

PLAN COMMISSION/ZONING BOARD OF APPEALS
VILLAGE OF BURR RIDGE
MINUTES FOR REGULAR MEETING OF AUGUST 2, 2021

I. ROLL CALL

The meeting of the Plan Commission/Zoning Board of Appeals was called to order at 7:00 p.m. at the Burr Ridge Village Hall, 7660 County Line Road, Burr Ridge, Illinois by Chairman Trzupek.

ROLL CALL was noted as follows:

PRESENT: 6 – Broline, Petrich, Irwin, Stratis, Farrell, and Trzupek

ABSENT: 1 – Parella

Interim Village Administrator Evan Walter was also present.

II. APPROVAL OF PRIOR MEETING MINUTES

Commissioner Petrich asked that the minutes be revised to reflect that he was referring to the post closest to the old Subway location in his discussion and related motion at Z-06-2021.

A **MOTION** was made by Commissioner Irwin and **SECONDED** by Commissioner Petrich to approve the amended minutes of the July 19, 2021 Plan Commission meeting.

ROLL CALL VOTE was as follows:

AYES: 6 – Irwin, Petrich, Broline, Stratis, Farrell, and Trzupek

NAYS: 0 – None

MOTION CARRIED by a vote of 6-0.

III. PUBLIC HEARINGS

Chairman Trzupek conducted the swearing in of all those wishing to speak during the public hearings on the agenda for the meeting.

V-04-2021: 6100 Grant Street (Toland); Variation and Findings of Fact

Chairman Trzupek asked for a summary of the petition. Mr. Walter said that the petitioner, Judith Toland, prospective property owner of Lot 1 in the Grant Street Subdivision. At the time of the petitioner's submittal to the Village, the Grant Street Subdivision had not been completed. On July 27, the property was successfully subdivided with a PIN of 09-13-306-013 assigned to the new subject property to be addressed as 6061 Keller Drive. The petitioner is requesting a variation from Section VI.F.4 of the Zoning Ordinance to permit a single-family residence to be built with a Floor Area Ratio (FAR) in excess of 20%. The petitioner states in their application that the water table on the subject property is higher than normal, requiring that the proposed home to be built be raised

out of the ground with a shallower basement than is otherwise desired. The petitioner states their intent to build a 15' tall basement, but is requesting to locate some of the lost space from the basement to an area above the garage due to a 9' basement being required by the water table's presence. No additional footprint or impervious surface is claimed to be added to the subject property if the variation were granted.

Judith Toland, petitioner, said that the primary reason for the petition was the presence of the high water table on the subject property. Ms. Toland said that space which would ordinarily be located in the basement was moved to above the garage in the revised plans presented to the Plan Commission.

Chairman Trzupek asked for public comment.

Ramzi Sweis, 12 Andrew Court, said that the Village would be wise to consider the impacts of new development on the existing floodplain and water table in the area, and that all future development would negatively affect existing homes in the area.

Sandy Sundram, 10 Andrew Court, said that the flooding in the area was worse in the last 5 years compared to the previous 20, which was primarily due to the pond nearby not draining properly, as the pond was lined many years ago. Mr. Sundram cautioned the petitioner about purchasing the land, and requested that the Village assist in remedying any issues that were present with flooding in the area. Mr. Walter said that he would refer the resident's concerns to the Stormwater Management Committee, who was better equipped to handle the resident's specific concerns.

Commissioner Stratis asked for additional information, such as a floodway map. Mr. Walter requested a grading plan of the property as well. Commissioner Stratis said that if the petitioner was planning to import dirt to the site, they would need to find compensatory storage elsewhere on the property.

Commissioner Farrell said that, in her mind, the central issue is whether the impermissibility of a 15' basement ceiling due to the water table acted as a hardship. Commissioner Farrell agreed with the need to see a grading plan with wetland impacts, etc. to ascertain whether this was the only variation required by the petitioner. Ms. Toland said that they purposely did not invest in a full plan set as there would not be a need to do so if the variation was not supported from a concept perspective.

Commissioner Petrich asked if the FAR was provided by the petitioner. Mr. Walter said that he was unable to confirm an exact FAR through his architectural consultant. Commissioner Petrich asked why soil borings were performed if they are not required. Ms. Toland said that the current property owner performed the borings. Commissioner Petrich asked if the basement as shown would be exempt from FAR. Mr. Walter said that if the elevation as shown was present around all sides of the house and the grading was acceptable, it would be exempt from FAR.

Commissioner Irwin said that a hardship was not present.

Chairman Trzupsek asked what made the additional space count towards Floor Area Ratio (FAR) but not attic space. Mr. Walter said that it was not attic space due to it not meeting the definition of an attic under the definition of the Zoning Ordinance. Chairman Trzupsek also questioned whether the impermissibility of a 15' basement ceiling without extensive grading constituted a hardship.

