



VILLAGE OF LINCOLNSHIRE

MINUTES ZONING BOARD MEETING Tuesday, August 11, 2020

Present:

Chair Bichkoff

~~Member Hersch~~

Member Kalina

Alternate Member Kelly

Assistant Village Manager/Community &

Economic Development Director Gilbertson

Member Udoni

Member Curtin

Member Josephson

Trustee Harms Muth

Planning & Development Manager Zozulya

This was a remote video-conference meeting

1.0 ROLL CALL

Chair Bichkoff called the meeting to order at 7:03 p.m., and Assistant Village Manager/Community & Economic Development Director Gilbertson ("AVM/CEDD Gilbertson") called the roll and declared a quorum to be present.

2.0 APPROVAL OF MINUTES

2.1 Approval of the minutes of the Zoning Board meeting held on Tuesday, March 10, 2020.

Member Udoni moved and Member Kalina seconded the motion to approve the minutes as presented for the Tuesday, March 10, 2020, Zoning Board meeting.

AYES: Kalina, Kelly, Udoni, Curtin, Josephson, and Bichkoff

NAYS: None

ABSENT: Hersch

ABSTAIN: None

Chair Bichkoff declared the motion carried.

3.0 ITEMS OF GENERAL BUSINESS

3.1 Continued Public Hearing regarding Text Amendments to Revise Chapters 2 (Zoning Definitions) and 3 (General Zoning Regulations) of Title 6 (Zoning) of the Lincolnshire Village Code to Define and Regulate Certain Accessory Structures and Uses, including:

3.1(a) Temporary Season-Extending Growing Structures;

3.1(b) the Harboring of Bees on Non-Residential Property;

3.1(c) the Harboring of Chickens on Residential Property; and

3.1(d) the Number/Type of Accessory Structures Permitted on Residential Property (Village of Lincolnshire)

Chair Bichkoff convened the continued public hearing and provided an overview of the virtual public hearing process and procedures.

AVM/CEDD Gilbertson summarized the previous discussion and consensus during the March 10, 2020, Zoning Board regarding item 3.1(a). AVM/CEDD Gilbertson stated it was the consensus of the Zoning Board to prohibit hoop houses, high tunnels, and similar temporary season-extending growing structures.

Chair Bichkoff opened the meeting to public comments. There being no public comments, Chair Bichkoff opened comments to the Zoning Board members.

In response to a question from Member Udoni, AVM/CEDD Gilbertson stated there are no current issues or violations with season extending growing structures in Lincolnshire. The proposed changes are intended to clarify the definition of “seasonal structures” in the Zoning Code.

There being no further discussion, Chair Bichkoff entertained a motion.

Member Udoni moved and Member Kelly seconded the motion to recommend approval to the Village Board the proposed text amendments to Chapter 2 (Zoning Definitions) and Chapter 3 (General Zoning Regulations) of Title 6 (Zoning) to define and regulate accessory structures, including hoop houses and similar temporary season-extending growing structures.

AYES: Udoni, Curtin, Kalina, Josephson, Kelly, and Bichkoff

NAYS: None

ABSENT: Hersch

ABSTAIN: None

Chair Bichkoff declared the motion passed.

AVM/CEDD Gilbertson summarized item 3.1(b), in that the previous consensus of the Zoning Board was to allow the Marriott Resort to continue their bee keeping operation under their special use permit in the B2 zoning district. AVM/CEDD Gilbertson presented photos showing the location of the bee hives and noted their distance from adjacent residential areas. AVM/CEDD Gilbertson also stated village staff and Marriott Resort representatives are discussing a Planned Unit Development designation for more use flexibility in the future versus continued special use amendments.

Chair Bichkoff opened the meeting to public comments. There being no public comments, Chair Bichkoff opened comments to the Zoning Board members.

Member Curtin noted there is no indication in the draft text as to species of bees. AVM/CEDD Gilbertson directed members to page 48 of the packet, which indicated the practice of bee keeping will be governed by Section 11-13-4-C and has yet to be created and discussed by the Village Board and will include more specific parameters for bee keeping. Member Kelly agreed that bees should be kept for the sole purpose of honey production. Member Kelly also asked if options would be available for other businesses or residents to keep bees. AVM/CEDD Gilbertson stated it was the consensus of the Village Board to prohibit residential bee keeping but allow Marriott to continue with their operation. He added a resident could bring a request to the Village Board for further consideration via the text amendment process.

There being no further discussion, Chair Bichkoff entertained a motion.

