

**City of Prospect Heights
Plan/Zoning Board of Appeals
September 25, 2024**

I. MEETING COMMENCEMENT:

The regular meeting of the Plan/Zoning Board of Appeals was called to order at 7:00 pm by Chairman Kempa, at City Hall, 8 N. Elmhurst Road, in Prospect Heights, Illinois.

II. ROLL CALL:

Present: Chairman Kempa, Commissioners DeGraf, Patel, Saewert, Simmons and Mishevski

Absent: Commissioner Rygiel absent by prior notice

Quorum is present.

Present at the meeting: Director of Building & Development Daniel A. Peterson, Recording Secretary: Jenn Myzia and City Attorney: James Hess

Pledge of Allegiance

III. APPROVAL OF July 24, 2024 MINUTES

Motion made by Commissioner Saewert seconded by Commissioner DeGraf to approve the meeting minutes with corrections.

ROLL CALL VOTE:

AYES: Commissioners DeGraf, Simmons, Mishevski, Patel and Saewert

NAYS:

ABSENT: Commissioner Rygiel

ABSTAIN: Chairman Kempa

Motion carried 5:0:1:1

Chairman Kempa requests a motion to hear new business Case 24-12 V first. Motion made by Commissioner DeGraf seconded by Commissioner Saewert.

VOICE VOTE:

AYES: Commissioners DeGraf, Simmons, Mishevski, Patel, Saewert and Chairman Kempa

NAYS:

ABSENT: Commissioner Rygiel

ABSTAIN:

Motion carried 6:0:1:0

IV. NEW BUSINESS:

1. PZBA Case No. 24-12 V – Public Hearing Corner Side Yard Variation

Applicant: Teodora Varcheva

Address: 2 E. Hawthorne Place, Prospect Heights, IL 60070

Description of Request:

- A. Applicant is seeking a variation to Section 5-3-4 H1f(2) of the City of Prospect Heights Zoning Code to allow the reduction of the required corner yard setback from 20' to 0' for the construction of a 4' decorative metal fence.

Chairman Kempa requests a motion to open the public meeting for 24-12 V at 7:04 pm

Motion by Commissioner Simmons

Second by Commissioner DeGraf

VOICE VOTE:

AYES: Commissioners Patel, DeGraf, Simmons, Mishevski, Saewert and Chairman Kempa

NAYS:

ABSENT: Commissioner Rygiel

ABSTAIN:

Approved: 6:0

Chairman Kempa swears in the applicant.

Teodora Varcheva – 2 Hawthorne Place Prospect Heights, IL 60070, describes her request for variation.

Director Peterson explains the history and reason why the adjacent neighboring lot has a fence that extends past the current code allowance.

Ms. Varcheva presents the proof of mailing return cards and written statements of support from the three closest neighbors at 1 N Hawthorne, 200 S Maple and 112 S Maple all in support of the variation request.

Chairman Kempa requests for members of the public to speak.

The commissioners discuss the merits of the case.

Chairman Kempa requests a motion to close the public hearing for 24-12 V at 7:19 pm

Motion by Commissioner DeGraf

Second by Commissioner Saewert

ROLL CALL VOTE:

AYES: Commissioners Mishevski, Simmons, DeGraf, Patel, Saewert and Chairman Kempa

NAYS:

ABSENT: Commissioner Rygiel

ABSTAIN:

Approved 6:0:1:0

Chairman Kempa requests a motion to receive into the public record the evidence & testimony presented including the GIS Aerial Image of Hawthorne Place as well as the submission of the green cards for the certified mailing and the neighbor letters of non-objection presented by the applicant for the application 24-12 V as Group Exhibit 10.

Motion by Commissioner Patel

Second by Commissioner Simmons

ROLL CALL VOTE:

AYES: Commissioners Mishevski, Simmons, DeGraf, Patel & Chairman Kempa

NAYS: Commissioner Saewert

ABSENT: Commissioner Rygiel

ABSTAIN:

Approved 5:1:1:0

Chairman Kempa requests a motion to recommend that City Council approve case 24-12 V for a variation to Section 5-3-4 H1f(2) of the City of Prospect Heights Zoning Code to allow the reduction of the required corner yard setback from 20' to 0' for the construction of a 4' decorative metal fence with following conditions:

1. The fence must not extend past the end of the house.
2. The fence may be no higher than 4' in height.
3. The fence must be metal and see through.

Motion by Commissioner Saewert
Second by Commissioner DeGraf

ROLL CALL:

AYES: Commissioners Patel, DeGraf, Simmons, Mishevski & Chairman Kempa

NAYS: Commissioner Saewert

ABSENT: Commissioner Rygiel

ABSTAIN:

Approved 5:1

This case will appear before City Council on Monday October 14, 2024 at 6:30 pm.