Commissioner Stratis asked if any homes in the area exceeded 20% FAR. Ms. Toland said that her attorney found homes in the area which exceeded 20%. Mr. Walter said that while certain homes may advertise a square footage above 20% FAR, it may not necessarily mean that the 20% FAR threshold was breached, as FAR exempts certain things which are often included in a home's advertised square footage. Mr. Walter said that staff had performed a review of all area building permits and found no homes which exceeded 20% FAR.

Commissioner Irwin asked what percentage of homes in Burr Ridge were developed on water tables comparable to those of the subject property. Mr. Walter said that the Village does not require soil boring to build a new home and that he did not have specific data that he could access to answer that question, but stated that it would be his assertion that higher water tables were certainly present in the Village. Commissioner Irwin said that understanding that answer would be critical to his analysis of the petition. Mr. Walter said that staff would endeavor to provide such an analysis to the best of their ability should the Plan Commission desire such information.

Chairman Trzupsek asked for a show of hands to determine if any Plan Commissioners wished to continue the public hearing and request further information. Four Commissioners and the Chairman supported obtaining further information.

Commissioner Stratis said that he would be more likely to support a minor FAR variation, such as 21%, rather than a 25% FAR. Mr. Walter said that according to the petitioner's proposal, the home would have a 25% FAR.

Chairman Trzupsek requested that the petitioner and staff provide grading and site plans, the size of homes in the neighborhood, and the presence of high water tables elsewhere in the Village.

A **MOTION** was made by Commissioner Irwin and **SECONDED** by Commissioner Farrell to continue the public hearing for V-04-2021 to September 20, 2021.

ROLL CALL VOTE was as follows:

AYES: 6 – Irwin, Farrell, Stratis, Petrich, Broline, and Trzupsek
NAYS: 0 – None

MOTION CARRIED by a vote of 6-0.

Z-07-2021: Zoning Ordinance Amendments (Village of Burr Ridge); Text Amendments and Findings of Fact

Chairman Trzuppek asked for a summary of the petition. Mr. Walter said that the Village employs a highly-technical measurement system to regulate and measure the transmission of sound, most notably employing the American National Standards Institute's (ANSI) standards in many cases. The prescribed decibel level is dependent on an Octave Band Center Frequency (Hertz) rating, meaning that as the Hertz increases, the allowable decibel level decreases. The Village also separates noise levels between a day/night standard of hours, defined as 7:00am-7:00pm (day) and 7:00pm-7:00am (night); decibel levels are prescribed to be about 15% lower during night hours than day hours. Finally, the performance standards of the Zoning Ordinance are limited to transference of sound from Manufacturing Districts to Residential and Business Districts. Mr. Walter said that the Village also adopted the State's definition of noise nuisance, which defines different categories of land using a similar Hertz/decibel rating system to determine the level of noise that may be transferred. The IEPA has since ceased all enforcement of their own noise standards. In summary, the noise standards in the Zoning Ordinance are technical and challenging for the lay person to interpret without training and specialized equipment.

Mr. Walter said that if the Plan Commission were to recommend that the Village move away from the current performance standards related to noise, staff proposes that a "Plainly Audible" approach be considered. A "Plainly Audible" approach to noise regulation measures excessive sound not by Hertz ratings or by excessive decibels, but through the prohibition of any sound which can be deemed to be excessively loud by interpretation of a human being hearing the noise and confirmed by a third party, such as a Police officer, code compliance employee, or other such authorized Village representative. Plainly Audible was defined in the staff report as "any sound that can be detected by a person by ear, unaided by any device such as hearing aid. A sound is considered plainly audible regardless of whether particular words or phrases are not determinable and regardless of whether the instrument or device can be determined. The detection of reverberation or similar types of sound is sufficient to constitute a Plainly Audible sound." Mr. Walter used the example of a dog barking in a neighbor's yard as a likely nuisance, and that such a nuisance would possibly be defined as Plainly Audible depending on the noise level of the dog and thus allow the Police to enforce these regulations without need for much technical analysis. Mr. Walter said that there are also day/night regulations proposed.

Chairman Trzuppek asked for public comment.

Mark Thoma, 7515 Drew, said that as a sound engineer, he understood the challenges involved with enforcing the current rules, but questioned the enforceability of the proposal. Mr. Walter said that other towns have had success with such an approach, and that often the more technical rules were found to be unenforceable due to their technical nature, as well as the proposed approach using the existing high standards of the community to our own advantage. Mr. Thoma asked about the definition of repetitive sounds. Mr. Walter said that any noise which repeats itself, even if the repetitions were not temporally close to one another, would meet the standard of analysis.