Member Josephson moved and Member Kalina second the motion to recommend approval to the Village Board the proposed text amendments to Chapter 3 (General Zoning Regulations) of Title 6 (Zoning) to define and regulate accessory structures and uses, including the harboring of bees and beehives on nonresidential property.

AYES: Udoni, Curtin, Kalina, Josephson, Kelly, and Bichkoff

NAYS: None

ABSENT: Hersch

ABSTAIN: None

Chair Bichkoff declared the motion passed.

Regarding item 3.1(c), AVM/CEDD Gilbertson summarized the Zoning Board requests from the March 10, 2020, meeting regarding the height of chicken coops (increasing from 6 feet to 7 feet). The Zoning Board also requested additional information regarding the impact backyard chicken coops may have on property values and any health concerns related to human interaction with chickens.

AVM/CEDD Gilbertson reviewed the previously-presented 12 month pilot program recommendations, as presented to the Zoning Board on March 10. Upon previous direction from the Zoning Board, AVM/CEDD Gilbertson spoke with several local real estate agencies regarding impact on neighboring property values; none of the individuals surveyed indicated a positive or negative impact of backyard chicken keeping on property values; however, they did state general property maintenance issues have more impact.

AVM/CEDD Gilbertson also presented findings on health considerations with backyard chicken keeping. He noted the Centers for Disease Control maintains a backyard poultry website which provides guidance for keeping both humans and chickens safe from disease. AVM/CEDD Gilbertson also stated he spoke with a representative from Lincolnshire Animal Hospital who stated some bacteria are commonly associated with chicken keeping, but that health risks can be mitigated with proper hygiene, hand washing and so forth.

AVM/CEDD Gilbertson requested the findings of fact for Items 3.1(a)-(d) be entered into the record.

Chair Bichkoff opened the meeting to public comments and reviewed the rules for virtual public hearings comments. AVM/CEDD Gilbertson stated he received no pre-registration for comments but received written comments from: Nancy Slatin (12 Fox Trail); Nona Novak (2 Middlebury); and Kathy Healan (306 Carlisle). All comments were read into the record.

Chair Bichkoff asked if any other audience members participating and viewing the virtual meeting would like to make a comment; no additional comments were made. Chair Bichkoff opened the discussion to members of the Zoning Board.

Member Kelly asked about the proposed license requirements and what other

communities require. AVM/CEDD Gilbertson stated staff drew upon the experiences of other communities including Highland Park, Deerfield, and Lake Bluff when compiling parameters for the pilot program. The proposed requirement of registering with the State of Illinois is for the purpose of alerting the resident of any health issues such as avian flu that may arise

Member Kelly asked about the pilot program, inspection protocols in place, and what will happen at the end of the program. AVM/CEDD Gilbertson stated staff will evaluate the pilot program as it progresses based upon staff recommendations noted above or violation calls and subsequent inspections.

Member Udoni asked about disease outbreak and how will the Village be notified in that event. AVM/CEDD Gilbertson speculated the chicken owner would seek medical treatment for chickens upon illness, with reporting to state authorities of disease outbreak and state notifications to other registered backyard chicken keepers. Member Udoni stated her concern regarding cleanliness of coops and that they must be maintained and properly cleaned.

Member Josephson stated his concerns with the program guidelines, cleanliness, and the possibly of putting the community at risk. He expressed a desire for periodic spot inspections to ensure compliance versus letting the owner monitor their coops. Member Josephson also noted his concern with live animals and potential spread of disease.

Member Kalina asked about the existing coops and what will they have to do to come into compliance. AVM/CEDD Gilbertson indicated there are two existing coops and they would be required to apply for permits and come into compliance with the pilot program. Member Kalina noted there are a variety of other types of domesticated pets that can carry and spread disease and are not regulated. Member Kalina believed chicken keepers will be responsible owners as they will be consuming the eggs. He noted his support of the pilot program but indicated enforcement and follow-up will be critical.

Member Kelly commented on the proposed coop distance from house and that he preferred more distance from the house to minimize potential for disease transmission. AVM/CEDD Gilbertson stated the distance standard is 5 feet from the house for storage structures, but staff is proposing a 10 foot setback from the house; however, the Zoning Board can recommend a different standard.

Chair Bichkoff agreed with the concerns on oversight, and expressed a concern of Village staff's capacity to tackle this. Chair Bichkoff also said he has heard of comments both in favor and against the proposed program. He noted the fact that there are two coops in the Village, and that staff is being asked to retroactively provide the regulations to permit these coops.

