Taveras if he was going to remove all of the vegetation in the front yard of the property. Mr. Taveras advised that he will be putting in full landscaping in front yard and small trees and flowers on interior side of fence.

Chairman Martin noted that the rationale for this fence variation could be used for any property on Harlem Avenue. Member O'Brien noted that there were other fences in the area, but they were all metal. Member Lucchese noted that on the two block stretch on which this property is located, there are no fences similar to the proposed fence.

In response to a question from Chairman Martin, Mr. Taveras stated that this request is being made in the spirit of improving property values and this fence will improve not just the value of his property but that of his neighbors as well. There is a need for privacy and a Type 2 fence just does not do it. This is truly an exceptional circumstance as his home is on a state road.

### Public Comment with Regard to the Variation Request

Chairman Martin asked if any members of the public wished to comment on the proposed variation. No one came forward to speak, and Chairman Martin closed the public portion of the hearing.

### Discussion and Deliberation of the Variation Request

Member Berni shared that he thought the proposal was reasonable. He stated that he believes living on Harlem Avenue is truly a hardship. He noted that the fence is open and the material is creative.

Member Dombrowski noted that four houses on the 800 block of Harlem just closed related to the assisted living structure and thus there are about to be three or four fewer homes along Harlem Avenue. He stated that he thought this was a way to improve the neighborhood and the Zoning Board of Appeals could deal with other properties on case by case basis.

Member Smetana stated that there was no way to distinguish this property from other properties on Harlem Avenue. Therefore, if someone proposed a similar project, the Board could not say no to those properties if it approves this one. Although this may be different from other homes in River Forest, it is a similar circumstance to all other homes on Harlem Avenue. Member Smetana also noted that this type of fence would change the character of Harlem Avenue and it is not the role of the Zoning Board of Appeals to change the character of the Village.

Member Lucchese noted that there are plenty of Type 2 fences that are attractive and safe. The proposed fence would stand out as an exception in the neighborhood.

Member O'Brien stated that there are other streets beside Harlem Avenue in the Village that get busy and most fences along those streets comply with the Code. Although, she appreciates the Harlem Avenue aspect of the application, if the fence is only twenty two percent (22%) open, it will be a stockade.

Mr. Taveras advised that the fence could be more open. He stated that he has design for a fence that is thirty percent (30%) open.

A MOTION was made by Member Dombrowski and SECONDED by Member Berni to recommend to the Village Board of Trustees that the requested variation be granted.

Chairman Martin reminded the Zoning Board of Appeals members that if they vote in favor they are voting that all of the standards have been met.

Ayes: Members Dombrowski and Berni  
Nays: Chairman Martin, Members Smetana, O'Brien, and Lucchese

Motion failed.

Chairman Martin stated that the Board's recommendation to the Village Board would be 4-2 in favor of not approving the application. Chairman Martin advised that all documents submitted by Mr. Taveras would be included in the record.

Chairman Martin indicated that this matter would appear on a future Village Board of Trustees meeting agenda and Mr. Taveras would have an opportunity to address the Village Board regarding this matter at that time.

There was no additional new business on the agenda.

## **V. ADJOURNMENT**

A MOTION was made by Member O'Brien and SECONDED by Member Berni to adjourn the meeting 8:00 p.m.

Ayes: Chairman Martin, Members Dombrowski, O'Brien, Smetana, Berni and Lucchesi

Nays: None.

Motion passed.

Respectfully Submitted:

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Clifford Radatz, Secretary

\_\_\_\_\_  
Frank Martin, Chairman  
Zoning Board of Appeals

Date: \_\_\_\_\_

**VILLAGE OF RIVER FOREST ZONING BOARD OF APPEALS  
FINDINGS OF FACT AND RECOMMENDATION REGARDING  
A FENCE VARIATION AT 842 HARLEM AVENUE**

**WHEREAS**, Petitioners Richard and Shana Taveras (“Petitioners”), owners of the property located at 842 Harlem Avenue in the Village of River Forest (“Property”), requested a variation from the Village of River Forest’s fence regulations in Section 4-8-4 of the Village of River Forest Municipal Code (“Village Code”), to allow the construction of a Type 3 fence along the front yard line (“Variation”). The Property is located in the R-2 Single-Family Residential Zoning District (“R-2 Zoning District”); and

