

**Village of Indian Head Park
201 Acacia Drive
Indian Head Park, IL 60525**

**MINUTES
VILLAGE OF INDIAN HEAD PARK
PLANNING AND ZONING COMMISSION
PUBLIC HEARING**

“Pursuant to 5 ILCS 120/2.06 (3) minutes of public meetings shall include, but need not be limited to: a general description of all matters proposed, discussed, or decided, and a record of votes taken.”

Tuesday, August 7, 2007

7:30 P.M.

I. CALL TO ORDER -DENNIS SCHERMERHORN, CHAIRMAN

A public hearing was hosted by the Village of Indian Head Park Planning and Zoning Commission on Tuesday, August 7, 2007, at the Municipal Facility, 201 Acacia Drive. Chairman Schermerhorn noted that Zoning Petition #166, a petition for variances from the front yard, rear yard and height requirements for a new residence to be constructed at 6449 Blackhawk Trail, will be discussed this evening. The meeting was convened at 7:30 p.m. by Chairman Dennis Schermerhorn and Kathy Leach, Zoning Commission Secretary, called the meeting to order.

II. ROLL CALL: PRESENT (AND CONSTITUTING A QUORUM):

Chairman Dennis Schermerhorn
Commissioner Diane Andrews
Commissioner Noreen Costelloe
Commissioner Denise Ingram
Commissioner Earl O'Malley
Commissioner Jack Yelnick

ALSO IN ATTENDANCE:

Debbie Anselmo, Zoning Trustee
Carol Coleman, Zoning Trustee

PETITIONER AND REPRESENTATIVES PRESENT:

Mr. & Mrs. Andre Hasan, owners of the property at 6449 Blackhawk Trail
John Griffin, Griffin & Gallagher
Scott Eckstein, James Scott Custom Home Builders

III. PLEDGE OF ALLEGIANCE TO THE FLAG

Chairman Dennis Schermerhorn and the Planning and Zoning Commission members led the audience in reciting the Pledge of Allegiance to the Flag as follows: *“I Pledge Allegiance to the Flag of the United States of America and to the republic for which it stands, one nation under God indivisible with liberty and justice for all”*.

QUESTIONS AND/OR COMMENTS FROM INDIAN HEAD PARK RESIDENTS/PROPERTY OWNERS IN ATTENDANCE REGARDING ZONING AGENDA ITEMS

IV. PUBLIC HEARING HELD BEFORE THE VILLAGE OF INDIAN HEAD PARK PLANNING AND ZONING COMMISSION (PUBLIC COMMENTS RECEIVED AFTER DISCUSSIONS BY THE PLANNING AND ZONING COMMISSION MEMBERS AND PRIOR TO VOTES)

ZONING AGENDA ITEM:

1. **Petition #166 – A Request for a Rear Yard, Front Yard and Height Variation Regarding a New Residence to be Constructed at 6449 Blackhawk Trail, Indian Head Park.**

Chairman Schermerhorn noted that a *“Zoning Petition for Variations”* was filed with the Village by Griffin & Gallagher on behalf of Andre and Jacqueline Hasan, the property owners, regarding a request for a rear yard, front yard and height variances from *Title 17, Zoning*, of the Municipal Code to allow for the construction of a new single family residence at 6449 Blackhawk Trail. Chairman Schermerhorn noted the following exhibits that are part of the public hearing this evening before the Commission: (1) a Zoning Petition for Variation form submitted by Griffin and Gallagher on behalf of Mr. & Mrs. Andre Hasan (2) a Certificate of Publication and notice of public hearing that appeared in the July 21, 2007 *Suburban Life Newspaper*; (3) a copy of the letter that was sent to adjacent property within two-hundred feet (200') of the subject property; (4) a list of the adjacent property owners; (5) a memo to the Public Works Department regarding posting of the zoning sign on the subject property; (6) a plan review report dated July 5, 2007 prepared by Tim Halik, the Village's Plan Review Consultant; (7) a letter that was sent to Mr. & Mrs. Andre Hasan by Frank Alonzo, Village Administrator, dated May 2, 2007; (8) a preliminary engineering report from Dave Vandervelde, from Christopher Burke Engineering; (9) three adjacent property owner letters were received by the Village regarding this zoning matter -- a letter from Thomas and Christy Furey (6464 Thunderbird Drive) dated July 26, 2007 opposing the requested variances -- a letter from R.J. Rehak (6474 Blackhawk Trail) dated July 27, 2007 and a letter from Michael and Leann Schied (6470 Thunderbird Drive) who also object to the requested variances.

