

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

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

“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, June 5, 2007

7:30 P.M.

I. CALL TO ORDER -DENNIS SCHERMERHORN, CHAIRMAN

A continuation of a public hearing was hosted by the Village of Indian Head Park Planning and Zoning Commission on Tuesday, June 5, 2007, at the Municipal Facility, 201 Acacia Drive. Chairman Schermerhorn noted that Zoning Petition #159, a petition for a rear yard variation for an addition residence for the property located at 6532 Blackhawk Trail, will be discussed this evening. Also, Petition #162 for a terms and conditions hearing to allow for a safety fence at 6472 Apache Drive, will also be discussed by the Commission. 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

NOT PRESENT:

Commissioner Earl O'Malley
Commissioner Jack Yelnick

ALSO PRESENT:

Debbie Anselmo, Zoning Trustee
Carol Coleman, Zoning Trustee

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

None

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 ITEMS:

1. Continuation of Petition #159 – A Request for a Rear Yard Variation Regarding an Addition to the Residence Located at 6532 Blackhawk Trail, Indian Head Park.

Chairman Schermerhorn noted that an application for a zoning variation was filed with the Village regarding a petition for a variation from *Title 17, Zoning*, of the Municipal Code. A public hearing notice was published to consider a request for a rear yard variation to allow for the construction of an addition to the residence for the property located at 6532 Blackhawk Trail, Indian Head Park. At the last meeting, the Commission discussed the proposed plans in the form of a workshop meeting and the public hearing process was continued to the meeting this evening to review revised plans for the rear yard addition. Chairman Schermerhorn noted: (1) revised site plans were submitted reflecting a reduction in the rear yard variance for a proposed addition to the residence. The new plan reflects a rear yard setback of 69.42 feet, a proposed rear setback of 59.74 feet a rear yard encroachment of 9.68 (reduced from 16.42 feet) and a 13.94% variance (reduced from 23.65%); (2) a plan review report dated May 15, 2007 and; (3) a letter sent to adjacent property owners regarding notification of a continuation of the public hearing. Mr. & Mrs. Nick Guardino stated that their architect revised the plan to reflect prior discussions with the Zoning Commission members and they are requesting a favorable recommendation to approve the variation as presented this evening. Chairman Schermerhorn summarized that Mr. & Mrs. Guardino met with the Commission in the form of a workshop meeting to review their proposed plans for an addition to the rear of the residence, the original plan reflected an encroachment into the rear yard setback of 16.42 feet resulting in a request for a rear yard variance of 23.65%. The Commission members suggested at that time the plan could possibly be revised to minimize the encroachment into the rear yard setback.

Chairman Schermerhorn noted that there were adjacent property owners in attendance at the first meeting; one neighbor did not support the variance due to the percent of the variance requested and one neighbor had concerns about drainage. As a result, the revised plan is being provided for the Commission's consideration. He further noted that the existing residential structure is fifty-feet (50') back from the road instead of forty-feet (40'), which creates a hardship for any type of addition to the residence. Commissioner Andrews inquired about the concerns of the neighbor that did not support the request for a variance. Chairman Schermerhorn stated that the neighbor to the south of property that owns a vacant lot had concerns with the initial variance request for an encroachment of about fourteen feet for a variance into the rear yard due to possible future plans he has to build a new home on his lot. Mr. Guardino stated that his home was built prior to the Village's zoning ordinances being established. Commissioner Andrews asked that the drainage and run-off from the property with the new addition be designed to prevent drainage onto other properties. Mr. & Mrs. Guardino's builder stated that drantile is part of the proposed plan for the new addition and drainage will be tied into that system. Commissioner Ingram stated that the property owner has designed a new plan that is consistent with the previous recommendations from the Planning/Zoning Commission. Chairman Schermerhorn stated that there are no adjacent property owners in the audience this evening either in support of or opposed to the variance.

Chairman Dennis Schermerhorn and the Commission members reviewed the following Findings of Fact with regard to the residential property at 6532 Blackhawk Trail to evaluate evidence presented in response to the following criteria before recommending a variation, 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 agree); (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); (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 agree);

(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 (all commissioners agree).

