

PLANNING AND ZONING COMMISSION MEETING

VILLAGE OF HOFFMAN ESTATES
COUNCIL CHAMBERS
1900 HASSELL ROAD
HOFFMAN ESTATES, IL 60169

MINUTES – DECEMBER 7, 2011

1. CALL TO ORDER: 7:05 P.M.

Members Present

Chairperson Combs	Myrene Iozzo
Vice-Chairman Gaeta	Tom Krettler
Denise Wilson	Gaurav Patel
Lenard Henderson	Steve Wehofer

Members Absent

Commissioner Boomgarden
Commissioner Hehn

Vacancy

One

A quorum was present.

Administrative Personnel Present:

J. Edwards, Assistant Planner and Peter Gugliotta, Planning Director

2. APPROVAL OF MINUTES:

Motion by Vice-Chairman Gaeta, seconded by Commissioner Krettler, to approve the minutes of the November 16, 2011 meeting. Voice Vote: 8 Ayes, 2 Absent (Boomgarden, Hehn) 1 Vacancy. *Motion Carried*

3. CHAIRMAN'S REPORT

Chairperson Combs reported that the Village Board remanded the Home Occupation text amendment.

4. NEW BUSINESS – PUBLIC HEARING – 1380 BEDFORD FENCE VARIATION

Request of Jeffrey Bauer and Jennifer Kidd to consider variations from the Zoning Code to permit the retention of a fence on the property located at 1380 Bedford Road.

Commissioner Krettler moved, seconded by Commissioner Iozzo, to open the public hearing for 1380 Bedford Road. Voice Vote: 8 Ayes, 2 Absent (Boomgarden, Hehn), 1 Vacancy. *Motion Carried*

Jeffrey Bauer and Jennifer Kidd were present and sworn in. Mr. Bauer stated that he applied for a permit and the final inspection did not get approved. The permit application was approved and a few days after that he received a call from the Village advising that the fence needed to be changed from a 5 foot high fence to a 4 foot high open design to meet the zoning. Allied Fencing installed a 4 foot high fence and a week later the final inspection failed because the board on board design did not meet the open design requirements. He stated that they were very confused at that point. When they applied for the permit they specified that it was a board on board fence. Mr. Bauer read a statement into the record from the fence contractor stating that a few days before the installation of the fence they received a call from the Village Inspector, John Cumpek, stating that the 5 foot high board on board was not allowed on the property and he gave two options: a 5 foot high fence with a small picket or a 4 foot high board on board style. The fencing company told the inspector to contact the homeowner to see which option they would like to go with and the inspector replied no and told Allied Fencing to contact the homeowner. Allied then called the homeowner with the two options and the homeowner decided to move forward with the board on board fence. Mr. Bauer then called the inspector, received verbal approval to proceed with the 4 foot board on board fence, and had the fence installed.

Mr. Edwards advised that the fence is a 4 foot solid design fence. There was confusion with the permit process and the open versus solid design of the fence. It is not always clear what open design means. In this case the fence has been installed and it is now the role of the Planning and Zoning Commission to look at the fence and consider whether or not there is a safety issue or aesthetic reason to not allow a solid design fence in this location. In this case there is a driveway adjacent to the fence but there is sufficient distance between the driveway and the fence. There would be no visibility issues with this fence where it is located. The Village has approved other similar fence variations; mostly for 6 foot high solid design fences, in other areas of the Village.

Mr. Bauer noted that there is a 6 foot high fence at Gentry and Cambridge with this same layout, two blocks from his house. The Chairperson commented that the driveway in that case is not as close as this one. Mr. Edwards advised that there is a distinction in the Zoning Code regarding the layout of the properties when the rear yards adjoin versus a corner lot where a side yard abuts a rear yard. Mr. Edwards also noted that there are a number of fences that were built without permits or prior to Zoning Code changes.

Commissioner Questions

A Commissioner confirmed that the neighbor most affected by this has no problem with the fence.

A Commissioner questioned whether there is clear visibility to the corner and the petitioner responded yes.

A Commissioner commented that it appears that the homeowners followed all of the proper procedures. Ms. Kidd commented that they are first time homebuyers and play by all the rules since they have no idea what they are doing. They went out of their way to make sure this was done right which is why this is so frustrating.

A Commissioner commented that the contractor should have some responsibility in this since they do other work in the Village and should know what open design means.

