

# Plan Commission

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Minutes of the Meeting on  
January 4, 2024

Village of Homer Glen  
14240 W 151<sup>st</sup> Street, Homer Glen, IL 60491  
Community Room

**1. Call to Order**

The Meeting was called to Order at 7:00 PM

**2. Pledge of Allegiance to the Flag was led by Commissioner Fiskow**

**3. Roll Call**

Members present: Commissioner Stanly, Commissioner Foley, Commissioner Fiskow, Commissioner Bugos-Komperda, Commissioner Bradarich, Vice-Chair McGary and Chairman Hand. Also present were Planning and Zoning Director King, Assistant Planner Udarbe and Plan Commission Secretary Pesavento.

Not present: None.

**4. Minutes.**

**a) December 7, 2023**

A motion was made to approve the amended minutes from December 7, 2023 by Vice-Chair McGary, seconded by Commissioner Stanly. All in favor, zero (0) opposed. The motion carried.

Vice-Chair McGary said, I do have something about the minutes. On page fourteen (14), where a roll call is taken for the motion and it says voting in favor four (4) to (2). I voted no and I believe so did Commissioner Fiskow. In both of those paragraphs that should be reflected and it says all voting in favor. That was not the case.

**5. Public Comment.**

None.

The Plan Commission Secretary swore in all wishing to speak. Chairman Hand provided a statement as to the order and operation of business for the Plan Commission process.

**6. New Business and Possible Action or a Recommendation.**

- a) Case No. HG-2324-V, 13455 W. Pawnee Lane (Public Hearing): Consideration of a request for approval of [1] a Variance to increase the maximum permitted height of a fence located in a corner side yard from four (4) feet to six (6) feet; and [2] a Variance to permit an open fence within the clear vision triangle, for certain real property located in the R-4 Single-Family Residential District at 13455 W Pawnee Lane, Homer Glen, Illinois. [HG-2324-V].**

Director King presented the facts of this case. This is a request for a variance to increase the maximum permitted height of a fence located in a corner side yard from four (4) feet to six (6) feet and a variance to permit an open fence within the clear vision triangle, for certain real property located in the R-4 Single-Family Residential District at 13455 W Pawnee Lane. The applicant, Hans Schmitt, owns the property located at 13455 W Pawnee Lane. The applicant is proposing to install a six (6) foot open fence to enclose a subject property's rear yard and a portion of the corner side yard. Per code, fences in corner side yards are not permitted to be over four (4) feet or more than fifty (50) percent open in design when it's in a corner side that abuts another front yard, which this property does. The applicant is seeking a variance to allow the six (6) foot open fence in the corner side yard. The fence will also encroach into the required clear vision setback. The applicant is also requesting a variance to allow that encroachment.

Staff has not received any public comment on this zoning case.

You can see where the property line is out here. The blue line is the new fence that is going to be going out all the way to the street. If everybody remembers the building line is established where the edge of the houses parallel to the road and that area between the building line and the property line is considered the corner side yard on the corner side. Our code doesn't allow fencing in this area when properties are adjacent to a lot that's oriented towards the street with a front yard. This property is that way. Typically, what we're looking for is whether or not the fence will obstruct the clear vision triangle in the opposite yard. I know it's a little bit difficult to see, but their driveway is kind of far over. I think it might be a little easier to see in this staff report. The fence is going to be well out of the clear vision triangle with the adjacent property. You can see on this aerial a little bit clearer that their driveway is pretty far over to the south. The open fencing has been supported in the past, as long as it doesn't encroach into the clear vision triangle of someone else's property and that's what they are proposing. We have not typically support fencing in the clear vision triangle ever. I think that due to the property conditions that are out here and I'm not sure if everybody was able to drive the property, but there are some topographical issues. The grades in the yard are pretty steep. There's retaining walls that are existing that make the property challenging. There is also a stand of trees that are literally located right on the property line. It would make it difficult. I think the property owner would have to cut in pretty significantly in order to get around that clear vision triangle and go around the trees. I think he's just asking if he could put it just right through the trees. We talked about this internal with our engineer in the office, and Taylor, myself and Joe Baber. Staff does not have any concern with this situation based on these unique conditions here at this site.

