1. Call to Order.
2. Pledge of Allegiance to the Flag.
3. Roll Call.
4. Public Comment.
5. Minutes.
   a) July 16, 2020
   a) Case No. HG-2008-V, 12135 Aspen Lane (Public Hearing): Consideration of (1) a Variance to increase the maximum permitted height of a fence located in a corner side yard from four (4) feet to six (6) feet; and (2) a Variance to permit a solid fence in a corner side yard where fences are required to be fifty (50) percent open in design, for certain real property located in the R-3 Single-Family Residential District at 12135 Aspen Lane, Homer Glen Illinois.
7. Reports of Plan Commissioners and Staff.
8. Adjourn.
1. Call to Order.

The meeting was called to order at 7:04 p.m. by Chairman Kozor.

2. Pledge of Allegiance to the Flag.

3. Roll Call.

Members present (in the Board Room) at 7:04 p.m. were Chairman Kozor, Member Foley, Member Hand, and Member Stanly. Also present were Planning & Zoning Director Gadde, Senior Planner King and Plan Commission Secretary Cassin. The minutes were recorded and transcribed by Gia Cassin.

Plan Commission Secretary Cassin swore in all those who signed in, prepared to speak tonight for Public Comment and or Public Hearing.

Absent Members: Member Verdun and Member McGary

4. Public Comment.

Renee Pajak of Homer Glen spoke to express that she was not happy about the consideration of alcohol for Bengtson’s Pumpkin Farm, even though she was aware this was likely an inevitable situation. She further is upset about a berm on the Bengtson property, and feels the lake on the property is mismanaged. Lastly, she added that she feels that Bengtson’s owns this town and that they already have a permit for their liquor license in place.

5. Minutes

May 7, 2020

Chairman Kozor asked for a motion to approve the Minutes from May 7, 2020, as written. Member Foley made the motion, seconded by Member Stanly, all in favor, zero (0) opposed, the motion passed, and the minutes were approved.

Chairman Kozor asked for a motion to approve the Minutes from June 18, 2020, as written. Member Foley made the motion, seconded by Member Hand. All in favor, zero (0) opposed
6. Old Business

a) **HG-1726-V, 14623 W 143rd Street (Public Hearing):** Consideration of (1) a variance to permit an accessory structure in the required front yard of the subject property where accessory structures are not a permitted obstruction; and (2) a variance to reduce the required front yard setback for an accessory structure located within the required front yard of a residential property from forty (40) feet to ten (10) feet at 14623 W. 143rd Street, Homer Glen, Illinois.

Senior Planner King presented the case and its history. The property is approximately 2.67 acres in size, it is a flag lot and has a four hundred (400) foot long drive way off 143rd Street. This property is zoned R-3 Single Family Residential. A detached garage and single-family home are situated on the property, and were both built in 1998. The detached garage has been rebuilt in portions and an addition was added in 2017. The applicant carries on a home business where he sells Pigeon Feed.

For some historical background, in early 2017, an addition to the detached garage was constructed without a building permit. Village staff received a complaint from a neighboring property owner, prompting a site visit. In June, Village staff issued a letter detailing the multiple Code violations, and requesting the property be made compliant. The letter also requested that a building permit be obtained for the addition on the detached garaged. The Village didn’t receive any response, so a second ticket was issued and an adjudication hearing date was sent for August 16, 2017. The property owner, Mitch Mrowca, appeared at the adjudication hearing and stated a Plat of Survey was being completed and that a building permit application would be submitted following the completion of the survey.

The case continued until the following hearing date on September 20, 2017, where Mr. Mrowca presented the completed Plat of Survey showing that the detached garage, following the construction of the addition, now sits three (3) feet from the north property line. Mr. Mrowca then requested an exception be made as the removal of the structure would present a substantial financial loss. He was then advised of the variance process. The case was continued until the next hearing on October 18, 2017. A formal zoning variance application was submitted to Village staff.

Following the conclusion of the public hearing held on November 16, 2017, the Plan Commission tabled zoning case HG-1726-V, in order to provide Village staff more time to gather pertinent information regarding the structure and its use.
At the December 7, 2017 Plan Commission meeting, members concurred that the applicant had not proven any hardship other than one he had created himself and that he had also created a hardship and a nuisance to his neighbors for being so close to the property line. The Variance to increase the number of home occupations permitted on a single zoning lot from one (1) to two (2) was removed from the motion. Village staff verified a site inspection, that only the owner was living on the property and just operating a single-home business. Members voted (6-0) to deny the Variance requests.

This item was heard at the January 10, 2018 Village Board meeting where there was a general consensus among the Trustees, that the Variance was self-created and they voted (5-0) to deny the Variance request.