A Commissioner asked if this would set a precedent if this is approved and Mr. Edwards responded that every case has to be considered on its own merit and circumstances.

The Chairperson expressed concern from a safety point of view. A child riding a bike would not be visible over the 4 foot fence and the distance between the end of the fence and the driveway isn't sufficient for somebody to be able to stop in time to prevent an accident. They wouldn't be able to view a child until their car had already backed out passed the sidewalk area. She would like to see the inside boards taken out from about 5 feet in to maximize the view.

Chairperson Combs opened the hearing to audience comments.

The resident from 1405 Bedford Road was sworn in. He stated that before this fence was installed there was a 6 foot high hedgerow that you couldn't see through so this is an improvement. After he got the letter he drove down the road and confirmed that you can see the garage and the driveway through the fence. It's a vast improvement from what as there and the view is much better now than it ever was. He understands the safety concern but you can see through the fence as you drive down the road.

The audience participation portion of the hearing was closed.

Vice-Chairman Gaeta moved, seconded by Commissioner Krettler, to close the public hearing. Voice Vote: 8 Ayes, 2 Absent (Boomgarden, Hehn), 1 Vacancy. *Motion Carried*

MOTION: Vice-Chairman Gaeta moved (seconded by Commissioner Krettler) to approve the request by Jeff Bauer and Jennifer Kidd for a fifteen (15) foot corner side yard setback variation from Section 9-3-3-C to allow a four (4) foot high solid fence to be zero (0) feet from the south side property line instead of the minimum required fifteen (15) feet at 1380 Bedford Road.

Roll Call Vote:

Aye: Iozzo, Henderson, Krettler, Patel, Wehofer, Wilson, Gaeta

Nay: Combs

Absent: Boomgarden, Hehn

Vacancy: One

Motion Carried

This will be presented to the Village Board on December 12, 2011 at 7:00 p.m.

The Chairperson advised the petitioners that the Planning and Zoning Commission is a recommending body and that the vote of the Board of Trustees is the determining factor. She also advised the petitioners to attend the Village Board meeting.

5. OLD BUSINESS – PUBLIC HEARING – TEXT AMENDMENT – HOME OCCUPATIONS

Request by the Village of Hoffman Estates to consider a text amendment to Section 9-2-1 (Definitions - Home Occupations) of the Zoning Code.

Vice-Chairman Gaeta moved, seconded by Commissioner Krettler, to open the text amendment public hearing. Voice Vote: 8 Ayes, 2 Absent (Boomgarden, Hehn), 1 Vacancy. *Motion Carried*

Commissioner Questions

A Commissioner commented that the hours are too stringent. It could be difficult for someone to make it to a tax preparer's home before 7:00 p.m. She suggested changing it to 9:00 p.m. on weekdays. The Chairperson commented that she would not like to listen to someone's music lesson at 7:00 a.m. Staff noted that the hours were based on the hours in the Code that limit construction in residential areas. The Chairperson suggested 8 to 8 versus 7 to 7.

A Commissioner asked why this code is being changed and these parameters being set. Staff responded that this has come up periodically over the years. This came from the elected officials who have heard enough times from different people who teach music lessons, etc. and can't get a business license or have visitors because the code doesn't allow it. There are a lot of people in the community running businesses out of their home that technically are not legal and they are not bothering anybody. The Trustees discussed this at a Committee meeting and were very specific about music lessons and maybe tutoring. Staff looked at codes in a lot of other towns and tried to think of similar uses such as attorneys and tax preparers with similar functions. The Trustees are looking for a small change to accommodate some things they know are happening.

A Commissioner confirmed that someone could request a variation from the permitted hours.

A Commissioner commented that prohibiting pick-up of orders for Mary Kay, etc. is too stringent; a limited amount of products should be considered. Staff noted that the number of visits would have to be limited if it is permitted and added that the code already allows a Mark Kay distributor to be licensed but they have to go to other people's homes for parties and they have to ship products to homes. The Village Clerk has requested that homes not be used as a pick-up point since it could become a problem in the case where someone does a lot of business. If there is a lot of any type of product in a home you could have people pulling into the driveway on a regular basis picking up packages. There could be a lot of traffic to the house with people picking up products there. You could put a limit on the number of visits but it would be difficult to regulate. Staff commented that allowing the pick up of products would turn the home into more of a retail setting.

