



## PLANNING & ZONING COMMISSION MEETING MINUTES

November 9, 2022, 6:30pm

66 Thillen Drive, Fox Lake, IL

Also Available Virtually Through the Link Below

### I. Call To Order

### II. Pledge Of Allegiance

### III. Roll Call

Present: Commissioner Bongiovanni, Commissioner Legge, Commissioner Swanson, Commissioner VanderWeit, Commissioner Nakanishi, and Chairman Gauger.

Absent: Commissioner LaPianna

A quorum was established.

Also in attendance: Economic Development Director Donovan Day, Trustee Marr

### IV. Approval of Minutes From October 12, 2022

Commissioner Bongiovanni made a motion to approve the meeting minutes as submitted, seconded by Commissioner VanderWeit.

		Aye	Nay	Abstain
Commissioner:	Bongiovanni	X		
	Legge	X		
	Swanson	X		
	VanderWeit			X
	Nakanishi	X		
Chairman:	Gauger	X		

Motion passed.

### V. New Business

#### 1) 139 Cora Avenue - Petition for a Variation to the Maximum Allowable Height for an Accessory Structure Open: 6:34 Closed: 6:37

John Schaefer (petitioner) was sworn in. Mr. Schaefer is looking to complete the garage. The pitch of the house accommodates a larger storage area upstairs. He originally wanted to build a much larger garage but there are limitations on the square footage so they raised the height of the roof and now have a lot of storage area in the attic as well as a large basement. The garage has been reduced in square footage; they want the pitch of the garage to match the house. This is also the best for receiving the sun for solar panels.

Commissioner Nakanishi stated that she is all for matching the pitch of the garage

to the house. She referenced a house on Route 12 where this is not the case and it is a little disturbing to look at.

Commissioner Legge asked if the intent was to use the space above the garage for storage. Mr. Schaefer said “maybe a canoe, over time”. It will only be designed to hold the weight of the planned solar panels.

There were no audience comments.

Commissioner Legge asked if the neighbors were informed of this public hearing. Director Day stated that notices were sent to the close neighbors by certified mail.

Commissioner Nakanishi made a motion to approve a variance to the maximum allowable height of an accessory structure at the property commonly known as 139 Cora Avenue in Fox Lake, IL, in accordance with section 9-1-4-3, table 2 of the zoning ordinance. This will allow the garage to be 20 feet 6 inches in height. The motion was seconded by Commissioner VanderWeit.

There was an affirmative vote – all were in favor. Motion passed.

## **2) 2023 Meeting Dates**

Chairman Gauger requested motion to approve the following meeting dates for 2023: January 11 - February 8 – March 8 – April 12 – May 10 – June 14 – July 12 – August 9 – September 13 – October 11 – November 8 – December 13.

(See Exhibit A attached)

Commissioner Nakanishi moved to approve this motion and was seconded by Commissioner Legge. There was no discussion.

There was an affirmative vote – all were in favor. Motion passed.

## **VI. Old Business**

### **1) 1 Lakeside Lane – Consideration of a limited number of units for short-term rentals for a probationary period. Open: 6:39 Closed 7:25**

Nathan Brown (petitioner) was sworn in. Director Day stated the history of this petition: a hearing had been requested in October but Mr. Brown had an emergency and could not attend the meeting. Director Day recommended to the board that they consider the three options that the board had previously given or a maximum of two units by the lake for a probationary period. The mayor was not sure what direction was being advised so the Village Attorney recommended that the issue be passed back to the Planning and Zoning Commission for further consideration and guidance for the Village Board. Mr. Brown passed out some paperwork that he had brought. (Exhibit B attached)

Mr. Brown stated his appreciation for being heard. He stated that he originally went for 5 and is now looking for the 2 cottages down by the lake (to be short term rentals). One cottage is a studio and the other is one/two bedroom. Maximum occupancy of the studio cottage houses 2 people, the other cottage houses 4 people. These are small units and are separate buildings.