V. OLD BUSINESS:

1. PZBA Case No. 24-01 PUD – Public Hearing Amendments and Variations

Applicant: City of Prospect Heights, Daniel A. Peterson, Director Building & Development

Address: 8 N. Elmhurst Rd., Prospect Heights, IL 60070

Description of Request:

- B. The petitioner is seeking to amend Title 5 Chapter 2 Definitions and Title 5 Chapter General Provisions of Zoning Code to add regulations for allowing chickens as an accessory use in the R-1 Single Family Residential District per Section 5-6-1 of the City of Prospect Heights Zoning Code.

Chairman Kempa requests a motion to re-open the public meeting for 24-01 PUD at 7:22 pm

Motion by Commissioner DeGraf
Second by Commissioner Saewert

VOICE VOTE:

AYES: Commissioners Patel, DeGraf, Simmons, Mishevski, Saewert and Chairman Kempa

NAYS:

ABSENT: Commissioner Rygiel

ABSTAIN:

Approved: 6:0

Chairman Kempa summarizes the origins and of this case.

Director Daniel A. Peterson representing the City of Prospect Heights presents the revised Draft Ordinance. Change includes but are not limited to:

- Other fowl besides chickens can be considered as long as they are not overly large and or noisy, the definition of fowl has been changed to include domestic ducks and quail (not federally regulated waterfowl). Geese and turkey remain prohibited.
- The recommended limit of 20 fowl on a property remains.
- The definition of coop, mobile coop and run have been added.
- A mobile chicken coop and/or an open-air fowl run shall not be considered lot coverage.
- Enclosures and structures must comply with Accessory Structure setbacks.
- Prohibition on roosters.
- The sale of eggs from a private residence to another property owner is allowed however advertising by signage is prohibited.
- Time-frame for non-conforming properties to become compliant will be one year from issuance of permit.
-

Director Peterson describes the requirements for a permanent chicken coop.

The commissioners ask questions to the applicant.

Chairman Kempa swears in the public.

Megan Poulus – 600 N Elmhurst Rd speaks about a neighbor's chicken coop and her interpretation of the events.

Nikki Moylan – 108 W Kenilworth Ave. proposes ordinance edits.

Randall Brace – 300 Linden Rd North points out the addition of exotic animals to the ordinance. He is against annual chicken coop inspections. He would like to have the option of the lesser two sized accessory structures be combined for a larger coop.

Genevieve Charet – 5 Alton Rd. discusses inconsistencies in the proposed draft ordinance and points she disagrees with. She is against the annual inspection.

Christine Schiel – 103 N Schoenbeck Rd. discusses the amount of space and the size of the fowl. Discusses the function of a rooster and a covered run for flock protection.

Lynn Schumacher – 19 S. Wildwood Dr. in favor of the draft ordinance and speaks for the non-fowl owners of Prospect Heights.

Grace Martinez – 1213 Highland Dr. against the annual inspections especially for those who are in compliance.

Dave Johnson – 608 Grego Ct. against annual inspections.

Grace Martinez – 1213 Highland Dr. – speaks about a FOIA request submitted by Tiffany Hinton in which the result stated no complaints regarding roosters had been documented.

Linda Kleinschmidt – 410 W Clarendon St – states that she has called 911 on a minimum of three occasions and because the roosters were not crowing in the police presence, she was informed there was nothing they could do.

Nikki Moylan – 108 W Kenilworth Ave. stated the roosters in discussion that neighbored Mrs. Schumacher and Mrs. Kleinschmidt have been removed without the draft ordinance being presented to City Council or passed.

Lynn Schumacher – 19 S. Wildwood Dr. speaks regarding the stress incurred to her enjoyment of peace because of the neighbor while having roosters.

Genevieve Charet – 5 Alton Rd. speaks regarding having a license versus an annual inspection.

Rebecca Dahlstrom – 406 W Clarendon St. – non chicken owner and is the neighbor of a chicken owner. She believes the annual inspection is too frequent but not does offer an opinion on what would be an appropriate inspection interval. She would like to see a balance found between two opposing sides.

Director Peterson follows up with the following topics

- A chicken advisory board would be a lot of value, but it would be a volunteer board and not a fully sanctioned board from the city.
- Regarding the coop and run, if there is no standard size set there is no consistency. The size of 200 sq. ft. follows the current Accessory Structure Code.
- The annual inspection was drafted in after researching what other communities are doing.

The commissioners ask questions to Director Peterson regarding the square footage allowance of the accessory structure code. He states the combination of two accessory structures would require a rewrite of the code under lot coverage, but the board has the option of recommending the 200 sq. ft. and the 80 sq. ft. structures being combined to create a 280 sq. ft. chicken coop including attached run.