The fence height in the corner side yard, the part that's going into the clear vision triangle on their property that's adjacent to the driveway. Then because there is that retaining wall along the driveway, currently there's a split rail fence that runs all the way out and it is located in our right of way. You can see it on the plat as well. It is that kind of gray line that sits about ten (10) feet in from the curb line. That is obviously a non-conforming structure. Along the driveway it sits along the driveway and acts as a fall protection. Once that comes down, there is a portion of the wall that is over thirty (30) inches. It's not the entire thing. I know John and I had spoken about this a little bit. It's not all the way out to the curb where it's thirty (30) inches, but there is some concern. I think the applicant has concern about fall protection. Then the village code does say anything over thirty (30) inches requires fall protection. They are proposing and staff is okay with a portion of four (4) foot fencing coming out into the right of way just along the driveway to help with fall protection. That doesn't require a variance, but we do require an encroachment agreement in order for that to go on our right of way. It's a kind of a stock document we have in the office. It basically says that the owner understands that we're allowing them to put this up, but if for some reason we have a road project or a drainage project and we come in and we take it out, that we don't have to replace it. Our code says this, but it helps the village staff be really clear about what the terms are. Those documents get signed, notarized and they get recorded at the Recorder's Office. That will be required as part of this as well. Then I included the pictures here that we can go through if we need to. If you have questions and then the motion. That completes my presentation.

A motion was made to open the public hearing by Commissioner Stanly, seconded by Commissioner Foley all in favor, zero (0) opposed. Motion carried.

The petitioner Hans Schmidt spoke. I live at 13455 W Pawnee Lane. The property you are talking about is mine. The original fence was established around 1985. It was split rail and chicken wire. Soon I found out that coyotes easily jump the fence. I was forced to put a bigger fence because of that. I now have bigger dogs and four (4) feet is nothing for them. That is the reason I need the six (6) feet. I really would appreciate if you would grant me that. That is all. Chairman Hand asked, you have a six (6) foot fence that it'll tie into around the whole rest of the backyard? Mr. Schmidt said, I do have a six (6) foot fence, if you could bring up the picture. Director King said, I think it ties in right here, John. Vice-Chair McGary said, it ties into existing six (6) foot open fence. Assistant Planner Udarbe said, he actually came in for a permit, so we can only permit that rear portion where he installed that six (6) foot fence. Director King asked, will it be the same kind of fence? Mr. Schmidt said, yes. Chairman Hand said, okay because I noticed the temporary fencing. I understand with the dog's ingress egress either way. Chairman Hand asked, I just have a question for where you're looking at putting the four (4) foot rail down toward the street, the retaining wall steps down almost to nothing there. Are you still planning to run that fence all the way down to the wall or just a portion? I mean, to the end of the wall? Mr. Schmidt said, you almost have to. I wouldn't want to take a chance. Chairman Hand said, I'm just visualizing that. So, it is pretty much to the end of the retaining wall. Mr. Schmidt said, it is about five (5) feet from the curve. Chairman Hand asked, kind of even with the old split rail fence? Mr. Schmidt said, correct. That is exactly where it stops.

A motion was made to close the public hearing by Vice-Chair McGary, seconded by Commissioner Fiskow all in favor, zero (0) opposed. Motion carried.

Commissioner Stanly asked, the split rail fence that you're going to replace, is that going to be just a four (4) foot open style similar to the six (6) foot that you're requesting? Director King said, I can clarify. Along the property line and tying into the six (6) foot is a six (6) foot open fence. It will be six (6) foot all the way around the yard and then there will be a four (4) foot section that comes from the property line at the driveway up to where the old split rail started. Then all the old split rail will be taken out. Commissioner Stanly asked, it is going to be the same style though? Director King replied, yes. Commissioner Bradarich asked, it says that it's an iron fence, is that correct? Mr. Schmidt said, aluminum. Commissioner Bradarich said, I'm fine with that. Mr. Schmidt said, it is powder coated aluminum. Commissioner Bradarich asked, what color is it? Mr. Schmidt replied, black.

*Chairman Hand asked for a motion. Vice-Chair McGary made a motion to recommend approval of (1) a Variance to increase the maximum permitted height of a fence located in a corner side yard from four (4) feet to six (6) feet; and (2) a Variance to permit an open fence within the clear vision triangle, for certain real property located in the R-4 Single-Family Residential District at 13455 W Pawnee Lane, Homer Glen Illinois, [Case No. HG-2324-V], subject to the following conditions:*

- 1. The applicant shall sign an encroachment agreement for the fall protection fence that will extend into the right of way.*

*The motion was seconded by Commissioner Bugos-Komperda. A roll call vote was taken with Commissioners Bradarich, Bugos-Komperda, Stanly, Fiskow, Foley, Vice-Chair McGary and Chairman Hand voting in favor seven (7) to zero (0). The motion passed and will go before the Village Board on January 24, 2024.*