Mr. Brown said that he purchased this property with the intention of renting it, part for short term rentals, part long term rentals. He currently has 2 tenants

that have month long leases that will be staying there. He feels he misunderstood the process of what needed to be done for the Village. He also stated that he did not begin renting short term until paperwork was submitted. He started after turning in the paperwork, misunderstanding how the process works. Although he says that he takes responsibility for his mistakes, he also said that he was using a local property manager who gave him some bad advice.

Mr. Brown said that he watched the meeting last month on zoom and was able to use some of the suggestions given there. He said that he got the number of some of his neighbors and reached out to them and tried to schedule meetings with them to discuss how they can work together for the future. The neighbors chose not to meet. They seem to believe that he doesn't have the ability to manage the short term rentals.

Some of the concerns of the neighbors are that they don't want to be "tour guides" – in response Mr. Brown has added information to the welcome packet as to places of interest in the area. Also, he is the direct contact and is available anytime to discuss and to help people. "We" have added information about parking, including a map showing where each individual car would park. He has purchased materials to extend the current fence down to the water. He is contracted with Aronson to do the installation. He has made additional rules about having dogs on a leash at all times. He has also looked into sound monitors and cameras for the property and will put those in the space if this process moves forward.

Mr. Brown said that he was woefully unprepared and did not know what to expect at the last meeting that he attended. He has heard and tried to address the concerns that have been expressed. He also stated that while the rentals were being operated, there were no parties, no complaints to the police. The challenges that folks have are more about short-term rentals as a whole. He wants to be a good neighbor and a good operator. He was disappointed to learn of the challenges that were being faced here as presented at the meeting last month. He would have fixed the problems if he had known of them.

Commissioner Legge asked if Mr. Brown had reached out to his neighbors since the last meeting. Mr. Brown said that he has and that he was able to talk to one neighbor in person who Mr. Brown thought was very willing to chat and to work and be helpful. Others weren't willing to even talk on the subject. He wanted to reach out and talk but it is not a welcome conversation. They (the neighbors) have the choice of not want this sort of thing next to them but I own the property and whether it's a tenant that is short term or long term, I want to say "hello", want to know who you are and be reachable.

Commissioner Swanson asked which cabin has the 2 long terms. Mr. Brown said the one that is closest to Glenview.

Commissioner VanderWeit asked when the short term rentals were terminated or are the short term rentals still ongoing. Mr. Brown stated that he is operating 30 day rentals and would be happy to share the leases with the commission members. He has been having inspections between the 30 day tenants.

Commissioner VanderWeit said that a few weeks ago she and her husband were taking a walk and happened upon a person coming out of one of his units with a roller board. She suggested that this looked like a short term situation. The Commissioner asked the woman how she liked her stay and the lady said it was great. That was just 3 weeks ago. Mr. Brown stated that the lady in

question was Erin and she has a 30 day lease. There have been 2 tenants in the house that are both 30 day leases. Mr. Brown stated that they are 30 days and they will be moving in and out.

Commissioner Legge asked if the fence that Mr. Brown is planning is going to the water and is between Mr. Brown and the neighbor that has the beach. Mr. Brown said "correct". The fence has a 4 foot gate for emergencies.

Commissioner Legge asked Director Day, what are the village rules and regulations regarding short-term versus long-term rentals. Director Day stated that anything under 30 is considered short-term and anything more than 30 days requires an inspection between tenants and payment of \$25.00 inspection fee. Mr. Brown stated that after the meeting a few months ago, he is not renting short-term, he is keeping up the inspections with Ken and he has leases, doing everything possible to abide by the rules and regulations.

Commissioner Nakanishi asked for clarification regarding which unit is #1 and which is #2. Cottage #1 is the 2 bedroom with 4 overnight adults maximum, cottage #2 is a studio with 2 overnight adults maximum.

Commissioner Bongiovanni asked Director Day if stipulation could be added to a Short-Term Rental permit so that it would have to be re-applied for in one year. Director Day stated that stipulations can be added to any Special Use permit.

Commissioner Nakanishi asked Director Day if we are going to start issuing permits with a probation period. It is up to the Commission to make any such recommendations to the Village Board.

