

**MINUTES OF THE APRIL 16, 2024
MEETING OF THE ZONING BOARD OF APPEALS
VILLAGE HALL 6101 CAPULINA, MORTON GROVE, IL 60053**

Pursuant to proper notice in accordance with the Open Meetings Act, the regular meeting of the Zoning Board of Appeals was called to order at 7:00 PM by Chairman Kintner. Secretary Kirchner called the roll.

Members of the Board Present: Dorgan, Gabriel, Kintner, Mohr, and Stein

Members Absent: Hussaini and Liston with notice

Village Staff Present: Brandon Nolin, Community Development Administrator
Anne Ryder Kirchner, Planner/Zoning Administrator, and Secretary
Jim English, Manager Building Inspection and Services

Trustees Present: Thill, and Witko

Chairman Kintner described the procedures for the meeting. The Village and the applicant will present the case and the Zoning Board of Appeals (ZBA) may ask questions of the applicant. Then, anyone from the audience will be allowed to provide comment to the ZBA on the case. Four votes are required for approval, the Board decision is final and no request that is not significantly different may be submitted for one year after the decision. It was noted that 5 Board members were present.

Chairman Kintner asked for approval of the March 19, 2024, meeting minutes. Board Member Dorgan moved to approve the minutes, Board Member Stein seconded the motion.

Chairman Kintner called for the vote.

Board Member Dorgan voting	aye
Board Member Gabriel voting	abstain
Board Member Mohr voting	aye
Board Member Stein voting	aye
Chairman Kintner voting	aye

Chairman Kintner then called for the first case. The applicant was not present, therefore the next case was called.

CASE ZBA 24-04

APPLICANTS: Krzysztof Bukowski and Kelly Russell
8617 Fernald Avenue
Morton Grove, Illinois 60053

LOCATION: 8617 Fernald Avenue

Morton Grove, IL 60053

PETITION:

Requesting for approval of variation from Section 12-3-5 to allow a fence in a street side yard exceeding the allowable height and transparency.

Ms. Kirchner said this is a new, third request by applicants and property owners, Krzysztof Bukowski and Kelly Russell, for variations from Section 12-3-5:C of the Morton Grove Unified Development Code to authorize the installation of a shadowbox fence (0% transparency) with a height of 5 feet in a street side yard that is not behind the rear portion of the principal structure closest to the street. The fencing will be located approximately 13.5 feet west (toward the front yard) of the rear building line.

The applicants were granted a variation last year in case ZBA 23-24, to increase the maximum height for a fence within a street side yard from 4 feet to 5 feet, located 35 feet in front of the rear portion of the principal structure, with 50 percent transparency. They have not applied for a fence permit with this variation.

Ms. Kirchner swore in the applicants, Krzysztof Bukowski and Mario Bartucci. Mr. Bukowski said they have shortened the fence length to 60 feet from the alley west. He acknowledged they have a unique lot and did site their home to the south to create more yard to the north. As a proud Morton Grove property owner, they wish to enjoy their yard space with a fence that provides privacy. They have modified the fence application considering the past comments from the Board.

Board member Dorgan said he does like the lack of transparency. Mr. Bukowski said he understands a shadow box fence does not have 50% transparency, but animals on either side of the fence need less transparency for safety concerns. The shadowbox fence allows for some sight between boards.

Board member Stein asked if he would be willing to modify the fence from 6-inch boards with a 5-inch space between, to stretch the space, to a 7-inch space between the 6-inch boards. Providing a half inch of daylight.

Board member Dorgan said the spacing will soften the look of the fence.

Mr. Bukowski said they could modify the fence. They want to keep their dog and others safe.

Board member Mohr thanked the applicant and noted corner lots are restrictive. An applicant's dog is not considered a hardship. Mr. Bukowski said he understands the limitations of a corner lot.

Chairman Kintner asked about the sight line triangle dimensions. They are compliant.

Chairman Kintner said he appreciates the applicant's revisions, he said the shadowbox is not ideal, but understands the applicants request for more privacy.

Discussion ensued regarding the 7-inch spacing. A specific approval must be given to a specific motion.

Chairman Kintner asked for public comment. There were no comments.

Board member Stein made a motion to approve Case ZBA 24-04, a request for variations from Section 12-3-5:C to increase the maximum height for a fence within a street side yard from 4 feet to 5 feet, located 13.5 feet in front of the rear portion of the principal structure, and provide little or no transparency, subject to the following conditions:

- 1) The proposed fence shall be installed in accordance with the plans submitted by the applicant in the Variation Application dated 03/14/2024, with the modification of 7 inch on-center board spacing.

- 2) The applicants shall file all necessary plans and applications, for review and approval, and secure all necessary building permits prior to the commencement of installation.

Board member Dorgan seconded the motion. Chairman Kintner called for the vote.

Board Member Dorgan voting	aye
Board Member Gabriel voting	aye
Board Member Mohr voting	aye
Board Member Stein voting	aye
Chairman Kintner voting	aye

Motion passes (5-0)

CASE ZBA 24-05

APPLICANT: Barbara Connolly
7905 Foster Street
Morton Grove, Illinois 60053

LOCATION: 7905 Foster Street
Morton Grove, IL 60053

PETITION: Requesting for approval of variation from Section 12-3-5 to allow a fence in a street side yard exceeding the allowable height and transparency.

Ms. Kirchner said this is a request by applicant and property owner, Barbara Connolly, for variations from Section 12-3-5:C of the Morton Grove Unified Development Code to authorize the installation of a solid fence (0% transparency) with a height of 6 feet in a street side yard that is not behind the rear portion of the principal structure closest to the street. The fencing will be located approximately 38.5 feet north of the rear building line.

