

**Village of Peoria Heights Zoning Board of Appeals**  
**Rick Picl, Chairman**

**Meeting Minutes for May 17, 2021**

**Roll Call:**

Rick Picl (Chair) - Present

Mickey O'Neil - Present

Floyd Wombacher - Present

Charlie Callaway - Present

Janie Backs - Present

Robert Tenney - Present

Mike Woo – Present at start, Absent for first order of business(call), Present for second.

Steve Cady – Absent

Jack Weideman - Present

Chairman Picl was called to order. Approval of minutes from April 19<sup>th</sup>'s meeting. No changes, corrections, or amendments to those minutes. Motion was made to approve the April minutes. Ms. Backs made the motion. Mr Wombacher **(Unsure)** seconded. All were in favor, none opposed.

Chairman Picl introduced first order of business was to appoint the zoning board appeals secretary/clerk. Mr. Callaway is going to do it for tonight and then Ms. Backs is going to think about it and we are going to revisit that next month. Mr. Callaway stated for the record he does not have a lot of time to commit to the position.

Next order of business: Variance application filed by Bonita and John Flemming seeking approval of a fence variance to allow construction of a front yard fence on a corner lot located at 4978 Grandview Drive, Peoria Heights, Illinois 61616, pin number 1422251005. The property is currently zoned R1 low density residential district. The Flemming's were present at the meeting. Chairman Picl offered for the Flemming's to stand and give a brief presentation. He confirmed the board members should all have their application and pictures and everyone has been to the site.

**Mr. Flemming:** Will do. Thank you very much. Good evening. I am John Flemming. How do you do. This is Botina Flemming, my wife. The piece of property identified by the Chairman correctly. We bought it 4 ½ months ago and we are looking for this fence application. It is a unique piece of property that is, in my view, is not really a front yard, it is side yard. But, I understand your ordinances and that is why we are here. Sometimes on the corner partial side yard meets front yard, so be it. My view is though, the key is the side of our house to the side of our neighbors house it does not encroach really on a front yard area. Side of house to side of house. We have looked at the ordinance and we have the documents, and we believe it complies pretty clearly. It is more than 10 feet back from the closest lot line to Grandview, it is 27 feet back from that. It leaves a really wide area from Grandview Drive to the fence, some 57 feet. The other unique piece about that stretch, you folks well know this, there are no sidewalks on either side and so there are a lot of walkers and kids and dogs. People go to this park right here, great --- park, to that park on the corner, Grandview, and we are looking for this to keep just a little bit of a barrier and then there is place for them to walk. It is a hardship for us actually, to not have this area of use because our backyard is the size of a postage stamp. And it drops off, I mean, conservatively like 90 feet like straight down to Forest Park Nature Center. And so that is why we are suggesting this. It is very similar in style, there are 3 of the 4 lots and just North of us have a similar stop sign where we put some photos. We tried to make it look really good, non-obtrusive. So that is why we are asking for it. My wife, Botina, would like to make a little presentation as well. We think this is for safety for everybody. For the good of the Heights and the walkers.

**Mrs. Flemming:** Just so you know, I am a schoolteacher and this kind of feels like I got sent to the Principal's office in a major way because I am really good with 5<sup>th</sup> graders, I am not good with a crowd like this. So I apologize if I get real... So, we have a big family, we have kids. It's not a huge area, we just want it to curve around so I can keep the coyotes out because coyotes are everywhere. Their walking down the street. We watched them from a window upstairs you know run and there is a pack of about 6 right now and they are looking for little things and I have a little teeny tiny Kind Charles Cavalier, really good food for birds and coyotes. I think, my mom is not ---, I kind of have to keep her in so she does not wander off. She comes to visit me and it is a safety issue for her to not have some place