A petition was also presented to the Village dated July 26, 2007 signed by approximately twenty-four (24) property owners representing twenty-one properties who are opposed to the

*PZC Minutes
August 7, 2007*

variances being requested for the subject property as follows: *“Dear Commissioners, we are opposed to the variances to the Village of Indian Head Park Municipal Code requested for construction of a new residence at 6449 Blackhawk Trail. The proposed plan exceeds the height, front yard setback, and rear yard setback requirements of the Village’s Zoning Code. We believe that allowing such a variance would have a negative impact on our neighborhood, and we request that the Commission deny these variances”*; (10) a reduced set of architectural plans which includes a grading plan. A copy of the Certified Plat of Survey for the property at 6449 Blackhawk Trail was not provided by the petitioner.

Chairman Schermerhorn noted for the record that the Village’s plan review consultant previously reviewed the preliminary plans several times and the Planning and Zoning Commission hosted an informal Workshop meeting on Tuesday , April 3, 2007 with Mr. & Mrs. Andre Hasan as well as their architect to discuss the plans before a public hearing was scheduled. He noted that the Commission members stated at that time that the current plans exceeded most of the setback requirements of the R-1 Single Family Residence District.

John Griffin, from the law firm of Griffin & Gallagher, stated that he is present this evening to represent Mr. & Mrs. Andre Hasan, the owners of the property at 6449 Blackhawk Trail. Mr. Griffin stated that Mr. & Mrs. Hasan are present this evening with their two daughters as well as Scott Eckstein, Mr. & Mrs. Hasan’s Builder. Mr. Griffin requested copies of the letters that were entered into the record this evening from residents that are opposed to the requested variances. Chairman Schermerhorn provided a copy of the letters received relative to this petition to Mr. Griffin. Mr. Griffin stated that the petition before the Commission this evening is relative to the property located at 6449 Blackhawk Trail, which is approximately a ½ acre wooded lot. Mr. Griffin referred to the grading plan for the subject property and he noted the following: (1) the lot is rectangular although the west end of the lot is approximately one-hundred and one feet (101’) and the east end is approximately one hundred and twenty-five feet (125’). The property is roughly two-hundred feet (200’) wide; (2) the site has many mature trees including a number of Oak trees and the home design plan presented takes into consideration saving as many mature trees as possible; (3) the lot presents some challenges based on the Village setback requirements and the topographical conditions. He noted that the property slopes down by about fourteen-feet (14’) from east to west; (4) the Village’s front yard setback requirement is forty-feet (40’) and the rear yard setback is forty-percent of the average lot depth, which would be forty-two feet (42’). This leaves a buildable area of twenty-eight feet (28’) in width with no variances; (5) the setback requirements present some challenges and the Hasan’s goal is to build a home that fits in with the character of the community, particularly in that area. Mr. Griffin stated that the Hasan’s are interested in building a beautiful home for their family that would compliment all other houses in the area; however, building on twenty-eight feet would not be in keeping with the character of the homes in the community;

PZC Minutes
August 7, 2007

(6) Mr. & Mrs. Hasan have been talking with some of the neighbors in the area of their property before the meeting this evening and possibly some of the opposition to the variances may be possibly due to misinformation. For example, a property owner may have interpreted that the front yard setback would be twenty-nine feet from the curb line, which would bring the house forward significantly. In fact, the twenty-nine feet measurement is taken from the lot line, according to the code requirement. A resident in the audience stated a neighbor, Christy Furey, asked him to sign a petition opposing the variances but there were no specifics in the petition regarding the variances; only that a rear yard, front yard and height variances were being requested.

