

**Village of La Grange Park
Zoning Board of Appeals - Minutes
July 20, 2010
7:00 p.m.**

A meeting of the La Grange Park Zoning Board of Appeals was scheduled to be held at 7:00 p.m. on Tuesday, July 20, 2010, in the La Grange Park Municipal Building.

1. Convene Meeting

Chairman Riesterer called the meeting of the La Grange Park Zoning Board of Appeals to order at 7:06 p.m. on Tuesday, July 20, 2010, in the Board Room of the Village Hall, 447 N. Catherine Avenue, La Grange Park, Illinois.

Members in attendance were:

Committee Members:

Chuck Riesterer – Chairman
Susan Storcel
Eric Boyd
Herb Massin
William Lampert
Karen Koncel
Lloyd Hyman

Others in Attendance:

Cathleen Keating
Dean Maggos
Bo Proczko
Julia Cedillo

2. Appeal Administrative Decision for 430 N. Park, La Grange Park, IL

Chairman Riesterer convened the meeting at 7:06 p.m. and introduced the matter. He incorporated several letters of correspondence into the record of the meeting, including:

- A memo from Don Morris, dated July 16, 2010
- A letter from John Holton, dated July 17, 2010
- An email from Nancy Connelly, dated July 20, 2010
- A letter from Mr. Lander, dated July 19, 2010

Chairman Riesterer provided an overview of how the meeting would be conducted, first hearing the testimony from the petitioner and then accepting statements from those in the audience wishing to be heard. He then asked Village Attorney Cathy Keating to speak about the purpose and process of the meeting.

Ms. Keating explained that the evening's review would be conducted as a Public Meeting, not a Public Hearing. Mr. McGrory filed a petition with the Zoning Board of Appeals to review the materials and testimony and decide based on their interpretation

of fence in the Code, as to whether the structure is a fence as outlined in the Code, and whether the structure is in violation of the Code, as outlined in sections 153.059 and 153.065 of the Village Code. Ms. Keating also stressed the precedent-setting nature of the Zoning Board's decision and noted that the Zoning Board of Appeals has the final decision making power on this issue and that it does not go to the Board of Trustees.

The petitioner, Mr. Peter McGrory called attention to the file notes dated September 21 of 2009 by Code Enforcement Officer Rob Wierzba, where he stated that the Village considered the structure screening temporary in nature and considered the matter closed with no further action required by Code Enforcement. Mr. McGrory went on to explain that the screening went up to prevent the disturbance of basketball play to the Holton's property. Mr. McGrory stated that the Village was involved in all steps of the process in the placement of the screening. He further stated that he submitted drawings, surveys and that there were pre-inspections and post inspections and then written confirmation that the structure was approved. Finally, Mr. McGrory explained that in May of 2010, his wife received a letter from Dean Maggos stating that the wooden structure had to be removed.

Mr. McGrory stated that he met with Village Staff and Officials to discuss what had changed in the decision making that resulted in the structure being in violation of Code. He also stated that he requested records to help explain the change in direction and eventually communicated to the Village that he wanted to file an appeal the determination made by staff to remove the structure.

Chairman Riesterer asked if any members in the audience wished to speak on the issue.

Robert Zeni of 425 North Park addressed the Board and stated that he is a certified gardener and based upon his training and experience, assessed the structure in the front yard of Mr. McGrory. He explained that he believed the structure was a trellis due to the fact its function is to support plants, it is temporary, and it does not abut an adjoining structure.

Patty Holton of 432 North Park addressed the Board and stated that the structure is not temporary because it is cemented into the ground and it abuts an existing fence. Ms. Holton went on to explain that the McGrory's erected their structure within a short period of time after her arbor was constructed. Ms. Holton explained that she believed that the structure in the McGrory front yard was never in accordance with the Village Code. She stated that it is simply too tall and too wide to be a trellis. She also stated that it does not allow air to pass through and it is designed to keep the basketball out of her yard.