to be able to be. It is important to me to keep people safe, kids and their strollers and they have their dogs attached to strollers and I've been there. Sometimes you drop the leash because you are trying to do something and the dog runs off and it runs into my yard and then there is something that happens and both dogs get in trouble and it wasn't anybody's fault. My dogs ---- and their dogs kind of just defend their people, it happens. It is a safety issue to not have a barrier there to keep people safe on the outside and inside. I really just think that it is important to have some sort of definition and I looked at all your rules, it complies with all the rules except for the fact that there is this perception that it is front yard and not side yard but if you are in the house it's side yard. I don't know what else to say to you. I apologize, like I said, 5<sup>th</sup> graders don't ever see this, I can talk in front of 5<sup>th</sup> graders all day, I can't talk in front of you all. It's just important to some that this is a safety issue. I want to keep everyone else safe and I want to keep my people safe and it's going to be pretty. I mean, I am spending way more than I can afford to put a fence there to be pretty to keep with the style of the Tudor house. I researched, we got the little things at the top of the fence that are supposed to be Tudor style so it's authentic, it's historical. The fence itself is going to be in between pillars that I dug up bricks for to make sure that they matched the style of the house. I love gardens, I'm going to make it pretty, ya know so it's not ruined for anybody. I don't know what else to tell ya. If you have questions, please ask me because I do better answer questions than I do giving presentations. I just appreciate your consideration.

9:00 - Chairman Picl asked if anyone had any questions.

**Gentleman:** I have one. The example fence that you submitted, is that the actual fence or is that just similar to ...

**Mr. Flemming:** The drawing is the actual.

**Gentleman:** So the measurements at 1 ½ as the gap between the two...

**Mrs. Flemming:** Yes. We looked at other fences to make sure that the drawing was similar to what our image was and it is congruent with other examples in the neighborhood.

**Gentleman:** Just big enough for the Spaniel to stick its head our right? (laugh)

**Mrs. Flemming:** Yeah, it does not obstruct the view. People can still see the view which is what our intent was because I don't really want to have a barrier.

**Gentleman:** With the 27<sup>th</sup> foot setback that you got, how far, if you know, does that extend in front of your next door neighbor's house and is it more or less in front, you have one house farther down which is the closest to the street?

**Mr. Flemming:** That is a good point. So, there's 3 houses between us going in a row, ours, a neighbor, and then two more. They kind of angle a little bit. So, it's maybe technically in front of the front door of our neighbors house, so about 8 feet, or 6 feet, but if you go all the way down it is even with the level of the closest one to Grandview.

**Gentleman:** Ok, now is that the house 3 doors down.

**Mr. Flemming:** Yes sir.

**Mrs. Flemming:** So if you stand, ya know, with your back parallel to Prospect road and look this way it is in eye level with another house that is sticking out.

**Gentleman:** Ok, thank you.

**Mr. Flemming:** And if you guys think it needs to move 6 feet that way let us know, you know what we're looking for.

**Mrs. Flemming:** And then if you stand on Grandview and look at the area that we're fencing it is behind our driveway and it is completely on our property and we even asked in February.

**Mr. Flemming:** Anything else folks?

**Mr. Callaway:** What's the distance between the fence and the neighbor's house?

**Mr. Flemming:** Well, that is a pretty interesting question. You mean, the side of the fence to the side of his house?

**Mr. Callaway:** Correct

**Mr. Flemming:** That guy's, a piece of his house is right on the property line, so a fence would be 3 feet from the property line on the side.

**Chairman Picl:** So it's 3 feet from the fence to the property line?

**Mr. Flemming:** Yes

**Chairman Picl:** I mean, technically that house would not be built like that today unless he had a variance.

**Mr. Flemming:** : Today it wouldn't. If we put it on the property line it would be on his wall and his wall is on our property line but .....

12:30 - Chairman Picl asked if there were any other questions or public comments. No comments. Public comments were then closed. Chairman Picl then asked for any further deliberation, further questions, or statements by anybody.

**Chairman Picl:** Just in general, if you look at the fence there are other examples of side yard fences as you go down Grandview Drive and what used to be ---- way down there and several others and I think in this case from what I look at it, I think it is going to be very unnoticeable almost as you kind of drive down Grandview Drive. It is not something that is going to stick out and everybody is going to go "what's with that big fence?" But that is just my take on it. Ya know, they've met the other portions of our front yard variance right, so they are 40% open, they are 10 feet from their property line, etc., so rally we're just granting a front yard variance. We don't have to grant any other variances for distance or number of feet from the property.