Member Kelly agreed the Village needs the staff capacity to monitor the program and suggested property owners who receive permits under the pilot program can provide additional feedback on enforcement and compliance. AVM/CEDD Gilbertson stated staff capacity was discussed with the Village Board, hence the proposal to cap the number of permits to 5. He added if the program expands to the full amount of permits, other resources for

monitoring and enforcement may possible through Lake County Animal Control, but staff time will be evaluated and reported to the Village Board at the sunset of the pilot program. In regards to the illegality of existing coops, AVM/CEDD Gilbertson stated backyard chicken keeping was part of broader discussion on urban agriculture.

There being no further discussion, Chair Bichkoff entertained a motion.

Member Kalina moved and Member Kelly seconded the motion to recommend approval to the Village Board the proposed text amendments to Chapter 3 (General Zoning Regulations) of Title 6 (Zoning) to define and regulate accessory structures and uses, including the keeping of chickens on residential property, and chicken coop requirements, and further subject to the additional pilot program controls regarding inspections and enforcement.

Member Curtin asked AVM/CEDD Gilbertson if other municipalities that permit backyard chickens indicated issues. AVM/CEDD Gilbertson stated his contacts with other communities indicated no additional burden. Member Curtin asked how illnesses will be addressed. AVM/CEDD Gilbertson said the Village would inspect the coop and document. If conditions become egregious, staff would consult with legal counsel, but he did not anticipate this happening based upon other communities experience. Member Curtin added he too has heard both negative and positive comments and staff should include some language on species of chickens that would be permitted.

AYES: Udoni, Curtin, Kalina, Josephson, Kelly and Bichkoff

NAYS: None

ABSENT: Hersch

ABSTAIN: None

Chair Bichkoff declared the motion passed.

AVM/CEDD Gilbertson presented staff recommendations on item 3.1(d) and the number/type of accessory structures permitted on residential property. He stated the Village Board requested feedback from the Zoning Board on the number and types of accessory structures which includes structures such as sheds, play structures, trampolines, and potentially chicken coops if they become permitted. He stated current Village code caps the number of accessory structures at 2 and they cannot be the same type, other than play structures. AVM/CEDD Gilbertson said several Village Board Members expressed concern with chicken coops being permitted as one of the two accessory structures.

Jody Dierks, 35 Kings Cross, joined the virtual meeting via phone. She inquired about greenhouses and if those are included in the definition of accessory structures. AVM/CEDD Gilbertson said greenhouses are within the definition of accessory structures. AVM/CEDD Gilbertson also provided context on the direction from the Village Board, in that initial feedback from Village Board was based upon the use of the structure and also concerns of multiple accessory structures becoming a nuisance. Chair Bichkoff said he understands people getting carried away with multiple accessory structures and could see a need for a maximum total number. Member Kelly stated two accessory structures plus a play structure seemed sufficient. For clarification, AVM/CEDD

Gilbertson stated the current limitation on accessory structures is two, and that a property owner could have two play structures but not an additional accessory structure. Member Udoni agreed that we should not make exceptions for coops; they should be included in the maximum number whatever that may be.

Member Udoni and Member Josephson seconded the motion to recommend approval to the Village Board the proposed text amendments to Chapter 3 (General Zoning Regulations) of Title 6 (Zoning) to regulate accessory structures by limiting the number of accessory structures to one if such structure is a chicken coop, and by removing the current exception for up to two play structures as permitted accessory structures.

There being no further discussion, Chair Bichkoff entertained a motion.

AYES: None

NAYS: Udoni, Curtin, Kalina, Josephson, Kelly, and Bichkoff

ABSENT: Hersch

ABSTAIN: None

Chair Bichkoff declared the motion failed. Chair Bichkoff requested the Village Board reconsider the limit on number of accessory structures, but to not favor one type of structure over another.

Chair Bichkoff declared the public hearing closed.

3.2 Public Hearing regarding Text Amendments to Chapters 2 (Zoning Definitions) and 3 (General Zoning Regulations) of Title 6 (Zoning) of the Lincolnshire Village Code to Define and Regulate Massage Businesses as Special Accessory Uses (Village of Lincolnshire)

Chair Bichkoff opened the public hearing.

AVM/CEDD Gilbertson stated the proposed code amendments would prohibit principal use massage therapy establishments in an effort to prohibit illegal solicitation, prostitution, and human trafficking. He noted these amendments are proposed upon the advice of the Village Attorney to prohibit standalone massage therapy establishments. AVM/CEDD Gilbertson noted Lincolnshire does not issue business licenses and the sole licensing authority for massage therapy is held with the State of Illinois. While Lincolnshire cannot regulate massage licensing, AVM/CEDD Gilbertson said the Village does have the authority to regulate massage therapy businesses through zoning. The Village Attorney and staff recommends massage businesses operate only as a special accessory use to a day spa or physician's office – not as a principal use with a 25% cap on gross floor area dedicated to massage therapy.