Paul Koonis of Creative Construction addressed the Board. Mr. Koonis explained that he is the contractor who constructed the arbor in Ms. Holton's yard and witnessed the construction of the McGrory's structure. He stated that the placement of the vertical supports suggest a more permanent structure than a trellis.

Jan Schultz of 440 North Park addressed the Board in an effort to urge them to follow the Village Code in deciding this matter.

Chairman Riesterer asked if members of the Board had any questions of Village Staff.

Mr. Lampert asked how the Code regulates a trellis. Ms. Keating replied that the current Code does not regulate trellises or arbors. Mr. Lampert inquired about the timeline of the issue and how the appeal came about.

Mr. Proczko responded that when the structure was being built, Rob Wierzba and Dean Maggos worked with the McGrorys during the planning and construction of the structure. Staff did receive statements of concern so staff met to discuss whether or not there was confidence that what exists complied with Code. The decision at that time was that staff believed that the structure met Code. The following spring, further concern was expressed regarding the structure, so Mr. Proczko went out to look at the structure. Mr. Proczko stated that in his opinion, the structure looked like a fence. Mr. Proczko then contacted Village Attorney Cathy Keating and Don Morris to get their opinion on the structure. Both felt it was a fence and a letter was drafted stating such and sent to the McGrory's. The letter also stated that the McGrory's have the option to appeal if they disagree with the determination.

Mr. Lampert asked staff whether a permit is for a trellis or fence. Mr. Proczko stated that a permit is needed for a fence and but not for a trellis. Mr. Massin explained to the Board that he was focused solely on the Code and its application to this matter. Mr. Massin stated that the definition of a fence includes enclosure, which is not applicable with the structure in question. Mr. Proczko stated that a straight line of fence, without enclosing anything still requires a fence permit.

Mr. McGrory explained that was told he could utilize concrete footings for the posts. Mr. McGrory also stated that there was no particular reason why the framing faces the Holton's house. Mr. McGrory stated that Mr. Wierzba said that was okay to do. Mr. McGrory stated that 80% of the structure is covered with clematis and next year, it will be 100% covered.

Ms. Koncel asked some questions pertaining to the timeline of events. She asked when the inspection by Don Morris was made and why Mr. Proczko sought out additional opinions as to whether the structure was a fence. Mr. Proczko reiterated the timeline of events for the Board. Staff made its determination in the fall while a second review by Mr. Proczko was done in the spring.

Mr. Hyman asked staff whether there are other examples in the Village that are similar to the structures in question. Mr. Proczko answered that he was not aware of other examples.

The members of the Zoning Board discussed the petitioner's appeal. Mr. Lampert was concerned about the potential exposure the ZBA has as a governing body when they acknowledge staff's mistake. Ms. Storcel stated that she is not concerned with decisions made in the past, as she understands the Board's role in this case is to look at the structure and determine how the Code applies to such matters. Attorney Keating stated that once the ZBA makes its determination in this matter as it relates to the Code,

then the determination of these structures in all instances is binding moving forward. The general consensus was that the structure was a fence, per the Village Code. However, it was noted by Mr. Massin that the structure was not enclosing anything so it could not be a fence. Ms. Koncel generally agreed with Mr. Massin. The remaining members by and large stated that a fence did not have to enclose anything in particular but instead can be constructed to act like a barrier, as it they believed it did in this case.

Chairman Riesterer thanked the Board for their thoughtful assessment of the issue and asked for a motion to conclude the Board's deliberation. Mr. Lampert made a motion to uphold staff's interpretation that the structure at 430 North Park is a fence. Mr. Boyd seconded the motion. Motion carried on roll call vote as follows:

Ayes: Storcel, Boyd, Lampert, Riesterer, Hyman

Nays: Massin, Koncel

With no further business to come before the ZBA, Chairman Riesterer declared the meeting adjourned at 7:50 p.m.

Respectfully Submitted

Julia A. Cedillo
Assistant Village Manager