A sight line triangle is not required for this installation, as there is not a vehicular access way intersection.

The lot is unique with frontage on a dead-end street, and street side frontage along the adjacent non-intersecting street. Staff notes the right-of-way along Merrill street is maintained by Morton Grove Department of Public Works, it is not subject to Section 4-5-4 of Village Code requiring the abutting owner to maintain the easement.

Chairman Kintner clarified that the easement is maintained by the Village. The easement has been cleared and re-planted.

Ms. Kirchner swore in the applicant. Ms. Connolly said there is a chain link fence that she would like to replace with a more private fence. The easement plantings no longer provide a privacy buffer. She noted that adjacent buckthorn would be restrained with a solid fence.

Board member Dorgan asked if the small retaining wall belonged to the Village. Ms. Connolly said yes.

Chairman Kintner said it is a unique property. Board member Gabriel said the privacy fence would be appropriate for the site.

Board member Stein said the fence is not a welcoming fence, he cannot support an opaque fence in this location. Ms. Connolly said she would like to match her current fence.

Chairman Kintner said the natural fence has been removed from the easement, the continuation of the opaque fence seems appropriate.

Chairman Kintner asked for public comment. There were no comments.

Board member Mohr made a motion to approve Case ZBA 24-05, a request for variations from Section 12-3-5:C to increase the maximum height for a fence within a street side yard from 4 feet to 6 feet, located 38.5 feet in front of the rear portion of the principal structure, and provide no transparency, subject to the following conditions:

- 1) The proposed fence shall be installed in accordance with the plans submitted by the applicant in the Variation Application dated 03/12/2024.
- 2) The applicants shall file all necessary plans and applications, for review and approval, and secure all necessary building permits prior to the commencement of installation.

Board member Gabriel seconded the motion. Chairman Kintner called for the vote.

Board Member Dorgan voting	aye
Board Member Gabriel voting	aye
Board Member Mohr voting	aye
Board Member Stein voting	nay
Chairman Kintner voting	aye

Motion passes (4-1)

CASE ZBA 24-03 - Continued

APPLICANT: James E. Joseph
7935 Lotus Avenue
Morton Grove, IL 60053

LOCATION: 7935 Lotus Avenue
Morton Grove, IL 60053

PETITION: Requesting for approval of variations from Section 12-2-2:B to allow more than 2 accessory structures on a zoning lot.

Ms. Kirchner said the applicant is requesting waivers from Section 12-2-2:B to authorize the construction of a pergola in the side yard which exceeds the maximum allowable number of accessory structures permitted on a zoning lot. There are currently 2 structures, a detached garage and shed, on the property.

The existing pergola will be reconstructed to meet the 5-foot side yard, 8-foot height to top of beam, and 30% yard coverage requirements. The applicant is to provide revised drawings of the pergola at this continuation. The drawings were distributed to the Board members.

A pool and deck building permit has not been approved as Mr. Joseph is required to reduce the rear yard coverage of impermeable surfaces to comply with Section 12-2-5.

Staff asks that a time limit be placed for the pergola to be reconstructed and the rear yard impermeable surfaces to be removed in order to come into compliance.

The applicants, Mr. and Mrs. Joseph, were sworn in by Secretary Kirchner. Chairman Kintner asked if there was any new information since the continuance from last month. Mr. Joseph provided a petition from surrounding neighbors in favor of the pergola.

The final plan for the pergola was discussed, slats have been added, the height and setbacks are conforming. All impermeable surfaces that are required to be removed will be. Mr. Joseph noted the light in the pergola has been removed.

Board member Gabriel asked if any other coverage would be placed on top of the pergola. He asked if any lighting would be on the pergola, and if grass would replace the pea gravel under the pergola. The applicants said they will not have lighting, there will be no additional coverage on top, and there will only be grass under the pergola.

Mrs. Joseph asked what is considered an impermeable surface other than grass. Discussion ensued regarding the Municipal Code and impermeable surfaces.

Board member Dorgan asked about the garage electrical service and garage permits.

Board member Gabriel said the pergola would not be a detriment to the neighborhood.

Chairman Kintner said the Board must consider the possible precedent of having more than 2 accessory structures.

Board member Gabriel noted that this is a large property that can support the variation for number of structures.

Chairman Kintner asked if the permitting process had specific timeframes. Permits have varying expiration dates of 6 months to 1 year. Mr. Nolin said this case is dependent on removal of impermeable surfaces prior to a permit being issued for the pergola.

Chairman Kintner asked the applicant what amount of time is needed for the removal of surfaces and repositioning of the pergola. The contingencies must not continue.

Chairman Kintner asked for public comment, none was given.

Board member Gabriel made a motion to approve Case ZBA 24-03, a request for variations from Sections 12-2-2:B to allow more than two (2) accessory structures on a zoning lot subject to the following conditions:

1. The proposed pergola shall be constructed in accordance with the plans submitted by the applicant in the Variation Application dated 2/13/2024, with a timeline for completion of the work proposed for two months from approval tonight.
2. The applicant shall file all necessary plans and applications, for review and approval, and secure all necessary building permits prior to the commencement of construction.

Board member Dorgan seconded the motion. Chairman Kintner called for the vote.

Board Member Dorgan voting	aye
Board Member Gabriel voting	aye
Board Member Mohr voting	aye
Board Member Stein voting	aye
Chairman Kintner voting	aye

Motion passes (5-0)

Chairman Kintner asked for any other business or discussion. Hearing none, Board Member Gabriel moved to adjourn the meeting, seconded by Board Member Dorgan. The motion to adjourn the meeting was approved unanimously pursuant to a roll call at 8:07 p.m.

Minutes respectfully submitted by Anne Ryder Kirchner.