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 (4/0/2).

*Aye: Chairman Schermerhorn and Commissioners: Andrews, Costelloe, Ingram,
Nay: None
Absent: O'Malley, Yelnick*

Commissioner Costelloe asked if there are any trees that are planned to be removed as part of the addition to the residence. Mrs. Guardino stated that some trees on the property were moved to another area on the property.

Chairman Schermerhorn entertained a motion to submit a recommendation to the Village Board to accept the petition as presented for approval. Commissioner Costelloe moved, seconded by Commissioner Ingram, to submit a recommendation to the Village Board for approval of a rear yard variance of 9.68 feet to allow for an addition to the residence located at 6532 Blackhawk Trail with the following condition: (1) that the drantile system for drainage be tied into the addition to the residence. Carried by unanimous roll call vote (4/0/2).

*Aye: Chairman Schermerhorn and Commissioners: Andrews, Costelloe, Ingram,
Nay: None
Absent: O'Malley, Yelnick*

Chairman Schermerhorn stated that a report will be presented to the Village Board at the next meeting and a recommendation will be provided to approve granting the rear yard variation for an addition to the residence.

2. *Petition #162 – A Petition for a Terms and Conditions Hearing in Connection with a Safety Fence for the Property Located at 6472 Apache Drive, Indian Head Park*

Chairman Schermerhorn stated that a petition is being presented by Mr. & Mrs. Michael Pall, the contract purchaser of the property located at 6472 Apache Drive, to allow for a safety fence.

The following exhibits were presented and reviewed by the Commission members concerning Petition #162: (1) the Commission was presented with a petition by Mr. & Mrs. Michael Pall, the contractor purchaser of the property located at 6472 Apache Drive. The zoning petition form dated May 7, 2007, was signed by Mr. & Mrs. Michael Pall; (2) a letter of approval from the current property owner to place the zoning sign on the subject property; (3) photographs of the type and style of proposed fence; (4) a list of adjacent property owners within 200' of the subject property; (5) a copy of the real estate contract for 6472 Apache Drive; (6) a copy of the Plat of Survey of the subject property; (7) a certificate of publication of the legal notice that appeared in the Suburban Life Newspaper on Saturday, May 12, 2007; (8) a copy of the letter sent to adjacent property owners within two-hundred feet (200') of the subject property dated May 11, 2007; (9) a memo to the Public Works Department dated May 10, 2007 regarding posting of the zoning sign; (10) a letter dated May 30, 2007 from Lori Davis of 6482 Apache Drive, opposing the proposed safety fence for the property at 6472 Apache Drive; (11) a letter dated May 24, 2007 signed by 17 residents of Apache Drive, Mohawk Court and Big Bear Drive, opposing the proposed safety fence at 6472 Apache Drive.

Mr. & Mrs. Michael Pall, stated that they lived on Blackhawk Trail for 10 years and recently sold their home, they are presently renting a home in Westmont and they recently entered into a contract to purchase the home at 6472 Apache Drive. Mr. Pall stated that he and his wife have been married for ten years and have two children, a son in 2nd grade who attends Highlands School and also a special needs daughter that is very high functioning and attends kindergarten. Mr. Pall stated that his daughter understands how locks and doors work and she even left the house on a few occasions, their previous home on Blackhawk Trail was very wooded. The home on Blackhawk Trail had an in-ground pool that was not used because it was not safe for their daughter. Mr. & Mrs. Pall stated that they love the Highlands School District, they have looked at other areas outside of Indian Head Park and they love the area as well as the home on Apache Drive. Mr. Pall stated that a safety fence with a locking mechanism is being requested so that his daughter can play safely in the backyard of the property without wandering off into the wooded areas or throughout the community. He further stated that the fence being requested is not a privacy fence but a five-foot fence around the rear property boundary for safety purposes with a gate in the side yard of the property. Mrs. Pall stated that the fence will be tan or grey with a weathered look and would fit in aesthetically with the home and wooded property around the area, the fence is for safety issues and she looked at other properties in the surrounding areas before deciding on the Apache Drive home. Mr. Pall stated that the fence would be placed in the rear yard of the property and a portion on the east side of the property where there is a side entrance door to the home.