Mr. Edwards advised that item #1 is intended to prevent a home occupation from being like a retail setting; so you don't sell goods out of the house like a businesses in a shopping center. Number 3 takes away some of the strictness by saying that you can have up to 8 people visit a day and those people could be buying products out of the home. He added that when you allow someone to sell goods out of the house it takes away the Village's enforcement tool of saying that you can't visit the home as a retail setting.

Mr. Gugliotta noted that number 3 is specific in that it is by appointment only; the business operator controls the number and when people come. A Commissioner suggested using the same verbiage for number 3 for Mary Kay. Mr. Gugliotta clarified the suggestion is that the number of customers could be kept under control while being be allowed to pick up products.

The Chairperson asked about the person who receives a big shipment. The garage is filled with boxes and the appointment becomes a white van that loads up the product and takes it away. That is what we are trying to prevent.

A Commissioner commented that she would not have an issue with that; there are people who have garages that are filled with stuff already. She does not have a problem with 8 people picking up stuff.

A Commissioner commented that number 2 specifying that there be no exterior evidence of the home occupation is a catch-all that would prevent a semi from pulling up to pick up products. If there are hundreds of people lined up, that is exterior evidence.

Mr. Gugliotta advised that this would have to be worded carefully. If language is included allowing receiving and picking up deliveries, it can't conflict with number 2.

The Chairperson commented that this should be carefully written; she recalls someone with an import/export business that had deliveries to their home of a product with wood boring insects in that multiplied and devastated the neighborhood. We have to guard against that situation too.

A Commissioner questioned whether specific types of home occupations can be listed that would only be allowed. Mr. Gugliotta noted that there is always another use that is similar.

A Commissioner commented that it does not appear that this is fixing anything that is broken; this has been going on since the Village was incorporated in 1959. He questioned what the point of this is – just because someone cares about a piano lesson? Unless the Village is going to fill a fiscal deficit by doing this, he feels that this is a waste of time.

A Commissioner noted that the point of this is to allow some occupations.

Mr. Gugliotta commented that this is for the benefit of honest, good people who want to teach four kids a week how to play music and they want to do the right thing. They contact the Village for a business license because they want to meet the code and follow the rules and the Village tells them they can't do it.

A Commissioner commented that the problem would be solved by only allowing music lessons, tax preparers and architects.

A Commissioner suggested listing the prohibited uses and Mr. Gugliotta replied that it is difficult to think of every type of business. The Chairperson noted that advanced technology leads to new businesses and those changes would be difficult to keep up with as well.

A Commissioner suggested that Mary Kay, Avon and Amway be added and the Village Clerk be given the discretion of issuing the business licenses. Mr. Gugliotta advised that becomes a problem when someone is denied and an administrative person has made the decision.

Mr. Gugliotta stated that he feels that the professional services have been covered; it is the pick up and deliveries that need to be addressed in a way that allows it but yet keeps the problem situations out.

A Commissioner suggested that the Saturday and Sunday hours be changed from 8:00 a.m. to 10:00 a.m.

It was the consensus of the Commission that the hours be changed to 9:00 a.m. to 6:00 p.m. on the weekends.

Chairperson Combs opened the hearing to audience comments and asked an audience member to speak regarding the proposed hours; he declined to speak and the audience participation portion of the hearing was closed.

Vice-Chairman Gaeta moved, seconded by Commissioner Henderson, to close the text amendment public hearing. Voice Vote: 8 Ayes, 2 Absent (Boomgarden, Hehn) 1 Vacancy. *Motion Carried*

MOTION: Commissioner Wilson moved (seconded by Commissioner Krettler) to continue this hearing to January 4, 2012 at 7:00 p.m. to allow staff to work on item 1 and alter the times for item 4.

Voice Vote: 8 Ayes, 2 Absent (Boomgarden, Hehn) 1 Vacancy. *Motion Carried*

6. STAFF REPORT

Mr. Edwards reported that the next meeting scheduled for December 21st has been cancelled. Agenda items for the January 4th meeting, in addition to Home Occupations, are Site Plan & Master Sign Plan reviews for the Strawberry Hill Shopping Center.

7. MOTION TO ADJOURN

Motion by Vice-Chairman Gaeta, seconded by Commissioner Krettler, to adjourn the meeting at 8:32 p.m. Voice Vote: 8 Ayes, 2 Absent (Boomgarden, Hehn), 1 Vacancy. *Motion Carried*

Minutes prepared by Paula Moore, Planning Services Coordinator



Chairperson's Approval



Date Approved