Glenn Mann, of 6458 Blackhawk Trail, stated that he contacted the Village prior to the hearing trying to review the architectural drawings for the new home to be built at 6449 Blackhawk Trail. However, plans were not available for review at that time. Mr. Griffin stated that some of the letters of opposition to the variances may have been submitted based on misinformation on the extent of the variances and on individuals perception not specifically on the proposed plans that were presented. Mr. Griffin stated that Mr. & Mrs. Hasan are seeking four variances to address the challenges with the lot in order to build a new home. He noted that the setbacks are an issue because the owner wants to build a nice house and some setback relief is needed. Mr. Griffin stated that the following is proposed relative to a new home to be built at 6449 Blackhawk Trail: (1) a twenty-nine foot (29') front yard setback from the lot line is proposed, which would be roughly fifty-two feet (52') from the street (the Village code requires forty-feet (40')); (2) in the back, a rear yard setback of 40.17' is proposed off of the rear line (the Village code requires 45.42'). He noted the reason the house is located in this manner is based on suggestions from the Commission at the Planning and Zoning Commission Workshop meeting held previously in April, 2007. Mr. Griffin stated that he was not present at the workshop meeting but read the meeting minutes as to the topics that were discussed; (3) the building height proposed is twenty-nine feet (29') (Village codes requires 2 ½ stories or twenty-five feet (25') with the measurement taken to the average median range). Mr. Griffin stated that the very top of the house on the west side would be twenty-nine feet (29') in height, a four-foot variance is needed on a portion of the home and the rest of the roof line is lower.

Mr. Griffin stated that the roof of the home was partly designed by the architect for aesthetic purposes. Mr. Griffin further stated that a higher pitched roof design was partly based on maintenance issues because obviously a better pitch on a roof is better for maintenance (snow, leaves etc.). He added that the plan review report also mentioned a retaining wall structure located entirely within a required rear yard setback. Mr. Griffin stated that the retaining wall would give more usable area, it would flatten out a larger area to be used as a backyard and the retaining wall does not have any adverse effect on drainage. Mr. Griffin stated that he is willing to answer any questions from the public but that he is uncomfortable with the letters and petition opposing the variances unless it is known what those letters were based on when they were submitted.

PZC Minutes
August 7, 2007

Commissioner Diane Andrews stated that the zoning matter before the Commission this evening was published in the newspaper and the variances being requested were noted in the hearing notice. Commissioner Jack Yelnick asked Mr. Alan Kurti, of 6457 Blackhawk Trail, if he signed the petition opposing the variances. Mr. Kurti stated he signed the petition but that it did not state the specifics of the variances being requested other than the plans exceeded the rear yard, front yard and height requirements of Village code. Commissioner Jack Yelnick asked Mr. Kurti who was the person going around asking individuals to sign a petition regarding this zoning matter. Mr. Kurti stated, Christy Furey.

Glenn Mann, of Blackhawk Trail, asked Mr. Griffin if he could enumerate on the larger scale plans on display noting the specific variances that are intended. Chairman Schermerhorn asked Mr. Eckstein, Mr. & Mrs. Hasan's builder, if he could reference the site plan and survey area of the property showing the buildable area of the lot and the encroachments that are anticipated.

Georgia Stamas, a resident of Indian Head Park, inquired if the proposed front yard setback for the property at 6449 Blackhawk Trail is twenty-nine feet (29'). Chairman Schermerhorn stated that the Village's zoning ordinance requires a front yard setback of forty-feet (40') from the building line in an R-1 Single Family Residence Zoning District and the rear yard setback requirement is 40% of the average lot depth. The side yard setback cannot be less than ten-feet (10') or a total combined side yard not more than twenty-five feet (25'). Chairman Schermerhorn pointed out that this criteria in an R-1 Zoning District defines an area within a lot in which the ordinance allows structures to be built. He noted that the buildable area for the property at 6449 Blackhawk is a little unusual because most of the property is very wide and does not have a lot of depth (the lot measures approximately 25' in depth and it is 150' in width). Chairman Schermerhorn stated that if a building were to be constructed on the lot within the buildable area, a wide shallow home or long style ranch home would fit that lot dimension to meet the code requirements. Mrs. Stamas stated that the proposed new home would be set on the property ahead of the other homes in the area, the new home will be built much higher than other homes in the area and the Zoning Board has an obligation to protect the rights of the people living in the area. Commissioner Noreen Costelloe stated that other properties may have different setback and property lines and all homes will not always be aligned exactly the same.

