

CITY OF COUNTRYSIDE

803 Joliet Road
Countryside, IL 60525
www.countryside-il.org



Meeting Minutes

Regular Meeting of the Plan Commission Zoning Board of Appeals

Tuesday, November 5, 2019
7:15 PM

City Hall

Board Members

Chairman, Richard Fullmer, Jr., Secretary Tina Grotzke,
Michael Anderson, Marco Gutierrez,
Ronald Ward, Steve Kehr, Robert Schwarz, Danielle Edenfield

Roll Call

Secretary Grotzke called the Roll of Members physically present as follows:

PRESENT: Chairman Richard Fullmer, Jr., Secretary Tina Grotzke, Michael Anderson, Steve Kehr, Marco Gutierrez, Ronald Ward, Robert Schwarz, Danielle Edenfield

Also Present: City Administrator Paul, Attorney Peck, Planning Manager Richard Trent, Alderman Von Drasek

APPROVAL OF MEETING MINUTES

The minutes of the Regular Meeting of November 5, 2019 were previously distributed to the Board Members. Chairman Fullmer asked if there were any corrections to be made to said minutes. There being no corrections or additions, motion made to approve the minutes of the Regular Meeting of November 5, 2019.

A motion was made by Ms. Grotzke, seconded by Mr. Anderson that this matter be APPROVED as presented. The motion carried by the following vote:

Aye: 8 Fullmer, Anderson, Gutierrez, Grotzke, Ward, Kehr, Schwarz, Edenfield
Nay: 0

CHAIRMAN'S COMMENTS

Chairman Fullmer stated the Rules of Proceeding for the hearing before the Plan Commission – Zoning Board of Appeals will follow a strict order of presentation. A sign-in sheet for interested persons addressing the Board is located at the podium. This hearing is being recorded. Please silence all cell phones and pagers.

Action Items

- 1. Case #PZV19-0002: Consideration of a Variance**
 - a. To consider granting a Variance to reduce the corner side lot line setback of the rear yard from the minimum 15' to 0' for the construction and maintenance of a 6' solid privacy fence at the subject property – 5656 S. Madison Avenue.

Ms. Grotzke moved to open the Public Hearing in this matter, seconded by Mr. Gutierrez and carried by unanimous voice vote. The Applicant, Mr. Philip Lund, was sworn in by Chairman Fullmer. The required Proofs of Notice have been received by the Building Department. Mr. Trent presented the Staff report: Aerial views of the subject property show that the parcel is a corner lot; ground level views of the north, east, west and south elevations were shown. The south elevation shows a very open and exposed rear yard. Mr. Lund seeks to install a 6' solid privacy fence along 57th Street in line with his neighbor's fence at 5657 S. Ashland Avenue; that property received a variance in 1988 for their 6' fence. Ground views of other properties in the immediate area, 5701 S. Ashland Avenue, 5700 S. Ashland Avenue and 5703 S. Ashland Avenue. Staff has reviewed all the information and is recommending approval of the variance subject to three (3) conditions as noted in the Staff Report. Mr. Anderson asked if there is a utility easement along the back property line (rear). The utility easement is only on 57th Street. On a corner lot, 15' set back on each side must be maintained.

Mr. Lund thanked the Board for considering his request. He wants to put the fence closer to the road; the views of the back yard were shown. There is a need for privacy and security without sacrificing approximately 1,400 sq. ft. of the yard if the fence were placed where the ordinance requires. They would like to line up with their neighbor's fence; the proposed fence doesn't block anybody's view and will not create any problems. It will be a wood fence called "shadowbox," which has boards on both sides -- the same as the neighbor's fence; it is treated wood and will be painted.

The Applicant made no Closing Statement. Mr. Anderson moved to close the Evidentiary Portion of the public hearing, seconded by Ms. Edenfield and carried by unanimous voice vote. **Mr. Schwarz moved to approve the variance, seconded by Ms. Grotzke.** Attorney Peck stated this will be a recommendation to approve a variance to reduce the corner side lot line setback of the rear yard from the minimum 15' to 0' for the construction and maintenance of a 6' solid privacy fence on the property commonly known as 5656 S. Madison Avenue, subject to the three (3) following conditions: 1) A building permit shall be submitted subject to the review and approval of the Community Development Department; 2) All construction and operation permitted by such zoning variance shall be subject to all applicable codes and ordinances; and 3) Said variation shall be established within six (6) months from the effective date of any ordinance granting the variance.