Commissioner Bongiovanni asked Mr. Brown for his thoughts about making the 4 person cottage into a 2 person cottage. Mr. Brown stated that he is the father of 2 and has stayed in that cottage before. He said that he has an age minimum of 25 years old and is trying to attract a certain type of renter. You're not here to cause any type of trouble, just here for a nice quiet vacation. He can imagine that people would want their kids to come there. If making this a 2 person limit, he is happy to do that but this unit is a two-bedroom with an extra space. He could be looking at 6 but doesn't want that many.

Commissioner Bongiovanni then asked about Mr. Brown's plans regarding a security system with video and sound monitoring, does Mr. Brown plan to install these items as he had mentioned previously. Mr. Brown said that, he intends to install a system if his petition is approved. There is a cost associated with this. Mr. Brown stated that he went ahead and installed the fence as discussed earlier.

Commissioner Bongiovanni said that Mr. Brown had mentioned several times in previous meetings that he is planning to move to this area and make this property his permanent residence and asked Mr. Brown to elaborate on this. Mr. Brown stated that he lives in Glencoe and does multi-family long term rentals. This is his first attempt at doing short term rentals. Through this process, he has been here quite a lot and has come to enjoy it. He does not have any immediate plans for moving here anytime in the near future, but would love to have the opportunity to use this property as much as possible.

**Audience comments:**

Gary Eggert was sworn in:

Mr. Eggert stated that “nothing has changed in the 2 months since we met last”. Just to clarify, 30 days or less is a short-term rental. At the time of the October 25<sup>th</sup> meeting of the Village Board, the petitioner was not able to attend due to an emergency and the discussion was supposed to be tabled. At that time, there was a family in the main house (3 bedroom unit) who had moved in on the Friday or Saturday before the meeting and moved out the following weekend. That is a one week stay. In reference to the testimony that was given at the September 14<sup>th</sup> Planning and Zoning meeting, nothing has changed. Mr. Eggert reminded the board (as he did to the Mayor last night) that conditions, probation, approving less than 5 units was all discussed at the September 14<sup>th</sup> meeting. Mr. Eggert questioned why this is coming back again. The problem with the conditions is that there is no enforcement by the village. All of the previous objections are still the same.

Nathan Brown was called back to the podium. “There are no short-term rentals happening.” Mr. Brown stated that he is happy to provide the board with the leases and contact information of the people who were there.

Chairman Gauger said that this situation obviously caused a lot of concern at the Village Board because they do not normally send items back to us that already have our recommendations. Obviously, the neighbors, having turned out again, also feel very strongly about this issue. Mr. Brown said that the neighbors feel strongly about short-term rentals, he just happens to be the one that is up for approval. He feels that whether it was him or the neighbor two doors down, it would be the same. Mr. Brown said that his understanding is that the goal of the Commission is to review the operator and the ability of how that operator is going to perform. He is new to this process and came to the last meeting completely unprepared and unaware of the issues that were raised by the neighbors. Mr. Brown stated that the neighbors have not reached out to him directly about any problems or concerns even though they have his phone number, so he learned of the concerns here. He said that he feels bad about any inconvenience. In hindsight, he would have liked to have paused and gone back and re-evaluated things. Mr. Brown feels that people are unwilling to look at short-term rentals as they exist. All of the issues that you heard from the neighbors, none of it is about issues that are happening, it is all about their beliefs regarding short-term rentals. So whether it is Mr. Brown or another operator, that is what the issue is. Mr. Brown said that he could completely understand if they said “this house is having huge parties” or “I’ve reached out to him and he doesn’t respond” or “we’ve told him we don’t want this and he’s telling us to go pound sand”, that is not what is happening here. They just don’t want a short-term rental and it doesn’t matter who runs it. He said that he appreciates this opportunity to address the commission again and he wishes he had done things in a different way from the start.