In 2019, the Village of Homer Glen filed a Complaint for Injunctive Relief (Village of Homer Glen v Mieczylaw Mrowca, et. al., Will County Circuit Court Case No. 19 Ch 1780), which remains pending. The parties have discussed a possible settlement of the case and agreed to continue said matter until July 27, 2020, pending the processing of this application for a Variance.

Senior Planner King also read a letter from the Village Manager to the Commissioners, that stated the Village has discussed various options for the compliance and one option includes pursuing court compliance but the Village would have limited control of what that outcome might be, not sure if the court would make them take the entire structure down. Staff and the Village feel comfortable with taking down a portion of the addition to the detached garage to put the structure in compliance with the setbacks.

Melissa King concluded her presentation.

A motion to open the Public Hearing was made by Member Hand, seconded by Member Foley. All in favor, zero (0) opposed. The motion carried and the public hearing was opened.

Speaking for the applicant, (Mitch Mrowca), was his attorney, Alicja Plonka. She stated she was looking for a solution to the setback situation, offering to remove a portion of the addition to just the right of the overhead door. She indicated as well if they would have put the structure on the other side of the property, it would have interfered with the septic field. Also noteworthy, this property is currently listed for sale.

The Plan Commission inquired why these items were not being stored in the garage. Ms. Plonka replied that the owner wanted a secure, proper space for the inventory and wanted to use the garage for its intended use as a garage.
The Plan Commission heard comments from one resident on this case.

Wayne Felgenhauer, Homer Glen resident, spoke up to state that he lives next door and has a concern with the pigeon waste on his property which has in turn caused a fungus on his bushes. He is aware too, that pigeon waste can cause harm to humans, per his reading from the Illinois Environmental Agency literature. He further commented on the applicant made his driveway wider without a permit or calling J.U.L.I.E. an there is a gas line in that proximity.

No one else spoke for public comment. A motion was made to close the public hearing by Member Stanly, seconded by member Foley. All in favor, zero (0) opposed. The motion carried and the public hearing was closed.

Plan Commission held a discussion. Staff indicated they could not speak to the driveway concern without looking into it.

Attorney Plonka did confirm that there was a permit for the driveway and engineering did get involved regarding drainage as well.

A gentleman (Andy Waclaw) spoke up to say something. Chairman Kozor reminded him that the Public Hearing was closed and offered to address a question. Mr. Waclaw continued and stated that he assisted the applicant in securing the permit for the driveway, and J.U.L.I.E. was contacted and involved. Chairman Kozor asked for a permit number, and Mr. Waclaw replied the applicant has it.

Plan Commission held a discussion, confirmed after removing seven (7) feet of addition to the detached garage, making the structure compliant, the dimensions of this entire structure forty (40) by thirteen (13) feet. Also, it was clear that any potential new owner would not be permitted to have chickens or pigeons.

Chairman Kozor asked for a motion. Member Hand made a motion to adopt the staff’s findings as the findings of the Plan Commission and to recommend for approval with conditions of:

(1) A variance to permit an accessory structure in the required front yard of the subject property where accessory structures are not a permitted obstruction [Section 220-807 of Chapter 220 (Zoning) of the Code of the Village of Homer Glen], and

(2) A variance to reduce the required front yard setback for an accessory structure located within the required front yard of a residential property from
forty (40) feet to ten (10) feet [Attachment 1, Table 1B (Site and Structure Bulk Requirements for Residential Districts) of Chapter 220 (Zoning) of the Code of the Village of Homer Glen], for certain real property located in the R-3 Single Family Residential Zoning District at 14623 W. 143rd Street, Homer Glen, Illinois [Mrowca, Case No. HG-1726-V], subject to following conditions:

a) Following the removal of the noncompliant portion of the addition, the building must be repaired or restored to match the original garage in color and material.

b) Following the removal of the noncompliant portion of the addition, the ground shall be repaired or restored and seeded or sodded to match original conditions.

The above motion was seconded by Member Stanly.

A roll call vote was taken. Members Foley, Stanly, Hand and Chairman Kozor all voted in favor, vote 4-0, the motion passed unanimously.

This case will go to the Village Board on August 12, 2020.

Before moving forward with New Business, Chairman Kozor suggested we change the order of the agenda items, anticipating a longer discussion for one item and looking to leave it for the end in order not have other case and residents sit in waiting. A motion was made to change the order of the agenda for New Business, swapping the items A and B, by member Hand, seconded by Member Foley. All in favor, zero (0) opposed, the motion carried.