A motion was made by Mr. Schwarz, seconded by Ms. Grotzke that this matter be APPROVED as presented. The motion carried by the following vote:

Aye: 8 Fullmer, Anderson, Gutierrez, Grotzke, Ward, Kehr, Schwarz, Edenfield
Nay: 0

Chairman Fullmer stated that this matter will come before the City Council at its Regular Meeting on November 13, 2019 at 7:30 p.m.

2. **Case #PTA19-0001: Consideration of a Text Amendment**
 - a. To consider amending Section 10-6A-2 to include Adult-Use Cannabis Dispensing Organizations as a Special Use in the B-1 Zoning District.
 - b. To consider amending Section 10-6A-2 to include Medical Cannabis Dispensing Organizations as a Special Use in the B-1 Zoning District.

Chairman Fullmer reminded the audience that the sale of recreational cannabis has been approved by City Council. What is before this Board tonight is the location only – that is the sole purpose of tonight's meeting. Ms. Grotzke moved to open the Public Hearing in this matter, seconded by Mr. Schwarz and carried by unanimous voice vote. Mr. Trent will make the City's presentation, the Board will ask questions, then the meeting will be opened up to the public for comments. The sale of cannabis has been approved by the City Council. Residents are very disturbed by the news and without stating names were unanimously opposed to the sale of cannabis anywhere within City limits. Mr. Peck stated that the City Council Agenda was posted providing for a 3% tax on the sale; that Ordinance was approved by the City Council. Residents stated they had no notice of that meeting, even though they are on the City's website. Ms. Paul stated that every agenda is sent to all City subscribers via e-blast. Residents want a survey and a chance to petition; they believe this action was taken in secret. Mr. Peck stated that all

agendas are published 48 hours in advance per State law. Residents should direct their issues to the City Council at their next Regular meeting on November 13, 2019. Ald. Von Drasek didn't realize action was to be taken that evening. Residents are frustrated; it appeared that the matter would be for discussion only. Residents want the City to opt-out and wish to be included in that decision. Ms. Paul stated that an Ordinance was placed on the agenda to implement the 3% tax. The Ad Hoc committee held a Public Hearing to discuss this matter.

Mr. Trent presented the Staff report: the sole purpose for this hearing is to incorporate language for Adult Use Cannabis Dispensing Organizations and Medical Cannabis Dispensing Organizations into the Zoning Code. The State of Illinois adopted the Cannabis Regular and Tax Act to take effect on 1-1-20. Municipalities can elect to opt-out; otherwise it is presumed that they are opting in; Countryside is opting in. The City Council formed an Ad Hoc Committee charged with reviewing pertinent information and making a recommendation to the PC/ZBA. The Ad Hoc Committee met on August 10, 2019. Notice was posted by the Clerk's Office at City Hall and on the City's website. The Ad Hoc Committee suggested language for the Zoning Ordinance; that was submitted to the PC/ZBA with suggestions to make cannabis a special use in the B-1 Business District with the following restrictions:

- 1) Facility cannot be within 1,500 feet of various buildings, including schools and daycare centers;
- 2) Facility cannot be within 250 feet of a residential building (property lines);
- 3) On-site consumption of cannabis is not permitted; and
- 4) No sales of food for on-site consumption is permitted. They also limited the number of dispensing organizations to one – one business license.

Medical marijuana establishments (as a use) have been incorporated into the Zoning Ordinance since 2014 and are only permitted in the M-1, Limited Manufacturing District. The suggestion today is to eliminate the M-1 District and move the cannabis use into the B-1 District. Three (3) items were considered by the City Council – 1) zoning of the sale of cannabis, 2) taxing of the sale of cannabis and 3) the actual business license.