Chairman Schermerhorn read the following letter dated May 30, 2007 into the record addressed to Dennis Schermerhorn, Chairman of the Planning and Zoning Commission from Lori Davis of 6482 Apache Drive:

“Dear Mr. Schmerhorn, My husband and I drafted and signed the attached letter in protest of the proposed variance for a “security fence” at 6472 Apache Drive. We did not canvass the entire neighborhood, just some of the immediate neighbors. In conversation, many others in the neighborhood offered to support us, as they do not want a precedent set. If needed, we will get that written input from them. As an adjacent neighbor to the east we are very much affected by this proposed fence. We added to the beauty of our home with a 18 x 32 foot family room with 6 Paladian windows, with the certainty that our Village would never allow a fence in our view. We are appalled that the prospective owner is being inconsiderate of us, our beautiful home and long term investment. This past winter the prospective homeowner of 6472 Apache, put an offer on the house across the street (6477) contingent on approval of a fence. While this is a ½ acre lot, the fence would be extremely unfair to those immediate neighbors. But the offer was withdrawn before the Village hearing. Now they turn to a much smaller interior lot and bought a house without the contingent of fence approval. The assumption is this fence either isn’t extremely important to the new owner, or that his arrogance leads him to believe that he can easily sway the Board. Thank you for your consideration and respect for the surrounding neighbors of 6472 Apache. Sincerely, Lori Davis, 6482 Apache Drive.”

Chairman Schmerhorn also read the following letter into the record dated May 24, 2007: *“Dear Mr. Schermerhorn, As residents of Apache Drive, Mohawk Court and Big Bear Drive, we vehemently oppose the variance for a “safety fence” as applied for by the prospective new owners of 6472 Apache Drive. Most of us moved to Indian Head Park many years ago, with valid consideration of the fact that no fences, above ground pools, or detached structures would encroach on our surroundings. Many Villages do allow these detriments and we chose not to live there because of this. In addition, the property at 6472 is an “interior” lot of the “Forty Acres” and therefore it is one of the smaller ones in the Village. The property at 6472 Apache Drive backs up to cul-de-sac lots, which are considerably smaller in the rear already. We trust that our zoning committee will continue to protect our investment and beautiful park-like atmosphere that we in the Village hold so dearly. Sincerely, (signed by 17 residents representing 12 properties).”*

Chairman Schermerhorn presented for reference purposes an aerial photograph of the Apache Drive area reflecting the property on 6472 Apache Drive as well as the surrounding lot areas. Commissioner Costelloe asked Mr. & Mrs. Pall why they are interested in purchasing a property in Indian Head Park when fences are not permitted. She noted that LaGrange Highlands and Western Springs allow fences and those areas are in the same school district. Mrs. Pall stated she liked the home at 6472 Apache and added that with regard to the previous offer on another home on Apache, that home did not pass inspection and the offer to purchase that property was withdrawn. Commissioner Costelloe asked Mrs. Pall why there was no contingency for a fence in the contract to purchase the property at 6472 Apache Drive.