7. New Business


Senior Planner King presented the details of this case. The applicant, Carrie Peel, resides at 13643 Cedarbend Drive in the Pebble Creek subdivision. The application applied for a permit for an above ground pool and the permit was issued on June 12, 2020. JULIE was called out by the homeowner/contractor and the utilities were identified on the property and it came to their attention that an electrical line was running directly under where the pool was proposed to be installed, per the permit. The homeowner/contractor decided in the field to move the pool to the northeast toward Heatherwood Drive in order to comply with the Comed’s requirement that pools must be five (5) feet away from electric lines. The homeowner/contractor
assumed that the new position was compliant with the zoning code based on an assumption that pools are required to be ten (10) feet from the side property lines. The homeowner/contractor did not realize that the area they had moved the pool too was a corner side yard, not a side yard. Pools are not allowed as an obstruction in a corner side yard. The Building Department performed a final inspection and failed the inspection until the zoning department had a chance to review this current issue. Staff discussed the field change with the homeowner and it became clear that the homeowner potentially had a hardship on the property that staff would support for a variance request. The homeowner installed a fence along the perimeter of the yard along Heatherwood Drive and along the rear property line, enclosing the pool. Melissa added that staff had received some calls from residents for clarification, no issues, and Melissa concluded her presentation.

The applicant spoke on her own behalf and added simply, that the property to the south of hers has a flooding issue and it bleeds onto her property and would potentially rot out the new pool with time. She also added that her neighbors are supportive of the pool location.

Chairman Kozor asked for a motion to open the public hearing. Member Foley made the motion to open the public hearing for case HG-2007-V, seconded by Member Hand. All in favor, zero (0) opposed. The public hearing was opened.

No one in attendance to speak on this case. Chairman Kozor said we would close the public hearing. Commissioner Stanly made the motion to close the public hearing, seconded by member Foley. All were in favor, zero (0) opposed, the motion carried and the public hearing was closed.

The Plan Commission carried out a very brief discussion, discussing the corner side fence height – no issues, all compliant. The Plan Commission discussed the distance from the current location of the pool from the original requested location, which is approximately between one and a half (1.5) feet to roughly five (5) feet from the original proposed pool placement. No further discussion, Chairman Kozor asked for a motion.

Commissioner Foley made the motion to adopt the attached findings as the findings of the Plan Commission and to recommend for approval of a Variance to permit an above ground pool as an obstruction in a corner side yard, per [Table 1B (Site and Structure Bulk Requirements for Residential Districts) of Chapter 220 (Zoning) of the Code of the Village of Homer Glen], for certain real property located in the R-5 single Family Residential Zoning District at 13643 W. Cedarbend Drive, Homer Glen, Illinois. The motion was seconded by Commissioner Hand.
A roll call vote was taken. Four (4) in favor (Foley, Stanly, Hand and Kozor), zero (0) opposed. The motion carried. This case will go before the Village Board on August 12, 2020.

a.) HG-2006-S, 13341 W. 151st Street (Public Hearing): Consideration of an Amendment to the Planned Unit Development (PUD) granted by Ordinance No 17-03 for the property commonly known as 13441 W. 151st Street, Homer Glen, Illinois. The applicant is requesting to allow the sale of alcoholic beverages in association with the PUD.

Director Gadde presented the case, stating that the Bengtson Pumpkin Farm has been operating on the subject property since 1988. In 2017, the Village approved a Planned Unit Development (PUD) to allow the property to be used as a private park with certain PUD exceptions via Ordinance 17-023.

The applicant is now seeking an amendment to the PUD for the sale of alcoholic beverages pursuant to Section 220-502.B.22 of the Zoning Code. This amendment would help the Bengtson Pumpkin Farm continue to grow its festival operation and deliver an additional service to those visitors that have requested this service for many years. The public has made some inquiries and expressed some concern that the approval would lead to weddings and banquets, there are worries this could turn into a CD and Me (Frankfort, Illinois). Hosting weddings and banquets require a different PUD and Bengtson’s does not have approval for those things at this time. Director Gadde added that this being a property zoned for Agriculture, the Village Code requires agricultural properties to apply for special use permits for the sale of alcoholic use. This is why the petitioner is here, seeking approval for the PUD, and he concluded his presentation.

The Plan Commission asked if this would become zoned Agri-Business? Director Gadde stated that yes, that the Comprehensive Plan is currently being worked on and one of the recommendations for land use planning, is to make these types of properties, (Bengtson’s and Konows for example) zone them Agri-Business. Furthermore, the Plan Commissioner clarified that Konows currently also has a liquor license, and that was approved by the Plan Commission after the 2014 zoning code was in place.

Chairman Kozor asked for a motion to open the Public Hearing. Member Foley made a motion to open the Public Hearing, seconded by Member Hand. All in favor, zero (0) opposed, and the Public Hearing for case number HG-2006-S.