Commissioner Noreen Costelloe inquired what the lot depth and width dimensions would be for the property at 6449 Blackhawk Trail. Mr. Griffin stated that the proposed new home would be approximately 4,000 square feet and the home would comply with the floor area ratio for the lot. Mr. Eckstein stated that the building envelope would be approximately 85' 8" and the home would be two stories. Commissioner Jack Yelnick inquired if Mr. & Mrs. Hasan's builder had an outline of the previous plan that was presented last time and the changes that were suggested by the Commission at that time as it relates to the current proposal.

PZC Minutes
August 7, 2007

Commissioner Diane Andrews noted the following: (1) the current plan reflects a height of twenty-nine feet (29') -- (Village ordinance requires 2 ½ stories or twenty-five feet (25') with the measurement taken to the average median range (no change from the last plan); (2) the current front yard setback is twenty-nine feet (29') – a variance of 27.5%. The previous plan reflected a front yard variance of 30% and the home was moved forward; (3) the current proposed rear yard setback is 40.17 (Village codes requires 45.42' -- a 12% variance from the code). Mr. Eckstein stated that the plan was revised based on prior discussion with the Planning and Zoning Commission. Commissioner Diane Andrews stated that configuration of the home on the lot was not changed to utilize more buildable space on the lot.

Mr. Eckstein stated that due to severe grade drops on the property, the home was positioned in the best location while taking into consideration the location of the garage and driveway layout. Commissioner Noreen Costelloe asked how the proposed retaining wall would work to provide usable space and if there are any other options other than a retaining wall. Mr. Eckstein stated that a retaining wall would provide more approachable area from the kitchen door as opposed to a large drop-off but additional soil can be added to level the grade. Commissioner Diane Andrews inquired what the height of the retaining wall would be. Mr. Eckstein stated that the proposed retaining wall would be about four-feet (4') in depth at the foundation and extends out eight to ten feet in length into the rear yard. Commissioner Diane Andrews stated that the footprint of the new home is unchanged from the previous plan discussed at the workshop meeting with Mr. & Mrs. Hasan at the April 3, 2007 meeting, the height was not reduced at all and she asked Mr. Eckstein if he just moved the home forward on the lot. Mr. Eckstein responded, yes. Mr. Eckstein stated that the height of the residence was not lowered at the request of Mr. Hasan. Commissioner Earl O'Malley stated that the Commission members were clear in providing suggestions to Mr. & Mrs. Hasan as well as their builder at the workshop meeting to redesign the home and there have been no changes from the prior plan.

Chairman Schermerhorn read the following from the April 3, 2007 workshop meeting minutes as stated by Mr. Eckstein *“the ridge of the roof line can be lowered and the plan revised to minimize the variances needed”*. Mr. Eckstein commented that he did state the roof could be lowered. However, he was requested by the property owner not to lower the roof line. Commissioner Noreen Costelloe asked how the other homes on the street are aligned. Chairman Schermhern stated that the existing home to the east of the subject property is set back much more than the forty-foot (40') front yard setback and it is difficult to use other homes as reference points. Commissioner Jack Yelnick pointed out that there needs to be a happy median for the setback while respecting placement of homes on each side of the property. Mr. Griffin stated that there were items mentioned at the end of the Board minutes as follows: *“possibly the rear line of the building can be moved forward to the forty-foot (40') line and that would result in about a ten-percent rear yard variance”*. Mr. Griffin stated that the building was moved forward, as requested, creating a rear yard setback of 40.17'.