Commissioner Nakanishi stated that someone had said that the 3 bedroom unit was recently occupied for only one week, from weekend to a weekend. Is that true? Mr. Brown said that he a month tenant came up for a week and left and will be back. They have the space for an entire month and are free to come and go as they please. As long as the place is theirs, it is not rented to anyone else within that 30 days, it is a 30 day lease. The tenants are not obligated to reside there the entire time.

Mr. Brown said that he has had several tenants who rent for 30 days. These people work during the week and stay here on the weekends.

Commissioner Legge stated that he could certainly have a situation where there is a 30 day lease and the people come and go. Mr. Brown said that everyone is just assuming that he is doing something bad.

Commissioner Legge asked about the property manager that Mr. Brown had. Mr. Brown stated that they have parted ways and the Commissioner asked what the plans are going forward. Mr. Brown stated that he has someone local who would be available if as his alternate if this petition is approved. (It was later stated that this person is someone that Mr. Brown knows and not a property manager). Mr. Brown will be the primary contact but he lives 45 minutes away and he has someone in Fox Lake who will be available in an emergency and neighbors will be given phone numbers for both Mr. Brown and the alternate. Commissioner Legge asked if any consideration has been given to having a long term tenant who could manage the property. That is something that Mr. Brown wanted to discuss with the neighbors but has been unable to do so. He was looking at having 2 long-term tenants and 3 short-term but that is not the way this is working out.

Commissioner Legge asked if Mr. Brown was to have 1 unit approved for short-term rentals on a probationary basis, which one would he choose. Mr. Brown said that he would choose the studio (unit #2). This is low value and cost effective. There are 2 long-term tenants currently leasing the 2 lower level units in the house and the larger cottage is currently vacant. The units are currently furnished and would be used for 30 day rentals. He has someone looking at his properties for furnished properties to rent for 6 months or so. Mr. Brown also mentioned that local taxes would be greater if based upon the short-term rentals.

Donna Kolian was sworn in. She is the neighbor next door to the cottages and does not feel safe with so many strangers coming and going and invading her property. Mr. Brown has had short-term rentals all along without any approvals. Ms. Kolian said that the fence might help keep the dogs out of her yard but will not prevent renters from going on her pier and in the water. She is concerned because Mr. Brown hasn't been truthful about the short-term rentals. In reference to the short-term rental situation that Mr. Eggert was speaking about, Ms. Kolian saw those people (a man and a woman and several children) there for 1 week and then they were gone. If it's a 30 day lease that's still not long-term. Who is to say that someone doesn't just sign a 30 day lease and stay for a week to protect Mr. Brown? She does not trust people who lie and she is just trying to protect the neighbors.

Diana Vileta was sworn in. Ms. Vileta was under the impression that the Commission would discuss the suggestions that were made last month and get back to them with answers. Last year it was said that the short-term owners would supply the neighbors with contact information and rules that were given to the renters. This has not happened. Also, there are short-term rentals going on in her neighborhood in places that have not been approved by the Village. We are a neighborhood; Mr. Brown is an operator, a business.

Also, has the Commission given any thought to the concern regarding a limit of how many short-term rentals are allowed per block? This will be discussed in the next segment of this meeting. Ms. Vileta also wants to know who to contact if there is a problem.

Nathan Brown was called back to the podium. Chairman Gauger suggested several conditions to be attached if a Special Use permit is approved for this short-term rental application.

Chairman Gauger stated: For Nathan Brown, seeking a Special Use Permit for a short-term rental at the property commonly known as 1 Lakeside Lane, I will take a motion to approve a short-term rental at 1 Lakeside Lane with the following conditions:

- 1) Probation period of 1 year
- 2) Only unit 2 is allowed with 2 people maximum
- 3) Violation of any ordinance regulations will cause immediate suspension of Special Use permit until hearing with the Village administration
- 4) Have fence installed within 60 days (advise Aronson Fence of this stipulation)
- 5) Hire a proper property manager (not just a friend)
- 6) Install noise and video monitoring system at unit 2 within 30 days

Commissioner Bongiovanni made a motion to accept this motion with the above listed conditions. The motion was seconded by Commissioner Swanson.