The petitioner, Jeremy Bengtson, approached to discuss the matter. He stated that at this time there are no plans to alter or restructure their current business. They are sticking to festivals for the general public. They are not adding live music. Their goal is to keep the business as family festival format, just adding a menu option.
The Commission asked about hours of operation. The petitioner stated that they didn’t want to commit to a time frame because they have, in the past, extended the length of time the festival remains open by a couple weekends in order to alleviate the traffic congestion throughout the Village of Homer Glen. He stated that he doesn’t know for sure the exact number of days they are in operation. Now that they open in September, it is only on weekends, not on weekdays. He believes that last year they were open for a total of forty-five (45) days. They did close for a week due to unseasonably unique weather with early snow. Jeremy also stated they didn’t want to lock in a number of days because they don’t know what the future holds ten (10), twenty (20), fifty (50) to one-hundred (100) years out. Also, the operations close down at nine (9) pm. The Village limit is ten (10) pm, but they didn’t feel there was a benefit to keeping the facility open till that hour.

Resident Cynthia Rataj spoke to express concern with the outdoor lighting (dark sky community) being on for forty-five (45) days. There are two (2) poles that will be left on during the off season. She added that in 2017, Trustee Sweas discussed the non-conformance of the lighting on the property – wonders how many more lights have been added. Also, there is a pole by the street, in the Right of Way, and she wondered if that pole will be removed. Lastly, she asked if the liquor will be contained to certain areas of the property. This resident also stated she saw a bride and her party in the parking lot last Spring.

Mike and Diane Yeager next approached, Mike spoke his concerns on their behalf. Their concern is that this is a family festival, and with alcohol being served, who will be watching the children. He also, feels it’s best to keep the alcohol contained to limited areas and not throughout the property during the events. He also mentioned the excavation that took place on the property and the berm that was left behind. Feels it is unkept, it’s clay fill, not attractive and all weeds. Said they addressed this with Jeremy a year ago, and he had it taken care of just after the discussion but then has left it abandoned and unmaintained. Diane Yeager also commented that they had spoken to staff about this, and the Village sent someone out to talk to Jeremy about the maintenance of the berm, and someone came to take care of the flat surface around the berm with a weed-whacker. Ms. Yeager said that she doesn’t like to look out her window because of the view. Other people that have visited have commented on it as well. She said they were told it would be made nice and the funny thing is they were happy with it as it was – a flat field. She is looking to get some help to get this resolved.

Laurie Lave spoke next. She lives next door to the Yeagers. She wanted to know that the liquor license would be for alcohol served only during the festival. She doesn’t have any issue with Bengtson’s, was a little concerned about the lighting as well, a couple lights are very bright on a building and they shine right into her bedroom window. Said with respect to the berm, it is not maintained. It has caused some flooding issues as well. She is not sure there is a trust that the Bengtson people
will actually maintain the berm. She added that garbage collects there which adds to the unsightliness. She concluded that she wants to believe that Bengtson’s is going to do what they say they are going to do.

No further comments from the public. Chairman Kozor asked for a motion to close the public hearing. Member Foley made the motion to close the public hearing, seconded by Member Stanly. All in favor, zero (0) opposed. The public hearing was closed.

The Plan Commission held a brief discussion. If recommend for approval of the liquor license, it will be good year-round. Also, Agricultural Properties are not required to conform to the lighting code. In this case too, it would be very cost prohibited. Jeremy Bengtson stated that he would shield that fixture that is shining into the resident’s bedroom window. He stated too, that the trees on the berm will eventually grow and shield the homes from the lights altogether. All the lights that were put in after the PUD are complying with the code and where they could, they removed all the 5000K and replaced with 2200K. Parking lights that were there, will remain. Chief Building Official Baber did request that anything new to please comply with the lighting ordinance. Bengtson’s was agreeable to comply. With respect to the temporary lighting across the street, they are gas powered and dim as well and only on when parking is needed across the street. The one strong light on the roadway that was mentioned, that was put in as a request for safety by the police as they stand in the road and direct traffic. When the road is widened, that light will be removed. When alcohol is on site, on those particular days, police or security will be present. Weddings are not on the table at this time. They would need to come before the Plan Commission again if they decided they wanted to do weddings in the future, to seek approval. The Plan Commissioners further clarified how the liquor would be distributed at the festivals, on the days that they would be offering the liquor. Bengtson’s doesn’t have a solid plan in place at this time as they didn’t know if they would be getting approved, but they don’t have any idea of how this will look in terms of numbers. They don’t want it to be a beer garden because it’s a family place and they aren’t looking to separate the parents from the kids, and they don’t want the beer garden to be the focus. The number of beverages would be limited per person, possibly setting price higher to detour over drinking. The idea is you make your purchase and continue to walk through the park with your family.