PZC Minutes
August 7, 2007

Mr. Eckstein stated that the Commission members previously asked why the layout of the home could not be reversed. He noted that the plan was designed in the current layout because of the location of the garage which is setback significantly and adds to the transitional line of the property. Commissioner Denise Ingram stated that due to the topography of the property, some of the buildable area falls within the steep slope areas on the property. The footprint of the house is not any bigger than the buildable area it is just configured differently. Commissioner Ingram stated that the height is also an issue due to the proposed home that would be four-feet higher than many of the homes in the area. Commissioner Jack Yelnick stated that the property at 6449 Blackhawk Trail is buildable and there is a house plan that would work for that particular lot.

Mr. Griffin stated that the buildable depth of the house could only be twenty-eight feet (28'), if there are no variances. Commissioner Noreen Costelloe stated that it is not uncommon that some variances would be considered on a smaller scale. Glenn Mann, of 6458 Blackhawk Trail, stated that he lives directly across the street from the lot in question. Mr. Mann asked for clarification on the variances that are being requested as it relates to the construction of a new home at 6449 Blackhawk Trail. Chairman Schermerhorn stated that the following variances are being requested: a building height to allow for twenty-nine feet (29') -- Village code requires 2 ½ stories or twenty-five feet (25'), a front yard setback of twenty-nine feet (29') – Village code requires forty-feet (40'), a rear yard setback of 40.17 feet– Village code requires 45.42'. Mr. Mann stated that the proposed home is beautiful and it would be an improvement to the neighborhood, the building setback may be viable if the home is moved to the west on the lot and he objects to the height variance because it is not consistent with the height of other homes in the neighborhood.

A resident in the audience stated that if the Zoning Board makes an exception to grant the variances being requested, the Village will have to make more allowances in the future to grant similar variances. Chairman Schermerhorn stated that all facts regarding this zoning matter will be taken into consideration by the Commission before a vote is taken. James Davidson, of 6440 Thunderbird Drive, stated that his property is located behind the subject property and he asked if the proposed home was designed for this particular lot. Commissioner Diane Andrews stated that the question was asked by the Commission previously at a workshop and the property owners stated that the design plan was selected first then the property was purchased. Mr. Davidson stated that a very large home is proposed on a lot that is not suited for the proposed plan, the home is beautiful but it is a bad trend to totally change the character of the surrounding area to jam a home in where it does not fit on the lot without asking for several code changes.

Brigitte Mann, of 6458 Blackhawk Trail, stated that the height would be an issue, Indian Head Park is a community of trees, we all contend with leaves and it should not be a reason to grant a variance for extra height. Alan Kurti, 6457 Blackhawk Trail, stated that he lives next door to the subject property and he did not have any problems with the setbacks after Mr. Hasan visited his property to show him the plans for the new house.

PZC Minutes
August 7, 2007

Mr. Griffin stated that Mr. Hasan also spoke with Mr. Rehak and Mrs. Furey who signed the petition in opposition to the variances. Mr. Hasan stated that he spoke with Mr. Rehak and Mrs. Furey who may have been misinformed on the dimensions and there may have been a misinterpretation on the measurements on some of the setbacks. Mr. Hasan stated that he shared the plans with some property owners, the existing Oak trees are much higher than twenty-nine feet (29'), there is no view that would be obstructed over the trees from the rear of the property and some of the people that signed the petition opposed to the variances may have been unsure of what they were signing.

Carol Davidson, of 6440 Thunderbird Drive, stated that this is the second zoning variance situation that she has attended in the past six years. Mrs. Davidson stated that people are coming to the community wanting the world on a little piece of property and expecting the laws to be changed to revolve around them and their particular situation.