*Chairman Hand asked for a motion. Vice-Chair McGary made a motion to adopt staff's findings as the findings of the Plan Commission. The motion was seconded by Commissioner Stanly. A roll call vote was taken with Commissioners Fiskow, Foley, Stanly, Bugos-Komperda, Bradarich, Vice-Chair McGary and Chairman Hand voting in favor seven (7) to zero (0). The motion passed and will go before the Village Board on January 24, 2024.*

**b) Case No. HG-2325-SP, 12032 W. Forestview Drive (Public Hearing):  
Consideration of a request for approval of a Special Use Permit for an  
Accessory Unit for certain real property located in the R-5 Single-Family  
District at 12032 W. Forestview Drive, Orland Park, Illinois (within Homer Glen  
Corporate limits). [HG-2325-SP].**

Assistant Planner Udarbe presented the facts of this case. This is a request for approval of a special use permit for an accessory unit for certain real property located in the R-5 Single-Family District at 12032 W Forestview Drive, Orland Park (within Homer Glen Corporate limits) [HG-2325-SP]. The applicant and property owner Steve Macewko, is proposing to construct an attached accessory dwelling unit for his mother-in-law at his property at 12032 W Forestview Drive. Per Village Code, an accessory unit may be maintained in a single-family dwelling as a special use in certain residential zoning districts. The subject property is zoned R-5 Single-Family where accessory units are allowed through a special use permit.

We have only gotten two (2), (*public comments*). The first one that called asked what the notice was for. I explained that it was for a seven hundred (700) square foot attached accessory dwelling unit for the applicant's mother-in-law. They stated they had no problem with the unit for a relative, but they said they would be concerned if the unit were to be rented out and question the esthetics of the addition. I explained the code, the age requirements, the esthetic requirements and explained the addition will maintain a single-family home appearance. I sent them the plans and they indicated they had no other questions or concerns. Then another one called to see what the request was for. I explained the plans for the accessory dwelling unit and the resident stated they had no issues with the request.

The next slide is just showing a bigger blow up of the site plan and the proposed floor plan for the accessory unit. My next slide here has a lot more text, so I just wanted to put that before, but the rest is in the packet too for reference. This is our accessory housing code section. Per code, an accessory unit may be maintained in a single-family dwelling as a special use in certain residential zoning districts. Conversion of the dwelling and maintenance of the accessory unit and primary unit must conform to the following requirements. This is the list straight from the code. So, in lieu of reading it, we will just go through them like standards. The applicant is meeting all of these requirements in this request. He is only proposing one accessory unit. That's the maximum allowed in our code. The proposed addition measures six hundred ninety-nine (699) square feet or the maximum is seven hundred (700) square feet. The proposed addition is attached to and is wholly enclosed within the primary residence and is not being constructed as a detached accessory structure which is required per code. The unit conforms to all the applicable yard and bulk requirements. I included the typical chart that I have on the slide here to look over that, but it is meeting all those requirements. Then five (5), the applicant has submitted the floor plans which I just showed. It is also in the packet. He also submitted the reconversion for both the primary unit and accessory unit, which is a requirement for the special use permit application. Both of these plans are blown up in the packet and are probably easier

to see. Number six (6), the proposed entrance to the ADU accessory dwelling unit is on the side of the property, so the number of the exterior entries on the front elevation of the home is not changing. As you can see in attachments three (3) and four (4). For seven (7), the proposed dwelling unit will be occupied by the property owner/applicant's mother-in-law. This meets the code requirements for the occupant's relation by blood, marriage, adoption or guardianship. Then for eight (8), the proposed dwelling unit will be occupied by the property owner/applicant's mother-in-law, who's related by marriage and who is at least sixty-two (62) years old. The owners occupied the primary dwelling unit. For the last one (1), number nine (9) is just saying that the process going forward, if this is approved every year, they do have to submit an affidavit certifying that all of these one through eight (8) are met. We have not ever had a process like this. We have never had a special use permit. Staff will come up with what this affidavit will look like and a process to put in place going forward. Those were all in the packet. The rest of these last two (2) code sections I didn't actually include. I do apologize. These last two (2), we can read over. I'll do this verbatim. These last two (2) code sections here deal with the expiration and then the reconversion that was already discussed.

For the expiration of the special use permit, it says every special use permit for accessory housing shall expire by its own terms without the action by the Village Board if the property fails to conform to the requirements of Subsection B(1) through (8). Those are the ones that they have to submit the affidavit for or if this affidavit is not filed in accordance with B(9). The expiration date shall be thirty (30) days after the date on which the property first fails to conform to these requirements or thirty (30) days after the date which the affidavit was to have been filed. The special use shall not expire, however, if the property is brought into conformity with the requirements of B(1) through (8), and if the affidavit is filed as required prior to the expiration date. Every special use for accessory housing shall also expire when any owner conveys any portion of his or her interest in the property, unless the conveyance is to a trust of which that owner is a beneficiary. This code section says they have to meet all these requirements or the special use is provoked. They have to submit the affidavit or the special use is provoked and then the special use will be provoked to the property once it's sold out of a trust or any beneficiary. Normally special use permits run with a property, but in this scenario, it would be also running with the owner. That's just something to keep in mind.