The Commissioners addressed the flooding and reminded them to contact the Village Engineering department 2 days after a rain if the water persists. Also, grass cutting can be addressed with the Village to they addressed Jeremy directly to be a good neighbor so that they don’t make recommendations with the motion and asked Jeremy to please hear your neighbors and be proactive. Jeremy agreed. Jeremy added that people complain about the dust in the parking lot, so they have PT Ferro come and drop asphalt grinds to minimize dust in an effort to address prior dust concerns.
The Plan Commission discussion concluded and Commissioner Stanly made a motion to recommend for approval of an Amendment to the Planned Unit Development (PUD) granted by previously amended Ordinance No. 17-023 for the property commonly known as 13341 W. 151st Street, Homer Glen, Illinois, to allow the sale of alcoholic beverages [HG-2006-S, Bengtson Pumpkin Farm, LLC]. The motion was seconded by Member Foley.

A roll call vote was taken. Four (4) in favor (Foley, Stanly, Hand and Kozor), zero (0) opposed. The motion carried. This case will go before the Village Board on July 22, 2020.

8. Reports of Plan Commissioners and Staff (includes Old Business):

Director Gadde discussed the Chicken and Bee ordinance and stated that there haven’t been any complaints about the bees and at this time, the Ordinance stands where chickens are only permitted on Agricultural properties, and properties zoned E1 and E2 – up to four (4) birds only. There will be another code amendment likely in March 2021. Director Gadde also discussed the Comprehensive Plan Review is moving along and they are looking to come as close to the original target date in October to have everything wrapped up, but things may be a little behind.

There is one (1) case set for August 6 Plan Commission, which is a fence variance.

The Village is working on the Logo still, and there will likely be another Village Board Workshop coming up for the logo.

9. Adjournment:
No other updates. A motion was made to adjourn the meeting at 8:43 pm by Member Foley, seconded by Member Stanly. All in favor, zero (0) opposed, the motion passed and the meeting was adjourned.

Minutes transcribed and respectfully submitted by Gia Cassin.

Gia Cassin (Plan Commission Secretary): ________________________________

Approved (Date): ________________________________

Gia Cassin (Plan Commission Secretary): ________________________________

Approved (Date): ________________________________
November 16, 2017
RE: Case No. HG-1726-V
To:

The Chairman of the Village of Homer Glen Plan Commission
From:

Thomas R Ciechanowski
Homer Glen IL, 60491

Dear Sir,
I am writing this letter to be heard as a resident who has to look at these structures every day from my kitchen table. I expect my comments to be made part of the record of your hearing. My comments are as follows:

1. Your Legend on the plat of survey provided is incorrect, the “original detached garage” was not as shown, this garage had an addition with a lean-to roof on the north side of the structure in 2005. This maybe the “original permit” along with the fence that was constructed at the same time.
2. The 2 story Garage was constructed at a later date from the addition of the original garage and fence.
3. When I E-mailed the building department asking if an accessory structure could exceed 20’ in height for an R-2 zoning, I received no response. If you have access to archived E-mail please search for tciechanowski@comcast.net.
4. My main complaint and another that was dismissed by the building department is the fact that his animals, chickens, guinea fowl, peacocks and dogs have really done damage to my garden and yard, I was told that there is no ordinance pertaining to chickens in your yard, so I asked if you could enforce ordinance 220-839 A, which states that all animals be keep at least 50’ from the property line. I never received a response; they are living on the property line. The Pigeons that he raises on the 2nd floor defecate on to a metal roof that runs into a gutter that drains onto my property.
5. I’m confused as to your letter stating that accessory structures are not a permitted obstruction and yet they are asking that the required setback be 3’ instead of 40’?
6. According to the survey you provided me (as best I can read the small print) he is only 2.68’ of the property line which means that if you grant him a variance to be only 3’ as stated in your letter he still would not be in compliance?

Thank You for your consideration on this matter.

Sincerely;
Thomas Ciechanowski
July 16, 2020  
RE: Case No. HG-1726-V  
14623 W. 143rd Street  
Homer Glen, IL 60491  

To:  

Brian Kozor, Chairman of the Village of Homer Glen Plan Commission  

From:  

Thomas R Ciechanowski  

Homer Glen IL, 60491  

Dear Mr. Kozor,  

Here are my written comments and questions about the case number listed above. Please add my comments to the record of the Plan Commission meeting on July 16, 2020.  

I would like to reiterate all previous comments, submitted to the November 16, 2017 Plan Commission meeting (copy attached)  

I fail to understand how, after this case was resolved by this commission and by the full village council, why are we revisiting the same issues? Please explain.  

