

Request For Board Action

REFERRED TO BOARD: February 1, 2016

AGENDA ITEM NO: 4

ORIGINATING DEPARTMENT: Community Development

SUBJECT: Consideration of an Ordinance Approving a Variance for the Friends of Lake Antioch to allow for the construction of a fence on a vacant parcel of property located on Harden Street and Hillside Avenue. PZB 15-08

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Combined Planning Commission and Zoning Board conducted a public meeting on January 14th, 2016 to consider a variance request pursuant to Title 10 of the Village Code. The Village Zoning Ordinance states that the intent of a Variance should be used to overcome some exceptional physical condition which poses practical difficulty or unnecessary hardship in such a way as to prevent the owner from using their property as intended by this ordinance.

As part of the meeting, staff outlined the required findings in accordance with Section 10-15-6 for any variance. Based on staff's analysis, there is nothing to indicate that the proposed construction of a fence to secure the subject site will have any negative impact on the adjacent parcels.

The Planning Commission recommended approval of the requested Variance with one condition; that any vinyl chain link fence incorporate either a black or green vinyl coating.

FINANCIAL IMPACT: None

DOCUMENTS ATTACHED:

1. Final Ordinance and staff reports.

RECOMMENDED MOTION:

Motion to waive the second reading and approve an Ordinance Approving the proposed variance for the Friends of Lake Antioch to allow them to construct a six foot vinyl chain link fence on a vacant parcel of land.

VILLAGE OF ANTIOCH

ORDINANCE NO.

***AN ORDINANCE GRANTING A VARIANCE FOR CONSTRUCTION OF A FENCE
ON A VACANT PARCEL ON A R-4 PARCEL
UPON THE PETITION OF THE FRIENDS OF LAKE ANTIOCH ASSOCIATION
(PZB-15-08)***

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES

OF THE

VILLAGE OF ANTIOCH, ILLINOIS

ON

FEBRUARY 1st, 2016

**Published in pamphlet form by authority of the Village Board
of the Village of Antioch, Lake County, Illinois,
this _____ day of February, 2016.**

LAWRENCE M. HANSON	President	JERRY JOHNSON	Trustee
		MARY DOMINIAK	Trustee
LORI K. FOLBRICK	Clerk	TED POULOS	Trustee
		SCOTT A. PIERCE	Trustee
ROBERT J.LONG	Attorney	ED MACEK	Trustee
		JAY JOZWIAK	Trustee

ORDINANCE

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(PZB-15-08)***

WHEREAS, pursuant to Chapter 15 of Title 10 of the Antioch Village Code, a public hearing was commenced by the Combined Planning Commission and Zoning Board on January 7th, 2016 following notification as required by State Law and Village Ordinance to consider a petition for a Variance allowing the installation of a six foot fence on a vacant parcel of property after due notice by newspaper publication, pursuant to the application of the Friends of Lake Antioch Association and Sid and Mary Lou Parker (“Owner”), at the property located at Hillside and Hardin Streets, and

WHEREAS, the Combined Planning Commission recommended approval to the Village Board to allow the installation of a vinyl chain link fence; and

WHEREAS, the Corporate Authorities have concluded and found that the Variance, subject to and in conformance with the terms and conditions of this Ordinance, conform to a majority of the required standards as required by ordinance, including; a) No negative impact on the adjacent parcels; b) Requested variation does not permit a use otherwise excluded from the zoning district in which the property is located; c) The conditions or circumstances upon which the request is based apply to land for which the variation is sought, and generally not applicable in the zoning district; d) The condition or circumstances is not a result of any action on part of the applicant; e) The strict application of the zoning requirement would deprive the applicant of reasonable use of their land; f) The variation requested is the minimum adjustment needed for the reasonable use of the land; g) The granting of the requested variation is in harmony with the general purposes and intent of the zoning ordinance, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the Village’s comprehensive plan.

WHEREAS, the Corporate Authorities have concluded and found that the Variance will further secure the subject property and minimize unsafe conditions, and will otherwise enhance and promote the general welfare of the Village and the health, safety and welfare of the residents of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION I: The representations, recitations and findings set forth in the foregoing recitals are material to this Ordinance and such recitals are hereby incorporated into and made a part of this Ordinance as though they were fully set forth herein. This Ordinance shall be

liberally construed so that the purpose and intent represented by the recitals shall be accomplished to the greatest extent permitted by law.

SECTION II: That the real estate which is the subject of this ordinance (Subject Property) is legally described as follows:

(See attached legal description)

SECTION III: That, subject to the conditions stated below, the Variance shall be and is hereby approved and shall be binding upon the Village, Petitioner and Owner, and their respective owners successors, and assigns when a true execution copy of this Ordinance is tendered to the Village fully executed by the Petitioner and Owner, and when the Mayor has affixed his signature upon the Ordinance.

SECTION IV: The following exhibits shall be attached to and made a part of this Variance Ordinance and, except as expressly modified by this Ordinance, compliance with all standards, requirements, designs or specifications in such exhibits shall be a condition of the grant of this Special Use Ordinance:

- A. Staff Reports, attached as Exhibit A;
- B. PZB Recommendation, attached as Exhibit B.