**Mr ??:** The only problem I have with it is more or less what they've addressed. It does stick out beyond the front of the other houses along Grandview Drive. Obviously, you know, if it was sitting back 6 or 7 feet, unfortunately you've already got the pillars out there but if was sitting back even with those it would basically be considered a side yard fence anyway, I think. This wouldn't really be up for discussion.

**Chairman Picl:** Well, so, the technicality of their lot and every corner lot is they have two front yards, and it does all the way back to the structure. So the front yard is the front yard according to the code from Grandview Drive to the first part of their structure. The same on the Prospect side, from Prospect road to the first part of their structure, that is all front yard according to code. So, um, whether it was back 6 feet or not, it would still be a front yard fence. I just want to make sure....

**Mr ??:** It's even more complicated than that because of the way the house faces.

**Chairman Picl:** Absolutely, because it's kind of caddy cornered on the lot right.

Man: If it faced Grandview then it would be a side yard because it would be completely... you know if you oriented the house so that the front faced Grandview Drive then what their building would be not in front of the front plane of the house towards Grandview Drive.

**Chairman Picl:** Well, yes, depending on where they built the fence. If they came out in front of their house it would still be front.

**Mr ??:** I was kind of looking at it, the next door neighbor there is no lot line there but if they did have room to come out with a fence, ya know, that is close to where their front yard would be, their next door neighbors side yard fence.

**Mr Flemming** True, yep

### 16:30 - Finding of Facts for the variance

Chairman Picl asked:

1. Will the strict application of the terms of the Zoning Code related to the use, construction, or alteration of buildings or structures or to the use of land impose practical difficulties or a particular hardship upon the petitioner?
  - o The board answered in the affirmative 7-0
2. If the variation is granted, the property affected by the variation will remain in harmony with general purport and intent of the Zoning code.
  - o The board answered 6-1
3. The approval of the variation will not merely serve as a convenience to the Petitioner but is necessary to alleviate some demonstratable hardship on the petitioner.
  - o The board answered 6-1
4. Can the variation requested by the Petitioner be granted without substantial detriment to the public good?
  - o The board answered in the affirmative 7-0
5. Can the proposed variation be approved without impairing the general purpose and intent of the comprehensive plan as implemented by the Zoning Code?
  - o The board answered in the affirmative 7-0
6. If the proposed variance involves a fence, will the fence conform with the standards set forth at subsections 10-4-7D2c(2)-D2c(5) of the Zoning Code
  - o The board answered in the affirmative 7-0

A motion was made by Mr Weideman and seconded by Mr. Callaway and the motion was approved with no conditions 7-0.

Chairman Picl stated they would have this up tomorrow (May 18, 2021) and that the Flemming's could inquire about a fence permit. The Flemming's asked if this meant they were a go and the board confirmed yes. The Flemming's offered their thank you/appreciation.

Chairman Picl brought up the next order of business regarding a withdrawal until the next meeting regarding the Galena road fence due to the petitioner's not having their property lines identified so they really couldn't tell the board what their setbacks were. The petitioner is supposed to get his property lines identified sometime first of the month or and the board will try to have this on the June meeting.

20:40 - Chairman Picl introduced the next order of business: Special use application filed by **Alli Harees**? (petitioner) seeking a special use operation of a used car lot at 3707 North Vincent Avenue, Peoria Heights, Illinois 61606. Number 1427182025. The property is currently zoned B2 general retail business district. Mr. Picl confirmed to the board that used car lots in B2 require special use permits, thus the reason for the petitioner coming before the Board this evening. Chairman Picl confirmed that the board does have some pictures and a basic site plan which is basically the car lot. He mentioned he assumes the board have all been to the property. Chairman Picl opened the floor up to the petitioner and asked him to outline what he was trying to do and why and what his business is going to be.