A recent project was just completed to widen and heighten his driveway and add drainage tiles along the sides. Has a permit with engineering been issued and available for review? My observation is it is blocking the natural drainage away from my property and that of the neighbors to the north of Mr. Mrowca’s property.  

It has come to my attention that Mr. Mrowca is trying to sell the property at 14623 W. 143rd Street, if somebody buys this property, are they responsible for making the non-compliant structures and all the non-compliant items that the present owner has built without permit, compliant?  

I DO NOT want you to approve this varience  

My e-mail is  

Thank you for your consideration on this matter.  

Sincerely,  

Thomas Ciechanowski
Zoning Hearing Case No. HG 1726V, July 16, 2020

1. On November 16, 2017, Mitch applied for variances for the same two issues. He applied for the variances because he built the attached shed to his detached garage WITHOUT a permit. He did not talk to me nor my neighbors, who a join his property. When he built the attachment, he told me that he had a permit. However, when talking to one of my contract neighbors, my neighbor informed me that the attachment should be 40 feet away from the property line, according to the building code.
   a. The extension is two feet away from the property line,
   b. The extension metal roof slants toward my property,
   c. Bird feces drops from cages over the roof extension. Rain is supposed to wash the feces from the extension roof to a gutter, then to a down spout which is NEXT to my property line,
   d. This has caused some fungus on our bushes. Also, in reading information from the Illinois Environmental Agency, pigeon waste can cause danger to humans. Furthermore, he is storing the waste along the fence, WHICH IS THREE FEET FROM THE PROPERTY LINE!

2. NUMEROUS times I have talked to Mitch about his various annoyances.
   o Many times, his ducks, chickens, geese, guinea hens, dogs and cats would travel on all neighboring properties. At times for us this caused damage to my and my neighbor’s gardens, made it difficult to walk our dog without her wanting to chase his chickens back on to his property.
   o After he had a fire in the detached garage near our house, he illegally reattached the electrical connection without permission from electric company. Comed later came out and disconnected it again.
   o At times he has been burning items that are not approved like treated woods, trash, plastics. We close our house windows because the smoke makes us cough and eyes burn.
   o He decided to widen his driveway, without a permit, to be able to accommodate semi-tractor trailer.
   o He did not get Julie to flag the area NEXT TO HIS DRIVEWAY WHERE OUR MAIN GAS LINE LAYS. The person who dug a ditch, next to his driveway, DUG RIGHT OVER THE GAS LINE! Thank goodness there was not an explosion.
   o My neighbor, North of me, has a natural stream running through his property, crossing under Mitch’s driveway. The ditch digger also damaged our neighbors’ culvert. Now then it rains, it floods the neighbor’s yard.

He has no regard for any neighbor's property or safety. As we said for many years, we tried to talk, have had no cooperation. We have for many years been filing complaints. He just continues to do as he pleases. We do not think giving him this variance is proper since he doesn’t comply with any of the rules.

Wayne Feigenhauser

Homer Glen, Illinois 60491

Shawn Feigenhauser

Homer Glen, Illinois 60491
To: Chairman and Members of the Homer Glen Plan Commission

From: Melissa W. King, Senior Planner

Meeting Date: August 6, 2020

Agenda Item Number: 6.a

**Subject:** Case No. HG-2008-V, 12135 Aspen Lane

<table>
<thead>
<tr>
<th>Property Information</th>
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<tbody>
<tr>
<td><strong>Location:</strong></td>
<td>12135 Aspen Lane</td>
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<tr>
<td><strong>Property Size:</strong></td>
<td>Approx. 20,551 square feet</td>
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<tr>
<td><strong>Existing Zoning/Use:</strong></td>
<td>R-3 Single-Family Residential / Single-Family Home</td>
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<td><strong>Adjacent Zoning/Use:</strong></td>
<td>N: R-3 Single-Family Residential / Single-Family Home</td>
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<td></td>
<td>E: R-2 Single-Family Residential / Single-Family Home</td>
</tr>
<tr>
<td></td>
<td>S: R-3 Single-Family Residential / Single-Family Home</td>
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<td></td>
<td>W: R-3 Single-Family Residential / Single-Family Home</td>
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**Background**

The applicants, Andrew and Ashley Radtke (Prause), are proposing to install a six (6) foot white vinyl privacy fence to enclose their rear yard, as shown on Attachment 2. The proposed fence encloses part of the subject property’s corner side yard along Pineview Drive. Per the existing regulations of §220-812 (Fences, walls and swimming pools), fences in corner sides yards are not permitted to be over four (4) feet in height or more than fifty (50) percent open in design. The applicant is seeking Variances to allow a six (6) foot privacy fence in the corner side yard.