Then for reconversion to single-family dwelling, this little snippet included on the slide is what the applicant had submitted for his plans once the occupancy of this unit ceases to exist. Reconversion of the property to a single-family dwelling shall be completed within ninety (90) days after the expiration of the special use. The Village may extend the period of conversion for cause shown. The property shall be reconverted according to the plan submitted at the time the special use was applied for. You can see highlighted here. First, it says header for future thirty-six (36) inch wide opening. The intention is when it's being built to include that header to eventually open that up as a new doorway so he can reconvert the dwelling as more of a living room extension. Keep the bedroom as like a guest bedroom, keep the bathroom and then remove most of the kitchen unit spaces. If there's any other questions, I'm sure the applicant can speak more to the plans for after that.

As far as special use standards, attached accessory units are permitted special use in the R-5 district. While the dwelling unit is private, the Village Code and Draft 2020 Comprehensive Plan acknowledge the increasing number of persons in the Village over the age of sixty-two (62) who may desire to maintain separate households, but may be unable to. Village Code states,

“permitting an accessory unit to be maintained in single-family dwellings in the single-family residential districts of the Village, person sixty-two (62) years or older will be afforded a means of obtaining the additional income and security which will enable them to remain in homes owned and occupied by them. Also, other persons owning and occupying single-family dwellings in these districts will be provided a means of caring and providing companionship for relatives who are sixty-two (62) years old or older.” Then the proposed attached accessory unit meets all bulk regulations and requirements of the Accessory Housing Code Section. This unit also meets building code requirements for exterior materials. That is just the motion. That concludes my presentation.

A motion was made to open the public hearing by Commissioner Foley, seconded by Commissioner Stanly all in favor, zero (0) opposed. Motion carried.

The petitioner Steven Macewko spoke. I live at 12032 W Forestview Drive. We are trying to get this special use permit to build an addition to move my mother-in-law into so we are able to take care of her and help her out with her aging and caretaking. She has a harder time doing stairs so we're trying to get her into a single level accommodation so that she's not doing stairs on a normal basis. That's one of the main reasons why. I know I was asked why we didn't use current space, like the basement. I can't use the basement because the stairs is the issue and then any questions you may have.

Vice-Chair McGary said, I have a lot of questions about the ordinance, not about Mr. Macewko. Not to hold him up, but I think we need to address this ordinance. Director King said, we talked about this. Even Taylor and I have talked about this ordinance.

A motion was made to close the public hearing by Commissioner Stanly, seconded by Commissioner Bugos-Komperda all in favor, zero (0) opposed. Motion carried.

Vice-Chair McGary said, it looks like a really nice plan. Commissioner Fiskow said, I agree. I don't see anything wrong with it. It seems to meet all the requirements, setbacks and lot coverage. I'd have some questions about the ordinance also. Director King said, I think we can do it a couple ways. If we don't want to hold up the case and they want to leave, we can make a motion for the case and then we can talk about this in new business. It is not on the agenda and you're not making a motion or any action on it. However, we want to handle it. Commissioner Bradarich said, I would like to make one comment before he leaves. The entrance door off your stoop and on the floor plan, the entrance door to the unit from outside the exterior door. It seems to me that door is swinging the wrong way. I feel you should flip that door so it swings against the closet. Mr. Macewko said, we had them flip that so that when you walked up, you would open this outside door this way and you would open into the house. Otherwise, you'd have to kind of step this way and then come in. Commissioner Bradarich asked, for the storm door? Mr. Macewko said, yes. That's originally how the architect had it, but you would be dancing around the storm door on that front. Commissioner Bradarich said, yeah, if you're going to have a storm door on your entrance, you're correct.