		Aye	Nay	Abstain
Commissioner:	Bongiovanni	X		
	Legge		X	
	Swanson	X		
	VanderWeit		X	
	Nakanishi		X	
Chairman:	Gauger		X	

Motion failed.

## **2) Short-term Rental Discussion**

Chairman Gauger set the scene for this discussion. We listened to all the operators and all of the residents who spoke on this subject at the last meeting and have researched the manner in which other communities have addressed short-term rentals. Now we will discuss ideas for recommendations to be presented to the Village Board for their consideration in formulating a new short-term rental ordinance for the village. The Chairman had a printout of the current ordinance with suggested changes highlighted in yellow (Exhibit C attached). The print out was projected onto a screen in the Boardroom so that everyone was able to follow along with the discussion.

Chairman Gauger suggested that the Mayor and Village Board should consider establishing a cap on how many short-term rentals will be allowed in the Village, Commissioner Bongiovanni made a recommendation that this ordinance should be revisited every 2 to 3 years, Commissioner Swanson suggested that the Special Use permits for short-term rentals might be reviewed annually, Commissioner Legge suggested a limit on the number of units per property or management people. Commissioner Swanson suggested that more time is needed to review all of this information and develop ideas. Chairman Gauger said that these ideas are to be further defined. He also suggested that the Special Use for short-term rentals should not follow the property. If the property is sold, the permit is no longer valid. Commissioner Nakanishi asked

how suggestions or comments should be submitted. They can be emailed to Chairman Gauger.

## **VII. Public Comment**

*In accordance with the Illinois Open Meeting Act, the general public may address the Commission regarding any matter on the agenda or not on the agenda.*

Jeri Barr would like clarification, at the last meeting someone said that we have to allow short-term rentals because the Village is not large enough to have home-rule. She asked Director Day what bill (law) that came from. She researched this question and believes that this is not a law. Chairman Gauge said that all of the other communities across the country that are non-home rule communities that have banned short-term rentals have been sued and have lost.

Nathan Brown suggested that the board should consider that with a maximum of 40 short-term rentals there will be a small number of people who will profit from this and many who will be shut out. He suggested a limited time for the permit to be active and then someone else will be able to apply for that permit. Commissioner Legge feels that the idea of a time limit or rotation would be harmful to those who are responsible people who have created a viable business without problems and take them off the list and introduce someone else who might not be responsible. He also suggested that a limit might create a situation of responsible people sitting on the side with viable properties and not being able to get a permit.

David Ostertag suggested that we add an ordinance saying the Village has the authority to write and enforce a citation for violation of the short-term rental ordinance (including parking rules).

Shawn Good said that the village has little power to enforce and so will push people to just break the law by putting restrictions in place. There should be some consideration with the number of permits allowed. There are ways for a property to be sold without the village being aware. Mr. Good is a real estate lawyer and would be happy to help write the ordinances. If there are too many short-term rentals in town, they will start to go away on their own because they will not be profitable. He also suggested we need to add definition of the words hotel and motel in the ordinance.

Trustee Marr said that he has listened to almost every petition for a short-term rental. He hears the same complaints every time; that they tend to decay of the fabric of the neighborhood. He suggested that property owners have rights too and one of those is the right to profit from your property, including renting your property out. That is why the short-term rental companies are able to lobby and attack and sue villages and municipalities across the country and win. This commission and the Village Board are struggling to get the answers that we need and appreciate the citizens of this town and the complaints that they have. The Village Board and this commission have to represent the rights of the rental owners as much as we need to represent the rights of the other residents.

## **VIII. Adjournment**

Commissioner VanderWeit made a motion to adjourn, seconded by Commissioner Nakanishi. The Commission voted unanimously to adjourn the meeting at 8:00pm.

Respectfully submitted by,



Patricia Russell  
Interim Secretary

Click the following link to attend this meeting via Zoom:

<https://us06web.zoom.us/j/87891391986?pwd=QTlrMFBZRTZxSWxTdzNYT09vMWdWUT09>

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