SECTION V: The conditions set forth in 10-15-6 (e) shall require the applicant to apply for the required permit and install the subject fence within twenty four (24) months from the date that the Village Board approves this ordinance.

SECTION VI: Any person violating the terms and conditions of this Ordinance shall be subject to a penalty not exceeding Five Hundred Dollars (\$500.00) with each and every day that the violation of the Ordinance is allowed to remain in effect being deemed a complete and separate offense. In addition, the appropriate authorities of the Village may take such other action as they deem proper to enforce the terms and conditions of this Ordinance, including, without limitation, an action in equity to compel compliance with its terms. Any person violating the terms of this Ordinance shall be subject, in addition to the foregoing penalties, to the payment of court costs and reasonable attorneys' fees. This section shall not apply to the Village of Antioch, its officials, agents or employees.

SECTION VII: If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative

intent of the corporate authorities that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not been included.

SECTION VII: That the Village Clerk is hereby directed and ordered to publish this Ordinance in pamphlet form as provided by law.

SECTION IX: That this Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed this 2 day of February, 2016.

Ayes: Nays: Absent/Abstain:

Scott A. Pierce
Jay Jozwiak
Ted Poulos
Ed Macek
Mary Dominiak
Jerry Johnson

APPROVED:

By: _____

Lawerence M. Hanson, Mayor

Date: _____

ATTEST:

By: _____
Lori K. Folbrick, Village Clerk

Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on February _____, 2016

STATE OF ILLINOIS)

) SS
COUNTY OF LAKE)

CERTIFICATE

I, Lori K. Folbrick, certify that I am the duly appointed Municipal Clerk of the Village of Antioch, Lake County, Illinois.

I certify that on February _____ 2016, the Corporate Authorities of such municipality passed and approved Ordinance 16-xx-xx, entitled the applicant a variance to constrict a fence on a vacant parcel of land in the R-4 Zoning District which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. _____ including the Ordinance and cover sheet thereof, was prepared and a copy of such Ordinance was posted in the municipal building, commencing on February _____, 2016 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

DATED at Antioch, Illinois, this _____ day of February 2016

Lori K. Folbrick, Village Clerk



January 26, 2016

To: The Honorable Larry Hanson, Mayor; and Members of the Village Board of Trustees

From: Ken Karasek, Chairman, Combined Planning and Zoning Commission

RE: Proposed Variance for Friends of Lake Antioch (FOLA) to allow for construction of a six foot fence adjacent to the Antioch Dam for approximately fifty (50) feet.

The Combined Planning Commission and Zoning Board conducted a public hearing on January 14th, 2016 following notification, as required by State Law and Village Ordinances, to consider a fence variance. Upon closure of the hearing the Planning and Zoning Board recommended approval of the petition for a variance request pursuant to Title 10-15 of the Village Code.

Ken Adamski, President of Friends of Lake Antioch Association testified that the purpose of the proposed fence adjacent to the Antioch Dam was to secure the subject site and minimize foot traffic adjacent to the dam. The hope of the association was to install a vinyl chain link fence in order to secure the area, while also maintaining the open feel of the subject area. The applicant agreed to either incorporate a black or green vinyl coating over the chain link fence as part of the approval of this proposed variance.

Staff made an overview of the variance process and approval criteria in context to the FOLA petition. Based on the petition review, staff stated that the petition met a number of the standards and recommended that in its findings, the Board acknowledged the codified standards and unique circumstance of the case in their recommendation as a finding of fact for PZB 15-08 alone, so as not to create or imply precedent for similar variances.

In accordance with Section 10-15-6 of the Zoning Ordinance, any applicant must demonstrate that the proposed variance will meet the following standards:

1. The proposed variation will not:
 - a) Impair adequate supply of light and air to adjacent property.
 - b) Unreasonably increase the congestion in public streets.
 - c) Increase the danger of fire or endanger public safety.
 - d) Unreasonably diminish or impair established property values within the surrounded area; and
 - e) Merely serve as a convenience to the applicant; there is a demonstrated practical design difficulty involved in this project.

There is nothing to indicate that the proposed six foot fence would have any negative impact on the adjacent parcels with respect to the amount of light. In addition, this fence would have no impact on the current street congestion and would pose no public safety issues on the surrounding parcels.

2. The requested variation does not permit a use otherwise excluded from the zoning district in which the property is located.

The requested variation is to allow a fence on a vacant parcel of land and a fence would not constitute a use under the Village's Zoning Ordinance.
3. The conditions or circumstances upon which the request is based apply to land for which the variation is sought, and is not generally applicable in the zoning district.

The location of the proposed dam along with the surrounding properties makes this case unique and would not generally be applicable to other property owners who may request to construct a fence on a vacant parcel of property. The subject site incorporates a certain isolation along Lake Antioch which makes this request unique.