Chairman Dennis Schermerhorn and the Commission members reviewed the following Findings of Fact with regard to the residential property at 6449 Blackhawk Trail to evaluate evidence presented in response to the following criteria before recommending a variation(s), as required by the Village's Zoning Ordinance, ***Title 17 Zoning, Section 17.23.060E***: (1) that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located (not applicable -- this reference pertains only to commercial properties); (2) the plight of the owner is due to unusual circumstances (all commissioners agree); (3) the variation, if granted, will not alter the essential character of the locality (all commissioners disagree); (4) the particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out (all commissioners agree); (5) the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification (all commissioners agree) -- it was noted that the lot is more shallow than wide; (6) the purpose of the variation is not based upon a desire to make money out of the property (all commissioners agree); (7) the alleged difficulty or hardship has not been created by any person presently having an interest in the property (all commissioners agree); (8) the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located (all commissioners disagree); (9) the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood (2 commissioners agree and 3 commissioners disagree).

Commissioner Costelloe moved, seconded by Commissioner Ingram, to accept the findings of fact with regard to the zoning matter before the Planning and Zoning Commission this evening. Motion carried by unanimous roll call vote (6/0/0).

*PZC Minutes
August 7, 2007*

Aye: Chairman Schermerhorn and Commissioners: Andrews, Costelloe, Ingram, O'Malley, Yelnick

Nay: None

Absent: None

Commissioner Noreen Costelloe stated that she is not in favor of the proposed building height or the retaining wall in the rear yard and the front yard variance being requested is too substantial. Commissioner Diane Andrews stated that there have not been enough changes to the plans and noted that she does not support the variances being requested.

Chairman Schermerhorn entertained a motion to submit a recommendation to the Village Board to accept the petition as presented for approval. Commissioner O'Malley moved, seconded by Commissioner Andrews, to submit a recommendation to the Village Board for approval to grant the following variances for the subject property at 6449 Blackhawk Trail:(1) to allow a building height of twenty-nine feet (29') -- **a variance of four-feet (16%)**; (2) to allow a front yard setback of twenty-nine feet (29') -- **a variance of about eleven-feet (27.5%)**; (3) to allow a rear yard setback of 40.17' -- **a variance of about 5.5' (12%)** and (4) to allow a retaining wall located entirely within the rear yard setback of the property-- **a variance of 100%**. Carried by unanimous roll call vote (0/6/0).

Aye: None

Nay: Chairman Schermerhorn and Commissioners: Andrews, Costelloe, Ingram, O'Malley, Yelnick

Absent: None

Chairman Schermerhorn stated that a report will be presented to the Village Board at the next meeting regarding Zoning Petition #166 relative to the property located at 6449 Blackhawk Trail.

Glenn Mann, of Blackhawk Trail, asked if architectural plans could be made available for public review in the Village for hearings scheduled before the Zoning Commission. Chairman Schermerhorn stated that plans received for distribution to the Commission members arrived in the Village Offices just a few days prior to the hearing date. Trustee Carol Coleman stated that it is the opinion of Village Counsel that architectural plans are exempt from being provided under the Freedom of Information Act. However, the plans are always available for public review during the hearing process and the homeowner may provide plans to others for review if they choose. Commissioner Jack Yelnick stated that a workshop meeting was held with the property owners previously, the Commission provided suggestions to make the necessary changes and it was an open opportunity for those interested property owners who could have also attended that open meeting to review the plans at that time.

PZC Minutes
August 7, 2007

A resident in the audience thanked the Planning and Zoning Commission members for their dedication to public service and for volunteering to serve the community.

**REVIEW AND APPROVAL OF PLANNING AND ZONING COMMISSION
MEETING MINUTES (DISCUSSION AND A POSSIBLE VOTE MAY TAKE
PLACE)**

i *Minutes of the Planning and Zoning Commission Meeting held June 26 , 2007*

Upon review of the minutes presented from the meeting held on Tuesday, June 26, 2007, Commissioner Andrews moved, seconded by Commissioner Ingram, to approve the June 26, 2007 meeting minutes, as amended. Carried by unanimous voice vote (6/0/0).

VI. ADJOURNMENT

There being no further business to discuss before the Commission, Chairman Schermerhorn entertained a motion to adjourn the meeting. Commissioner Andrews moved, seconded by Commissioner Yelnick, to adjourn the meeting at 8:45 p.m. Carried by unanimous voice vote (6/0/0).

Respectfully Submitted,
Kathy Leach, Recording Secretary
Planning and Zoning Commission