Commissioner Irwin said that the standard was not well-defined, stating that the title may possibly give rise to irritable neighbors taking advantage of the rule. Commissioner Irwin said that the

definition of the rule should include words such as “excessive”. Commissioner Irwin said he was concerned about people interpreting the rule to prohibit talking in one’s backyard and other such examples. Mr. Walter said that the average resident already calls whenever they get annoyed regardless of the noise rule at hand, and that there are examples of residents who are more sensitive to noise than others. Mr. Walter said that the intent of the proposed amendments is to allow the Police to make enforcement decisions on the spot rather than need sound equipment, and in many cases it would be unlikely that a resident would call the Police in the first place, nor would the Police be quick to write citations if an issue were observed and the residents were quick to comply with a courtesy request by the Police. Commissioner Irwin asked if he could have a large concert in his backyard under the proposed rules. Mr. Walter said that such action was not permissible under the current rules, since the maximum decibel rating allowed by the Zoning Ordinance was 63 decibels in Residential Districts, but a large concert would clearly exceed that limit. Mr. Walter said that the concept behind the proposal was to allow for enforcement discretion in cases where decibels may not be excessive but they still may give rise to an annoyed neighbor calling the Village for assistance. Mr. Walter elaborated by stating that the proposed amendments included preliminary language stating that exemption permits could be written for larger occasions such as concerts or weddings, and that it was not the intent of the amendments to ban the use of private property for lawful reasons, but rather to ensure that the Village could swiftly handle legitimate issues once they presented themselves. Mr. Walter gave the example of the Village permitting block parties through staff action without need for lengthy public hearings. Mr. Walter said that the legislative intent of the proposal was not to make the “everyday” as being impermissible.

Commissioner Petrich asked if the Village had enforced its existing sound regulations in prior instances. Mr. Walter said that the Village had done so, and that the process was lengthy, expensive, and cumbersome, and often did not provide service to the affected party due to the time involved with mobilizing the necessary staff and equipment. Commissioner Petrich said that he would prefer to keep the daytime hours of 7am-7pm instead of extending to 10pm. Mr. Walter said that in speaking with the Village’s Adjudication Judge, she was unwilling to enforce any ordinance which had “night” hours as being prior to 10pm. Commissioner Stratis agreed with staff’s comments, stating that he feels that his regular behavior of mowing lawns at 8pm in the summer was not excessive or burdensome. Commissioner Petrich asked if the proposal would incorporate generators. Mr. Walter said that generator noise was already defined as not exceeding 75 decibels at 28 feet, and would provide such an exception in the language.

Commissioner Broline asked about firecrackers and their legal status. Mr. Walter said that firecrackers themselves were unpermitted, but that firecrackers on odd days or very late at night would be a good example of violating the Plainly Audible standard.

Commissioner Farrell said that she supported the approach, as it allowed for balance between residents and the Village. Commissioner Farrell asked about certain uses in more controlled areas, such as schools in T-1 Districts adjacent to residences, and how those would be enforced. Mr. Walter acknowledged that further consideration of those examples was necessary.

Commissioner Stratis supported the concept, possible event permitting, and that Police and an adjudication system would ultimately make the enforcement of the Zoning Ordinance. Commissioner Stratis suggested that the standards of Plainly Audible include statements to the

effect of “unreasonably affecting the use of one’s property” to add teeth to the standards of the Zoning Ordinance. Commissioner Stratis asked how commercial districts impacting residential districts would work. Mr. Walter said that the standards of residential districts would be employed if the noise were originating from a commercial district. Commissioner Stratis asked if the penalties could be exponential, rather than on a flat scale. Mr. Walter said that staff would investigate this possibility.

Chairman Trzupek supported the concept as well as redefining night time to 10pm, but asked that a property line metric be added to the amendments either in addition to a “50 foot” rule to add additional enforcement opportunity.

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Irwin to continue the public hearing for Z-11-2021 to August 16, 2021.

ROLL CALL VOTE was as follows:

AYES: 6 – Stratis, Irwin, Farrell, Petrich, Broline, and Trzupek
NAYS: 0 – None

MOTION CARRIED by a vote of 6-0.

IV. CORRESPONDENCE

V. OTHER PETITIONS

VI. PUBLIC COMMENT

VII. FUTURE MEETINGS

Mr. Walter said that there were three considerations scheduled for August 16, 2021.

VII. ADJOURNMENT

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Irwin to adjourn the meeting at 9:17 pm.

ROLL CALL VOTE was as follows:

AYES: 6 – Stratis, Irwin, Petrich, Farrell, Broline, and Trzupek
NAYS: 0 – None

MOTION CARRIED by a vote of 6-0.

Respectfully Submitted:

Evan Walter – Village Administrator