**Conformance with Zoning Regulations**

The placement, height, design and material of fences are controlled through a single section - 220-812 (Fences, walls and swimming pools) of Chapter 220 (Zoning) of the Code of the Village of Homer Glen. Per these regulations, these various characteristics are dictated by which area of the property a fence is to be located, whether that be the front, corner side, side or rear yard. Fences may be located up to any line forming a part of the property and acceptable materials include: wood; vinyl; aluminum; steel; chain link; or composite. The height and design regulations are:
• Front and Corner side yard – maximum height of four (4) feet; must not exceed fifty (50) percent openness; and
• Side and rear yard – maximum height of six (6) feet; may be open or solid in design not to exceed fifty (50) percent openness.

The applicant has requested variances in order to install a fence in the corner side yard with a six (6) foot solid fence.

Per 220-808 of the Code of the Village of Homer Glen, at the intersection of all streets and points of ingress or egress onto any street, no obstructions exceeding three feet in height shall be permitted within the triangular area formed by the intersection of any two street rights-of-way lines and/or the intersection of any street right-of-way line with any edge of any service or other access drive determined by a line drawn connecting two points located 25 feet equidistant along said right-of-way lines or service or access drive edges from the point of intersection thereof. As shown on Attachments 1 & 2, the privacy fence as proposed will not be located within the vision clearance triangle for the driveway of the neighboring property, for the driveway of the subject property nor the intersection of Aspen Lane and Pineview Drive.

Similar Variances Granted
• HG-1906-V: A variance to allow the replacement of an existing six (6)-foot-high fence in the corner side yard. *(ReplacedExistingFence)*
• HG-1837-V: A variance to allow the replacement of an existing six (6) foot high solid fence in the corner side yard. *(ReplacedExistingFence)*
• HG-1722-V: A variance to allow an increase from the maximum four (4) foot high to a six (6) foot high “solid” fence in the corner side yard. *(NewFence)*

**Homes in the Area with six (6) foot fences**

While there are not very many homes with fences in this Subdivision, a number of the fences in this area are on corner lots. See Attachment 4, for images of two properties in this Subdivision that have six (6) foot privacy fences in the corner side yard on corner lots.

**Findings of Fact:** Section 220-1207C(1-3) of the Code of the Village of Homer Glen states the required standards for making findings of fact for a Variance. The Code requires that the Plan Commissioners consider these standards in making its finding and determining a recommendation to send to the Village Board. Staff concurs with the following hardship evidence described by the applicant:

• A six (6) foot solid fence will provide necessary, safety, security and privacy of the resident’s rear yard area that is currently open visibly to the right of way along S. Pineview Drive.

**Conformance with Other Codes**

**Exterior Construction Standards (Chapter 75, Article II):**
The Exterior Construction Standards do not apply to the requested Variances as such standards apply only to primary dwellings and accessory structures greater than two hundred twenty-five (225) square feet in area located in residential zones. The new fence, proposed as white vinyl privacy, will be required to be of a material included in those listed in §220-812 (Fences, walls and swimming pools) of Chapter 220 (Zoning) of the Code of the Village of Homer Glen.
Lighting (Chapter 75, Article II):
The Lighting regulations do not apply to this request as no exterior lighting has been proposed.

Conservation Subdivision (Chapter 107, Article IV):
The Conservation Subdivision regulations do not apply to this request because the applicant has not proposed the development of a residential subdivision greater than ten (10) acres in area, nor have they proposed the development of a residential subdivision made up of lots less than one and one-half (1.5) acres in size.

Tree Preservation (Chapter 107, Article III):
The Tree Preservation regulations do not apply to this request as the applicant has not requested the approval of a Preliminary Plat of Subdivision or proposed the division of the subject property, and the subject property is less than five (5) acres in size.

Subdivision & Stormwater (Chapter 138, Article I):
The Subdivision regulations do not apply to this request as the applicant has not proposed the division of the subject property at this time. The Stormwater regulations do not apply to this request, as the addition to the existing dwelling is less than one thousand (1,000) square feet in area.

Park Donation (Chapter 138, Article II):
The Park Donation regulations do not apply to this request as these regulations only apply when the final Plat for a residential subdivision or development has been approved, or when the final Plat for a Planned Unit Development has been approved.

Conformance with Adopted Plans
Comprehensive Land Use Plan:
The Comprehensive Plan designates the subject property as Single-Family – Moderate Density. This aligns with the subject property’s current zoning, R-3 Single-Family Residential.

Transportation Plan:
The Variances requested by the applicant conform to the regulations and recommendations set forth within the Village of Homer Glen Transportation Plan.