The PC/ZBA should review and update relevant definitions to be included in the Ordinance, mainly involving Adult-Use Cannabis Dispensing Organizations. The PC/ZBA should determine the appropriate zoning district to allow for adult-use cannabis businesses – the Ad Hoc committee suggested it as a special use the B-1 business district – that use will carry over into the B-2 and B-3 districts. The PC/ZBA should determine distancing requirements or other performance standards – 1,500 feet from another like organization, 1,500' from various schools, day care centers or nursing homes; may not be located within 250' of any residential facility. Regarding medical cannabis, current language is limited to 1,000' of any public or private school, daycare center, etc., or any area zoned residential. Consideration should be given to establish consistency in distances between the two proposed uses. All proposed language is open for modification as deemed necessary for the intended B-1 commercial zoning district.

Mr. Trent has provided a list of neighboring communities- and their actions in this regard. The Villages of Brookfield, Hodgkins, Indian Head Park and Western Springs are leaning towards permitting the use; LaGrange has prohibited the use within their City limits.

Questions from the Board Members – Why change from M-1 – Atty. Peck stated with the adult-use aspect, it is more of a commercial business as opposed to a medical business located in the industrial park. Mr. Schwarz asked for a map of the B-1 District showing the areas excluded by these distances. The entire west side of LaGrange Road would be excluded. Could the Board see what areas would be excluded – and overlay of the areas involved. Mr. Trent stated that all existing locations (such as schools, daycare centers, etc.) would need to be identified in order to map that out; it would take considerable time to accomplish. Based on numbers being discussed tonight, it would negate a number of properties. Discussion ensued re: property lines and the fact that a variance could be requested from a distance requirement. Each proposed use would require a special use. Mr. Peck stated that sale could be excluded from LaGrange Road should the PC/ZBA choose to do so. The PC/ZBA could recommend it remaining in the M-1 District. Atty. Peck stated that the first 100 Adult-Use licenses will be in conjunction with a Medical Use license for at least a year; after that provisions will be made for Adult-Use licenses by themselves.

Chairman Fullmer stated that no one is being forced to purchase marijuana. People under 40 see medical marijuana in a different light; they prefer it instead of traditional medicine. They think it is a wonder drug. The City can control the location; that is this Board's concern. If surrounding communities approve it and Countryside does not, the City will lose out on the 3% sales tax. If residents are unhappy, they should run for Alderman and help change the vote. Whether we like the idea or not, it is legal; it's business; that's the bottom line. Mr. Schwarz stated if the measurements discussed are put into place and voted upon, the City will end up with a lot of variances. What will be available as a special use should the Board pass these numbers? Mr. Trent did not have an answer. Applicants must do their due diligence and find a suitable location and must provide an affidavit stating that fact. Mr. Gutierrez believes it would be very limited, just looking at property lines. Ms. Edenfield believes that more information is needed before voting – something in addition to the Zoning Map to show what is available. Mr. Trent stated that putting a radius around all commercial properties would eliminate a lot of properties. It's up to the potential applicant to decide the appropriate location and pursue it; do their due diligence re: meeting the guidelines in place and then submit their materials for special use. It's incumbent on them to do their homework, not for the City to provide them with locations. Mr. Anderson asked what happens if this organization wants to be in a PUD – they would have to request an amendment to the PUD to authorize the use, taking into consideration the distance requirements. Chairman Fullmer called for a 5-minute break. Edenfield /Grotzke moved to take a brief recess; motion carried unanimously.

(Where upon a brief recess was had.)

Chairman Fullmer opened the meeting to Interested Parties. MaryLou Pisone, 6940 Lorraine Drive, spoke at the City Council meeting two months ago about denying access to customers who are not the target audience of 21 or older -- minimal footage of 1,500' away from places young people may