- The petitioner stated the lot is already zoned for a car dealership, they are just trying to open it. He confirmed it would be a used car dealership. Mr. Picl asked if this was his first used car dealership, petitioner stated no, he has one in Rockford as well. He stated he has a few local businesses in Peoria. Mr. Picl asked how many cars. That car lot has 28 cars.
- Mr. Picl stated they did have a previous request for this, and they limited it 25 cars in one case and in the other case they were only going to have 20.
- **Mr. ??** asked what the hours of business would be, petitioner stated 9-5, 7 days a week but then corrected it to 9-4 six days a week, Monday - Saturday.
- **Mr. ??** inquired how many signs he would have. Petitioner stated one that is around 7 foot in width.
- Mr. Picl discussed that there is a sign code that he has to follow, and he has to make sure all signs meet the criteria. Petitioner confirmed he will be doing that; he has not gotten that far in the process yet.
- **Mr. ??** asked if the property will be manned the whole time or is it going to be more or less on call or are these sales going to be internet and storage? The petitioner stated there will be somewhere there during all open hours.
- The Board inquired if there was a bathroom on site/at the office. Petitioner confirmed yes, there is.
- Mr. Callaway inquired if there is only one entrance to the lot. Petitioner stated yes, off Vincent.
- **Mr. ??** asked if the lot was full with 25-28 cars was there parking availability for customers. Petitioner stated yes, they don't have that many cars and it has not been an issue before, that they never saw the lot full.
- Mr. Picl noted that this space was a used car lot for a long while and then it was nothing, and then somebody came and got a special use to make it a used car lot again, but it was only open for a short while and then somebody else came in and asked for a special use permit and it was denied for a used car lot and then now were back to here. Mr. Callaway asked what the reason for it was denied and was told it was just not approved by the Board for unknown reasons at that time.
- Mr. O'Neil inquired about loading and unloading cars, asking if petitioner would have large car carriers or were they going to be coming in more or less one at a time? And if he has a truck bringing them in, how do he expect to handle that? Petitioner stated would be one car a time right now, that a car carrier would not fit, there is no room for it. He does not think he will be that big anyway.
- Mr. O'Neil asked where the petitioner gets his cars, he stated auctions.
- Ms. Backs asked about the past car lot that was denied, was there community that came in and said they didn't want it? It was revealed a number of people spoke against it at that time, they believe mostly due to hours, lighting, and noise.
- **Mr. ??** inquired about the signage, if it would be a lit sign that will only be on during business hours or night too. Petitioner stated if the permit demands it be turned off at certain hours he will comply.
- Mr. Callaway asked if there any other plans for the lot? Will he just be putting cars on it and a sign. The petitioner stated yes. It was stated there was no lighting right now on the lot, just a small light in front of office. Mrs. Backs asked if he planned on adding more and petitioner stated no.
- Mr. Callaway asked about unaffixed signs such as those big, huge things that flap in the wind. Mr. Picl replied that comes under the sign code so the petitioner would have to follow those guidelines. Miscellaneous discussion

ensued and it was mentioned that there are guidelines for temporary signs, permits for signs, etc. and the petitioner will have to get all that information.

30:00 - Chairman Picl asked for any public comment.

- Mr. Gary Kempfe spoke up that he is the owner of the property. He stated: "One thing I wanted to clarify, there are only 3 lights along the poles out on War Memorial Drive and one is, I think, Peoria Heights and the other two have been there for 17 years. When you put on your Ameren, they'll automatically come on you can have them automatically shut off if you like but they have been there for 17 or 18 years that ----- Just wanted to clarify that. And the other clarification, the other denial – It was denied and then they came back and did whatever they needed to do to actually get themselves...".
- It was confirmed there is a light on the corner, one on the corner of Vincent right at the drive entrance, and War Memorial
- Gary stated that in all of the special use permits that my tenants have applied for, they've been approved at 25 cars and there is usually room. When he owned it and had a car lot there he had 25 cars max and there would always been 5 or 6 cars to where parking spots to where people could come in and never had a problem with cars overflowing. There is also an existing sign next to the back of the building that says Customer Parking Inside that he can put up also.

32:30 - Chairman Picl closed public comments and asked for any other questions or discussion. He stated that as they make the motion to the board, he wants to confirm there should be conditions and would like to put the 25 car limit on approval, as well as 9-5 operating hours, 6 days a week, Monday to Saturday limit. It was asked about the signs again, and Chairman Picl confirmed they do not have to deal with sign permits unless there is a variance request for the sign. (If they want something bigger outside the code, like an electronic message board that requires special use, etc.)