Mr & Mrs. Pall stated that they were confident that a safety fence would be granted and that the police department informed them that variances have been granted for fences for special needs. Commissioner Andrews asked Mr. & Mrs. Pall if they have a medical need recommendation for a fence from their physician for their daughter who is 6 years old with Downs Syndrome or if it is their opinion a fence is needed. Mrs. Pall stated the police department has visited her home on occasion because her daughter has wandered off and that added protection is needed to keep her safe. Commissioner Andrews inquired if there was a fence at the former home on Blackhawk Trail. Mr. & Mrs. Pall stated that there was no backyard on the Blackhawk property for their children to play and the property was mostly wooded with only a small fenced area around the in-ground pool that was not used. Commissioner Andrews inquired if the entire perimeter of the property is planned to be fenced. Mrs. Pall stated that the east side of the side yard would be fenced all the way to the rear lot line and around the property boundary. Commissioner Andrews asked Mr. & Mrs. Pall if they are willing to fence a smaller area of the property for a play area for their children. Mrs. Pall stated that it would be more unattractive to the neighbors to fence only a small section of the property and a perimeter fence around the boundary would be preferred. Commissioner Andrews asked Mr. & Mrs. Pall if they are willing to install shrubbery on the lot line around the entire fence area to provide screening to the neighbors with the fence in the inside of the shrubbery. Mr. Pall stated that there is a lot of existing shrubbery on the lot line and additional shrubs could be planted. Commissioner Andrews inquired if the fence needs to be five-feet tall or could it be four feet in height. Mr. Pall stated that his daughter is very athletic, she is involved in gymnastics and could hop a shorter fence; so a taller fence is preferred because she does not understand danger.

Commissioner Andrews asked if the style of fence presented to the Commission is the type and style that would be installed. Mrs. Pall stated the exact type and style of fence has not been selected but the fence contractor will provide a brochure. Commissioner Andrews stated that Mr. & Mrs. Pall have mentioned that their daughter is very good at working through lock mechanisms and she asked what type of gate and lock would be provided. Mrs. Pall stated that the fence company would recommend a lock on the gate with a code system that could not be opened without the code. Commissioner Andrews stated that if a five-foot fence is proposed five-foot evergreens would be required around the entire fenced area.

Chairman Schermerhorn stated that the Village specifically has an ordinance that precludes fences in the Village of Indian Head Park. He noted that the only fences that are permitted are those required for safety to screen in-ground pools, screening along residential properties that directly abut a business district or existing fences that were installed prior to the zoning ordinance being established. Chairman Schermerhorn stated that he is not aware of a request for a fence as proposed this evening during his time on the Zoning Commission. He added that while the Commission is sympathetic to this particular request, the Commission must also take into consideration the neighbors that would be affected by a fence.

Chairman Schermerhorn stated that more specifics are needed as far as where the fence would be installed, the exact type and style of fence that is being proposed, the type of gate and lock mechanism and taking into consideration the concerns of the adjacent neighbors. He further stated that possibly a fence could be considered for a portion of the backyard or one that is less intrusive to the neighbors that can be screened. Chairman Schermerhorn stated that Mr. & Mrs. Pall previously stated that their daughter who is 6 years old could already scale a four-foot fence and he asked how long it would be before she could scale a five-foot fence. Chairman Schermerhorn asked Mr. & Mrs. Pall if they would be willing to come before the Village Board each year to establish the need for a safety fence if the fence were to be approved. Mrs. Pall stated that she was not aware there would be so much opposition to a fence from the neighbors and had she known neighbors in support of the fence would have been asked to attend as well. Commissioner Andrews pointed out that the public hearing was published and all neighbors had an opportunity to provide input on this zoning matter. Commissioner Andrews asked Mr. & Mrs. Pall if they have any pets. Mr. & Mrs. Pall stated that they have two dogs and invisible fencing was installed on their property.

Chairman Schermerhorn asked the Commission members if there is sufficient information to make a decision on this zoning matter. Commissioner Costelloe stated that the bigger decision is whether it would be fine to do it at all. Mrs. Pall stated that she was informed by the Police Department that a fence was granted for a special needs boy in the Village several years ago.

Tom Davis stated that he and his wife Lori live at 6482 Apache Drive which is immediately east of the subject property. Mr. Davis stated that when he and his wife purchased their home in 1978 it was a huge factor to buy in Indian Head Park because of the regulations that prohibit fences, certain types of detached structures and above ground pools. Mr. Davis stated that he and his wife are totally opposed to the proposed fence, it would be within five-feet of their window of their family room and the idea of a fence ruins the atmosphere of the Village which is a park-like setting. Mr. Davis stated that his children grew up being able to look down the entire property many houses down in both directions and it is an ideal type of environment. He added that his daughter who has two children bought a house on Thunderbird also because we do not allow fences. Mr. Davis pointed out that he has a neighbor immediately in back of his home that does not have a fence, the owners of that property have a severely retarded son that is microcephalic, he is very active, on occasion he comes over to visit in the yards over the years and the neighbors do not object. Mr. Davis stated that the ambience of the Village is such that it would set a dangerous precedence so that many other people moving in or currently here could turn around and want a fence also.