Director Peterson states that the zoning code must consider the greater good of the whole and not the individual. The zoning code needs to be designed to be consistent, predictable and enforceable.

Director Peterson notes that Exhibit 17 which was in the meeting packet has been changed for Exhibit 21. Exhibit 18 is an email from Tiffany Hinton dated August 28 which includes the proposed draft from the chicken advisory board. Exhibit 19 which is the full text of the egg act. Exhibit 20 is the summary of selling of eggs by the Illinois Department of Agriculture Egg Inspection Program. Exhibit 22 is definition of coop and run structure. Exhibit 23 is mobile coop examples. Exhibit 24 is a testimony email from Katie King.

Chairman Kempa requests a motion to close the public hearing for 24-01 PUD at 10:26 pm
Motion by Commissioner Patel
Second by Commissioner Saewert

ROLL CALL VOTE:

AYES: Commissioners Patel, Saewert, DeGraf, Simmons, Mishevski and Chairman Kempa
NAYS:

ABSENT: Commissioner Rygiel
ABSTAIN:
Approved 6:0:1:0

Chairman Kempa nominates Commissioner Saewert to be the secretary for the ZBA recommendations.

Commissioner Mishevski recommends removing the annual inspection. Commissioner DeGraf is not opposed to a rolling inspection but is unsure on the system that could track that therefore elimination of the annual inspection may be for the best. Commissioner Patel agrees the annual inspection is an overreach and therefore recommends an inspection can take place if a complaint is received. Commissioner Saewert agrees to strike the annual inspection.

Commissioner Saewert asks if there should be an annual license fee. Commissioner Patel is in approval of an annual license as dog and cat owners are required to purchase an annual license. Chairman Kemp agrees with an annual license.

Commissioner Patel addresses covered runs versus covered coops. Commissioner Patel suggests that if there is an 80 sq. ft. coop in combination there could be a 200 sq. ft. run, this is a combination of the two non- detached garage accessory structures.

Chairman Kempa would like to recommend registering livestock with the Department of Agriculture optional to the individual owner. Commissioner Saewert agrees and advises to not have this as part of the ordinance.

Commissioner Patel suggests regulations on setbacks for a coop be determined. A coop must be a minimum of 120 lineal feet from the front property line and cannot come within 20 feet of an adjacent rear property line of a neighboring primary structure. There must be discretion allowed per case and neighboring properties.

The commissioners would like to use from Exhibit 18 section (A) 5. Areas where fowl are kept shall be clean and well maintained, such that they do not produce or cause odors that are detectable to adjacent properties. Feed shall be kept in sealed/pest-proof containers.

The commissioners agree to recommend roosters shall be prohibited.

The commissioners recommend there will be one year from the date of permit issuance to become compliant for existing non-compliant structures

Chairman Saewert requests a motion to accept into public record all exhibits and the testimony presented this evening for case 24-01 PUD.

Motion by Commissioner Patel
Second by Commissioner Simmons

ROLL CALL:

AYES: Commissioners DeGraf, Patel, Simmons, Saewert, Mishevski and Chairman Kempa

NAYS:

ABSENT: Commissioner Rygiel

ABSTAIN:

Approved 6:0:1:0

Chairman Kempa requests a motion to recommend to City Council the draft amendment to the code as presented with the following recommendations by the ZBA for 24-01 PUD at 11:10pm

1. The annual inspection has been eliminated but an annual license has been maintained.
2. The chicken coop and run combined can be a maximum of 280 sq. ft. the maximum 1000 sq. ft. of accessory structure per lot is maintained.
3. Strike registration with the Dept. of Agriculture
4. There has to be a 20 ft. minimum from the chicken coop to the rear wall of an adjacent primary structure.
5. Areas where fowl are kept shall be clean and well maintained, such that they do not produce or cause odors that are detectable to adjacent properties. Feed shall be kept in sealed/pest-proof containers.
6. Properties must be brought into compliance within twelve months of permit issuance.

Motion by Commissioner DeGraf
Second by Commissioner Saewert

ROLL CALL VOTE:

AYES: Commissioners Simmons, Mishevski, Saewert, DeGraf, Patel and Chairman Kempa

NAYS:

ABSENT: Commissioner Rygiel

ABSTAIN:

Approved 6:0

VI. Public Comment – Non-Agenda Items

VII. Previous Application Updates

VIII. Communications

IX. Adjournment 11:16 pm

Motion to Adjourn: Commissioner Patel
Second: Commissioner DeGraff

ROLL CALL:

AYES: Commissioners DeGraf, Saewert, Simmons, Patel, Mishevski and Chairman Kempa

NAYS:

ABSENT: Commissioner Rygiel

ABSTAIN:

Approved 6:0