A motion was made Mr. Woo and seconded by Mr. O'Neil and the motion was approved with discussed conditions

**Findings of Fact:**

Chairman Picl:

- The Establishment, maintenance or operational use of the site plan will not detrimental, endanger public health, safety, morals, comforts, or general welfare:
  - The board answered in the affirmative 8-0
- Special use or site plan will not be injurious to the enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property value within the neighborhood to which it is located?
  - The board answered in the affirmative 8-0
- The establishment of the site plan will not impede the normal and orderly development and improvement of the surrounding property for uses permitted by the district?
  - The board answered in the affirmative 8-0
- Adequate facilities access roads, drainage, and/or necessary facilities have been or will be provided
  - The board answered in the affirmative 8-0
- Adequate measures have been or will be taken to provide ingress and egress designed as to minimize traffic congestion in the public streets?
  - The board answered in the affirmative 8-0
- If a public use or use providing public utility service, that such use of service shall meet a demonstratable public need and provide a public benefit.
  - The board found this to be not applicable

- The site plan shall, in all other respects conform to the applicable regulations report to the district to which it is located, except as such any regulations may, in each instance, be modified pursuant to the recommendation of the zoning board of appeals?
  - The board answered in the affirmative 8-0

The board again reiterated the 25 car limit condition and 9-5 hours of operation.

Chairman Picl entertained motion to approve and the motion carried 8-0 .

Chairman Picl announced approval and Village Council stated that it still has to go to the Village board for final approval. There is then 10 days for people to object which the board did not expect to happen. They will get it on the next meeting agenda. They did not have a calendar handy, but they confirmed they will get that date and reach out to the petitioner. It is not required he attend but is recommended.

Miscellaneous discussion by the board about the ZBA secretary duties should be shared duties and assigned by Chairman Picl to assign at the start of each meeting. All board members were in agreement.

Chairman Picl introduced the last order of business: ID badges. He inquired who does not have one and confirmed for everyone to try to get that done. As long as they know you are coming.

Term limits were also discussed. Mr. Callaway inquired if it was 2 years, 4 years, etc. It was confirmed it was on the ZBA section on the website. The list the police station has is very outdated and not accurate. They are going to ask Sara to update the list and he will get that out to the whole Board.

Before convening, Mrs. Backs inquired about zoning on green space because there is not anything at the present time. She stated she is very passionate about it but not great with legal documents and inquired on help/suggestions. She stated a good example was Florida but their landscape is not similar to ours. She stated she will type something up and work out something to put code in because Peoria has green space code, the Village of Peoria has green space code, and so does Bloomington. Bloomington has a really good one. She stated she feels it is very important for the community, especially the Heights, so when there are questions about trees we have a code to reference. They discussed hiring the same firm and help redo the zoning code and getting things up to date, including green space. But that a lot of the codes were written in the 70s and need updated.

Mrs. Kazzam: I couldn't agree with you more. We've been talking about hiring that same firm to go even further and help us redo our zoning code and getting things up to date, including green space. But a lot of these codes, and Mark can speak to this better than I, but were written in the 70s. But that if someone comes to you and wants to do something you can only respond with code as its currently written. They stated this hopefully would be a future initiative in the upcoming year.

A discussion was made to have a meeting to discuss this subject.

Mrs. Kazzam: We live in a park and this community that was designed as a park system so a lot of the green space that we enjoy today has now reached its maturity and we have to replace or replant because we love these huge white oaks but if we just cut them down and even if its time for them to go and we don't have a plan for going forward, then our community won't look like this anymore.

Mrs Backs: And that it is an asset for the community in so many ways because there's so much science behind it and findings, people like to spend more money when its more shady and when there's more green space. They also like to spend longer amounts of time staying and living here when there's more green space around him, whether they subconsciously or consciously know, it's a choice that they make.

Chairman Picl mentioned he has planted 20 trees. 😊

Mr. Callaway made a motion to adjourn the meeting. Ms. Backs seconded the motion.

Chairman Picl adjourned the mtg at 6:32 pm.