Judy Porta, of 6421 Mohawk Court, stated that the corner of her property would back up to the proposed fence. Mrs. Porta stated that she has lived in Indian Head Park for twenty-one years and she has two dogs that must always be on a leash because fences are not permitted and that is the way all of the residents have lived in this development area without fences. Mrs. Porta stated that one of her neighbors moved to Western Springs, their house is lovely and they do allow fences; everyone has fences everywhere, all type of styles and colors. She added that if that is what you want that is great, but that is why we live in Indian Head Park because there are no fences.

Mrs. Fran Pettersen stated that she resides on Mohawk and does not live directly next to the property in question but within close proximity. She pointed out that the Apache property is on a cul-de-sac and her neighbor Josephine at 6429 Mohawk would be impacted by a fence because there is not a lot of room between the property lines. Mrs. Pettersen stated that everyone is always concerned about property values, in the previous petition findings this evening it was mentioned -- "will it affect the essential character of the locality" and the northwest corner of the deck of the neighbors property at 6429 Mohawk to the property line is only twenty-feet.

Commissioner Andrews pointed out that lots are smaller in Planned Unit Development areas and you do not have land mass such as ½ acre lots in other residential areas of the Village. Commissioner Costelloe asked if there are any comments from neighbors regarding any modifications or a smaller version of the proposed fence. The consensus of all neighbors in attendance regarding this zoning petition is that no fences be allowed at all in this subdivision. Mrs. Ardizzone stated that she has lived in Indian Head Park for 28 years and likes the park like atmosphere without fences and does not want any child to be hurt.

Mr. Harry Abbott, of 6490 Apache Drive, stated that he has listened to Mr. Pall explain how he is concerned for the safety of his child but how could a person buy a house in a neighborhood that does not allow fences when he stated a fence is required for the safety of his child. Mrs. Pall stated that Indian Head Park is a great community and the idea is to stay in an area that her family already knows. Mrs. Pall stated that she did not ask anyone to sign a petition but there are people who are absolutely fine with a fence. Mr. Davis stated that it does not matter if someone who lives eight blocks or more away is in favor of a fence because they are not directly affected and do not live next door to it.

Chairman Dennis Schermerhorn and the Commission members reviewed the following Findings of Fact with regard to the residential property at 6472 Apache Drive to evaluate evidence presented in response to the following criteria before recommending a variation, 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 (not applicable); (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 disagree); (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 disagree); (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 (all commissioners disagree).

Commissioner Andrews moved, seconded by Commissioner Costelloe, 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 (4/0/2).

Aye: Chairman Schermerhorn and Commissioners: Andrews, Costelloe, Ingram,

Nay: None

Absent: O'Malley, Yelnick

Commissioner Costelloe moved, seconded by Commissioner Ingram, to present a recommendation to allow a safety fence to be installed at 6472 Apache Drive, as presented to the Commission. Motion denied. Carried by unanimous roll call vote (0/4/2).

Aye: None

Nay: Chairman Schermerhorn and Commissioners: Andrews, Costelloe, Ingram,

Absent: O'Malley, Yelnick

**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 April 3, 2007*

PZC Minutes
June 5, 2007

Upon review of the minutes presented from the meeting held on Tuesday, April 3, 2007, Commissioner Andrews moved, seconded by Commissioner Ingram, to approve the April 3, 2007 meeting minutes, as presented. Carried by unanimous voice vote (4/0/2).

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 Costelloe, to adjourn the meeting at 9:00 p.m. Carried by unanimous voice vote (4/0/2).

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