congregate like ice cream shops, grocery stores, food vendors, etc. This Board is setting the numbers; the ball is in your court. Ed Krzeminsky, 6929 Lorraine Drive, stated that adult-use was put in the industrial area some years ago. He is against placing it in the business district; keep it in the M-1 District. Who will make the final decision re: the final business? Mr. Peck stated if a special use is approved, a business license would need to be approved by the City Council. Chris Grawn, 6650 Dellahan, also agrees that it should be kept in the M-1 District; he doesn't want to see it near houses; do the right thing for the City. Nadine Beals, MD, retired, 6640 Dawn Avenue, never had notice; residents don't want marijuana anywhere in this town. Marijuana is not a medicine; residents are strongly opposed. She spoke about vaping problems. Chairman Fullmer noted that tonight's discussion is in regards to the location only. She agrees with the former speakers to keep marijuana in the M-1 District. Keep it in an adult-use location. One license will undoubtedly change to more; this chemical should not be in the City. Several communities are opting out; there are ten (10) in DuPage County. There is no way to control this – lives, health and safety are more important. Seeing it on a map is a good idea. Robert Conrad, 5318 Catherine, agreed that Dansher Park is a good place to keep the Adult-Use Cannabis; it doesn't need to go anywhere else. People who want it and will use it are going to find it wherever it is located; please vote your conscience; do the right thing. This is an advisory Board; the City Council has the right to do whatever it wants. Go to the City Council and voice your opinion, stay on point and let them know what you want; that's his recommendation.

Nicki Gompas, 6940 Golfview Drive, could open a daycare within 250 feet after an adult-use was opened. There would be no prohibition upon her. Sonnie Freimark, President, Drug Free Coalition of Lyons Township, spoke at several Village Board meetings for the past two years. Making it an adult-use and using the age of 21 will not keep kids away from marijuana; kids are dying from vaping. Keep tough restrictions on it if you choose to have it here. THC levels are very high with no limit to the potency; that creates addiction, psychosis and mental health issues. This will make everyone's job harder. Keep that in mind when making your decision. Marie Lovelace, 7001 Golfview Drive – concerned about infused gummy bears getting into the hands of children; keep the dispensary in the M-1 District. There were no other resident speakers. Ms. Grotzke moved to close the Evidentiary Portion of the Public Hearing, seconded by Mr. Gutierrez and carried by unanimous voice vote.

Ms. Edenfield moved to continue the meeting for more map information, seconded by Ms. Grotzke. After further discussion among Board members, Ms. Grotzke retracted her second. Chairman Fullmer stated the motion failed for lack of a second. Ms. Grotzke stated that the Text Amendment language is sufficient to make a determination – including the 1,500' and the 250' distance requirements. **Motion of Grotzke/Kehr to accept the Text Amendment language and to keep it in the M-1 District.** Atty. Peck stated that this is a recommendation to amend Section 10-6A-2 to include Adult-Use Cannabis Dispensaries as a special use and to include Medical Cannabis Dispensaries as a special use in the B-1 Zoning District as well as the M-1 Zoning District, subject to the following conditions: that the facility cannot be within 1,500' of various buildings including schools and daycare facilities, and cannot be located within 250' of a residential dwelling (residentially zoned property); on-site consumption of cannabis is not permitted; no sale of food for on-site consumption, and limit the number of business licenses to one (1).

A motion was made by Ms. Grotzke, seconded by Mr. Kehr that this matter be APPROVED as presented. The motion carried by the following vote:

Aye: 8 Fullmer, Anderson, Gutierrez, Grotzke, Ward, Kehr, Schwarz
Nay: 0
Abstain: 1 Edenfield

Chairman Fullmer stated that this matter will come before the City Council at its Regular Meeting on November 13, 2019.

Other Business

Mr. Trent stated that the December meeting – 10525 74th Street (75th Street Project) will include an Intergovernmental arrangement with the Village of Hodgkins for a project entailing a hotel, convenience store, gas station, a Plat of Resubdivision and rezoning. This will be a lot to consider for the December 3rd meeting.

In your packet please find the 2018-19 Zoning Cases and updates. The 2020 Meeting Dates have been finalized with the Clerk's Office and are included as well.

ADJOURNMENT

A motion was made by Mr. Kehr, seconded by Ms. Edenfield that this meeting be ADJOURNED. The motion carried by the following vote:

Aye: 8 Fullmer, Anderson, Gutierrez, Grotzke, Ward, Kehr, Schwarz, Edenfield
Nay: 0

Chairman Fullmer declared the meeting adjourned at 9:37 p.m.

APPROVED:

Respectfully Submitted,

RICHARD FULLMER, JR., CHAIRMAN

/fp