AVM/CEDD Gilbertson requested the findings of fact be entered into the record.

AVM/CEDD Gilbertson reviewed the current regulations which permit day spas with massage services as special uses in B1, B2, and all O/I zoning districts. Physicians' offices may offer massage therapy as part of their medical services and are currently regulated as permitted uses in the B1, B2, E, and

all O/I zoning districts. Physicians' offices are also regulated as special uses within the R5 zoning district.

Chair Bichkoff asked if any members of the public were present and wish to be heard. Having no comments from the public, Chair Bichkoff opened comment floor to the members.

Member Kalina asked if there is a petition for a massage business to locate in the Village. AVM/CEDD Gilbertson replied there was not a petition currently, and that the request for text amendment was initiated by the Village Attorney. Member Josephson expressed concern with comingling legitimate massage therapy businesses with illegitimate or illegal businesses; by limiting the allowable space to 25% of gross floor area, residents would have to use higher end day spas which are generally more expensive than the chain massage establishments. Member Josephson added there may be other avenues available to prosecute violators. AVM/CEDD Gilbertson stated a chain massage establishment could locate in the Village, and they would have to offer other services with massage therapy while limiting massage services to 25% of the gross floor area. Member Udoni asked if the purpose is to tighten restrictions. AVM/CEDD Gilbertson stated this was indeed the intent, and that the current Zoning Code does not define massage businesses, massage, or massage therapy, and further regulations are proposed to restrict to certain zoning districts via the special use process.

Member Curtin stated his understanding of this amendment was that it was recommended by the Village Attorney to clarify existing code requirements based challenges faced by other municipalities; the proposed recommendation make sense. Member Kalina stated his concern regarding limiting franchise massage businesses, and fairness to landowners leasing spaces. Member Kalina also noted his concern on future sales tax revenue. Member Josephson also expressed concern with not being able to capture sales tax revenue with this change. Chair Bichkoff noted massage businesses do not necessarily produce sales tax as this is more a service based industry.

Chair Bichkoff asked if The St. James would offer massage services. AVM/CEDD Gilbertson stated they would. In responding to Member Kalina's earlier question, AVM/CEDD Gilbertson said he believes the Village could not discriminate on franchise versus independent massage businesses.

Chair Bichkoff and Member Udoni discussed increasing the allowable square footage. Member Kalina asked if a request for special use for a massage business comes before the Zoning Board, they could request a text amendment to increase the allowable square footage. Member Josephson stated he would recommend a higher percentage because going through a text amendment could take months. Chair Bichkoff inquired how the 25% was determined. AVM/CEDD Gilbertson stated this was the recommendation of the Village Attorney. He further added the Zoning Board could recommend a higher percentage to the Village Board as part of their motion for the Village Board's consideration.

Member Kelly inquired about physical therapy businesses with massage services. AVM/CEDD Gilbertson stated the principal business owner would have to provide proof of licenses in order for the special use to be granted,

and that they would be subject to the same square footage thresholds for massage services.

Member Kalina repeated his concern about the regulations and impact on the franchise establishments, and asked if a minimum total square footage versus a percentage should be considered. Member Kelly inquired about adding financial requirements to the zoning restrictions. AVM/CEDD Gilbertson stated zoning based upon financial benchmarks would not be permitted. Member Curtin reaffirmed his comfort with the Village Attorney's recommendation and suggested the Zoning Board should vote on the recommendation as proposed.

Chair Bichkoff closed the public hearing.

Member Josephson moved, seconded by Member Udoni to recommend approval to the Village Board the proposed text amendments to Chapter 2, Zoning Definitions, and Chapter 3, General Zoning Regulations, of Title 6, Zoning, to define and regulate massage businesses as special accessory uses.

AYES: Udoni, Curtin, and Bichkoff

NAYS: Kalina, Josephson, and Kelly

ABSENT: Hersch

ABSTAIN: None

Chair Bichkoff declared the motion failed.

4.0 UNFINISHED BUSINESS None

5.0 NEW BUSINESS None

6.0 CITIZENS COMMENTS None

7.0 ADJOURNMENT

Member Josephson moved and Member Udoni seconded the motion to adjourn the Zoning Board Meeting. The voice vote was unanimous and Chair Bichkoff declared the meeting adjourned at 9:13 p.m.

Minutes submitted by Carol Lustig, Administrative Assistant, Community & Economic Development.