**WHEREAS**, the Village of River Forest Zoning Board of Appeals (“Board”) held a public hearing on the question of whether the requested Variation should be granted on August 8, 2019, and the hearing was held as in accordance with Section 10-5-4(E) of the Zoning Ordinance, as authorized by Section 4-8-5 of the Village Code. At the public hearing, all persons present and wishing to speak were given an opportunity to be heard and all evidence that was tendered was received and considered by the Board; and

**WHEREAS**, public notice in the form required by law was given of the public hearing by publication not more than thirty (30) days nor less than fifteen (15) days prior to said public hearing in the *Wednesday Journal*, a newspaper of general circulation in the Village, there being no newspaper published in the Village. In addition, notice was mailed to surrounding property owners; and

**WHEREAS**, at the public hearing on August 8, 2019, the Petitioners provided information regarding the requested Variation, testifying, among other things, that the Variation is being requested to address privacy and safety concerns as the Property is located on Harlem Avenue which has heavier traffic than other roadways within the Village; and

**WHEREAS**, at the public hearing on August 8, 2019, no residents or other members of the public testified with regard to the proposed Variation; and

**WHEREAS**, six (6) members of the Board were present for the public hearing, which constituted a quorum of the entire Board that is required to convene a meeting of the Board, and allow for the public hearing to proceed; and

**WHEREAS**, after the close of public comment, the Board discussed and deliberated the application for this Variation; and

**WHEREAS**, following discussion, the Board, having considered the criteria set forth in Section 10-5-4 of the Zoning Ordinance, on August 8, 2019, voted 4-2 to recommend denial of the Variation;

**NOW, THEREFORE**, the Board makes the following findings of fact and recommendations pursuant to Section 10-5-4(E)(2) of the Zoning Ordinance:

## FINDINGS OF FACT

1. **The physical surroundings, shape or topographical conditions of the Property constitute a specific hardship upon the owner as distinguished from an inconvenience if the strict letter of the regulations were to be carried out.** The Board found that this standard has not been met. The Property being located on Harlem Avenue does not create a unique condition or specific hardship as not only is the Property in the same circumstance as all other properties along Harlem Avenue, but many other roadways within the Village experience similar traffic patterns to Harlem Avenue. Therefore, the Property being located along a heavily trafficked roadway does not create a unique condition that constitutes a specific hardship on the owners.
2. **The aforesaid unique physical condition did not result from any action of any person having an interest in the property, but was created by natural forces or was the result of governmental action, other than the adoption of the Village's Zoning Regulations, for which no compensation was paid.** The Board found that this standard has not been met as there is no unique physical condition of the Property, when compared to other properties in the Village, other than its location along Harlem Avenue. As many other properties are similarly located along heavily trafficked roadways in the Village, this alone does not create a unique physical condition.
3. **The conditions of the Property upon which the petition for Variation is based may not be applicable generally to other property within the same zoning classification.** The Board found that this standard has not been met as the conditions of the Property upon which the petition for Variation is based is applicable to all other properties along Harlem Avenue, and other properties similarly located along heavily trafficked roadways in the Village.
4. **The purpose of the Variation is not based predominately upon a desire for economic gain.** The Board found that this standard has been met. The Petitioners indicated that they desire to construct the fence for privacy and safety reasons as the Property is located along Harlem Avenue.
5. **The granting of the Variation is not detrimental to the public welfare or unduly injurious to the enjoyment, use, or development value of other property or improvements in the neighborhood in which the Property is located.** The Board found this standard has been met. The Petitioners indicated that this request is being made in the spirit of improving property values and the proposed fence would improve not just the value of the Property but that of the neighbors' properties as well.
6. **The granting of the Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.** The Board found that this standard has been met. The location of the fence would not further obstruct the view from any adjoining properties on



Harlem Avenue, as it would be set back from the sidewalk at the front of the Property. The Petitioners stated that the location of the fence would allow pedestrians walking along the sidewalk on Harlem Avenue to be visible to a vehicle leaving the driveway of the Property.

7. **The granting of the Variation will not unduly tax public utilities and facilities in the area of the Property.** The Board found that this standard has been met. The fence will not utilize any utilities.

8. **There are no means other than the requested Variation by which the hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the Property.** The Board found that this standard has not been met. A Type 2 fence in compliance with the Village Code could resolve the Petitioners' privacy and safety concerns, to which the Petitioners also agreed.

### RECOMMENDATION

The Board, by a vote of 4-2, found that the standards for granting of the requested Variation were not met. Therefore, the Board recommends to the Village President and Board of Trustees that the Variation to allow the construction of a Type 3 fence along the front yard line of the Property, be DENIED.

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Frank Martin  
Chairman

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Date