4. The condition or circumstance is not the result of any action on the part of the applicant.

The proposed construction of the fence is dictated by the applicant's concern about public safety and securing the subject site. The location of the proposed fence is to minimize any potential of residents walking along the dam. As highlighted above, the dam was not designed for foot traffic.

5. The strict application of the zoning requirement would deprive the applicant of reasonable use of his land.

While denying this variation would still allow the applicant to maintain the existing dam, it would potentially create an unsafe condition along the shore of Lake Antioch. The applicant is attempting to maintain the public safety by limiting the subject site to authorized access only.

6. The variation requested is the minimum adjustment needed for the reasonableness use of the land.

The proposed fifty (50) foot fence will have a minimal impact on the surrounding parcels and help the applicant with the ability to secure the dam area. The open design of the six foot fence will allow the lake to be visible, while also maintaining the required public safety that is being sought for the subject site.

- a. The granting of the requested variation is in harmony with the general purposes and intent of the zoning ordinance, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the village's comprehensive plan.

The proposed fifty (50) foot fence will not have any negative or detrimental impact on the surrounding properties. The identified purpose is to secure the dam site and the design of the fence will maintain the open feel around Lake Antioch.

Therefore based upon the review of the standards of 10-15-6 of the Village Code, and the current facts of the case, staff recommended the variance be granted.

Based upon the review of the petition, testimony provided at the hearing, and relevant code criteria of Title 10 of the Village Code, the Planning and Zoning Board accepted staff findings and recommended the approval of the variance.

Respectfully submitted,

Ken Karasek, Chairman
Combined Planning Commission and Zoning Board



MEMO

TO: Honorable Lawrence Hanson and Village Board

FROM: Michael S. Garrigan, AICP, CNU-A, Community Development Director

DATE: January 26, 2016

RE: Proposed variance for the Friends of Lake Antioch (FOLA) in order to construct a fence on a vacant parcel of land:

BACKGROUND:

This report is in preparation for the Village Board meeting scheduled February 1st, 2016. The applicant is seeking a variance in order that they be allowed to install a six foot vinyl chain link fence adjacent to the dam at Antioch Lake. The subject site is currently zoned R-4 and the current ordinance prohibits the installation of fences on vacant property. The applicant is seeking to install a six foot fence for approximately fifty (50) feet adjacent to the Antioch dam. The purpose of the fence is to minimize foot traffic along the dam area and to secure the subject site.

Variance Standards In order for the Village Board to approve a proposed variance, the applicant must demonstrate that they have met a majority of the following standards:

In accordance with Section 10-15-6 of the Zoning Ordinance, any applicant must demonstrate that the proposed variance will meet the following standards:

1. The proposed variation will not:
 - a) Impair adequate supply of light and air to adjacent property.
 - b) Unreasonably increase the congestion in public streets.
 - c) Increase the danger of fire or endanger public safety.
 - d) Unreasonably diminish or impair established property values within the surrounded area; and
 - e) Merely serve as a convenience to the applicant; there is a demonstrated practical design difficulty involved in this project.

There is nothing to indicate that the proposed six foot fence would have any negative impact on the adjacent parcels with respect to the amount of light. In addition, this fence would have no impact on the current street congestion and would pose no public safety issues on the surrounding parcels.

2. The requested variation does not permit a use otherwise excluded from the zoning district in which the property is located.

The requested variation is to allow a fence on a vacant parcel of land and a fence would not constitute a use under the Village's Zoning Ordinance.

3. The conditions or circumstances upon which the request is based apply to land for which the variation is sought, and is not generally applicable in the zoning district.

The location of the proposed dam along with the surrounding properties makes this case unique and would not generally be applicable to other property owners who may request to construct a fence on a vacant parcel of property. The subject site incorporates a certain isolation along Lake Antioch which makes this request unique.

4. The condition or circumstance is not the result of any action on the part of the applicant.

The proposed construction of the fence is dictated by the applicant's concern about public safety and securing the subject site. The location of the proposed fence is to minimize any potential of residents walking along the dam. As highlighted above, the dam was not designed for foot traffic.

5. The strict application of the zoning requirement would deprive the applicant of reasonable use of his land.

While denying this variation would still allow the applicant to maintain the existing dam, it would potentially create an unsafe condition along the shore of Lake Antioch. The applicant is attempting to maintain the public safety by limiting the subject site to authorized access only.

6. The variation requested is the minimum adjustment needed for the reasonable use of the land.

The proposed fifty (50) foot fence will have a minimal impact on the surrounding parcels and help the applicant with the ability to secure the dam area. The open design of the six foot fence will allow the lake to be visible, while also maintaining the required public safety that is being sought for the subject site.

7. The granting of the requested variation is in harmony with the general purposes and intent of the zoning ordinance, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the village's comprehensive plan.

The proposed fifty (50) foot fence will not have any negative or detrimental impact on the surrounding properties. The identified purpose is to secure the dam site and the design of the fence will maintain the open feel around Lake Antioch.

RECOMMENDATION

Staff recommends that the Village Board approve the variance, with the following conditions.

Conditions are as Followed:

1. That the proposed six foot fence be a vinyl chain link fence and incorporate the color of black or green vinyl.