Motion for Consideration
Is there a motion to adopt staff’s findings as the findings of the Plan Commission and to recommend ____________ (approval / approval with conditions / denial) of: (1) a Variance to increase the maximum permitted height of a fence located in a corner side yard from four (4) feet to six (6) feet; and (2) a Variance to permit a solid fence in a corner side yard where fences are required to be fifty (50) percent open in design, for certain real property located in the R-3 Single-Family Residential District at 12135 Aspen Lane, Homer Glen Illinois [Case No. HG-2008-V]?

Attachments
1. Aerial
2. Plat of Survey/Site Plan
3. Photos of Subject Property
4. Staff-Suggested Findings of Fact
Attachment 2 – Plat of Survey/Site Plan

- Distance to curb is approximate based on aerial.
- Clear Vision Triangle for Driveway
- Clear Vision Triangle for Driveway
- Fence along corner side yard to be six (6) feet from property line.
- Proposed six (6) foot solid fence, shown in magenta.
Attachment 3 – Photos of Subject Property
Attachment 4 – Photos of Neighboring Properties

16824 Juniper, six (6) foot privacy fence in corner side yard

17036 Longmeadow, six (6) foot privacy fence in corner side yard
Chapter 220-1207C(1-3) of the Code of the Village of Homer Glen lists the standards by which the Plan Commission shall make the findings of fact. The following are the categories with staff's recommended findings in italics:

1. The Plan Commission shall not vary the provisions of this Ordinance as authorized unless it has made findings based upon the evidence presented to it in the following cases:

   (a) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone.

   *The property could indeed yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the R-3 Single-Family Residential District.*

   (b) That the plight of the owner is due to unique circumstances.

   *The owner has indicated they would like more safety, security and privacy in their yard than what would be provided from an open four (4) foot fence. By nature of the layout of a corner lot, the rear yard of a home is more “visible” from the right of way and therefore reduces privacy in the rear yard. The privacy issues are tied directly to a corner lot and not all lots, generally.*

   (c) That the variance, if granted, will not alter the essential character of the locality.

   *The Variances, if granted, will not alter the essential character of the locality. The replacement of this fence is not likely to significantly alter the character of the subdivision. Fences are a normal accessory structure for a single-family residential home. While there are not very many homes with fences in this Subdivision, a majority of fences in this area are on corner lots.*

2. A variance shall be recommended to the Village Board only if the evidence, in the judgment of the Plan Commission, sustains each of the three conditions enumerated in Subsection C(1).
3. For the purpose of supplementing the above standards, the Plan Commission, in making its determination, shall also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

(a) That the particular surroundings, shape, or topographical conditions of the specific property involved will bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations was carried out.

*The subject property’s surroundings, shape and topographical conditions do appear to bring about a hardship upon the owner. By nature of the layout of a corner lot, the rear yard of a home is more “visible” from the right of way and therefore reduces privacy in the rear yard.*

(b) That the conditions upon which the petition for variance is based would not be applicable, generally, to other property within the same zoning classification.

*The privacy issues are tied directly to a corner lot and not all lots, generally.*

(c) That the purpose of the variance is not exclusively based upon a desire to make more money out of the property.

*The purpose of the requested Variance is not exclusively based upon a desire to make a greater profit out of the property upon its sale. On the contrary, the applicant would like to provide privacy to the rear yard.*

(d) That the alleged difficulty or hardship has not been created by any person presently having an interest in the property.

*The applicant did not create the corner lot, as this subdivision was platted in 1989.*

(e) That the granting of the variance will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located.

*Village staff does not foresee the approval of these Variances as having a detrimental impact on the public welfare or being unduly injurious to other property or improvements in the Meadowcrest Subdivision.*
(f) That the exterior architectural appeal and functional plan of any proposed structure will not be so at Variance with the exterior architectural appeal and functional plan of the structures already constructed, or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.

The Village’s exterior materials standards do not apply to fences; instead, the Village permits a short list of acceptable fence materials stated previously in the staff report. The proposed fence does meet these criteria. In regards to the property’s functional plan, the fence does match the functional plan of the subject property, as a residential fence is indeed complementary to the existing dwelling and other accessory structures present.

(g) That the proposed variance will not impair an adequate supply of air to adjacent property, substantially increase the danger of fire, otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.

The proposed Variances will not impair an adequate supply of air to the adjacent property, substantially increase the danger of fire or substantially diminish or impair property values within the Meadowcrest Subdivision. Furthermore, staff does not foresee the new fence endangering public safety, as the fence is located at a significant distance from the intersection of S. Pinegrove and Aspen Lane.
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Legend
- Address Points
- Roadways
  - Federal
  - State
  - County
  - Local and Private
- Surrounding Counties
- Townships
- Parcels

Notes

Date: 7/27/2020

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