Commissioner Fiskow said, I guess before we approve it can I ask a question to Melissa? The reconversion, is that our requirement? Director King said, yes. It is in the code. It requires it. Commissioner Fiskow asked, ninety (90) days is acceptable? That seems awfully short. Director King said, it seems insane. I think your questions are valid. I think *those are also questions that staff has*. Assistant Planner Udarbe said, I will also say I was looking at other codes for accessory dwelling units in other communities. Most of them are actually permitted that I could

find, but none of them mentioned any reconversion. Obviously, if it's a permitted use anyways, that's what it is. Even the one that I did find that was a special use permit didn't mention anything about reconversion. We've also never had an ordinance come through in our Village for this. Commissioner Fiskow said, I guess that'd be my only question. If he's willing to reconvert it, I guess that's fine. If he has invested money into it and doesn't want to reconvert it, I would feel that way. If he wanted to make it more of a living space once his mother-in-law passed away, more power to him. I've been in many houses that have a secondary kitchen in the basement. I would consider this like a mother-in-law-suite. I would question if we need to have him reconvert it. Director King said, just the investment of doing this and then losing that asset. I've heard that. I think there's a couple of things about this. I feel like maybe we should address the ordinance, depending on how the Plan Commission feels and the Board feels based on your feedback here and then feedback at the Board level. He's willing to put this plan in here, but the Plan Commission can also recommend that this not even be part of the special use or not required. If you feel as strongly now, because I think what will happen is that this will be date stamped in time with the code that's in place now. Even if we change in the future, some planner that is sitting here that's not us might still think that the code that was in place at the time is what is required. It depends on the interpretation of the planner at the time. Vice-Chair McGary asked, we could incorporate that? Director King said, you could of course do whatever you would like. Assistant Planner Udarbe said, I guess that also goes with this expiring with the property owner. Even if we waive the requirement for that reconversion, like selling of a home after when that comes up. Vice-Chair McGary said, incorporating it wouldn't be waiving the reconversion. It would be saying if the ordinances changed, this case will be subject to the new one ordinance. It's not new. Chairman Hand said, the amended ordinance. Director King said, we wait to see how it goes through the process and how the Board feels. Then if the code is changed, the new code applies. Is that what you were saying? Vice-Chair McGary said, I guess I want to reassure him.

Commissioner Bugos-Komperda said, of all the properties I've seen, sold, been in, and seen many mother-in-law and father-in-law suites, I have never seen anybody say now we have got to take it out. You sold it. I've never seen that happen. They always leave it because it's such a great thing and I think we're going to see more and more of it. Mr. Macewko said, the reconstruction plan is a requirement. Commissioner Bugos-Komperda said, I know. We are trying to help you out and get rid of it. It's expensive to put that in and we're going to see a lot more of it because people are aging and it's a great thing. Director King said, I think if you want to recommend waiving it, you could use those words. You could recommend waiving the requirement for the reconversion plan. Chairman Hand asked, completely waiving the requirement? Director King said, you could. Assistant Planner Udarbe said, also, our conversation earlier today, me and John were talking about how if they're already doing this yearly affidavit, if one of the conditions could allow the occupant to submit an affidavit for no occupancy in lieu of reconverting the unit. Someone down the line would have to resubmit a new affidavit. If that does get occupied ever. Chairman Hand said, at least to grant them the option to maintain it. You know, status quo, not do a reconversion. It's an option. Now you can reconvert it any time you want, but it could get used again yet. It can also be meaningful. It's a selling feature and you don't want to put it up for sale and have it all torn apart. Commissioner Bradarich said, the occupant would have to be a blood relative. Chairman Hand said, yes. They would still have to conform to the ordinance when it gets reoccupied. So, a new affidavit with all



the new information. Just to retain that right of an option to leave it. I don't think the reconversion should be etched in stone. I see other commissioners are in agreement.

Chairman Hand said, Taylor, I wanted to ask you to explain to everybody because I used to build a lot of these. It's in addition, but what triggers it to be an accessory dwelling unit? Assistant Planner Udarbe said, that is a great question. I spoke with Melissa about this a lot today. When I was looking through codes today, I was also looking for what triggered this with other people. Most of these were permitted in the codes that I couldn't find. They were like you can build it. There was one code section from Woodstock. It has to contain private sanitary facilities with hot and cold running water and cooking and food storage facilities. Then Oak Park said that their accessory dwelling unit code would apply to anything for any additions called out as an addition with a separate entrance. Our code doesn't have anything like this that says this is a kitchenette that you're putting in versus this is an accessory dwelling unit that requires a special use permit. Additionally, I don't know if looking to find that in our code should be discussed right now. The applicant called me and told me his intention was to build an in-law suite, so in this scenario it was very clear what the intention of this unit was. This is why they're going through the special use permit now. Chairman Hand asked, but it's not included. If a cooking space triggers it, it's not mentioned in our ordinance? Assistant Planner Udarbe said, it is not. Chairman Hand said, that's something that we need to eventually get included and then that triggers everything else. Director King said, I feel kind of strongly that it would need to have its own ingress egress to qualify. For us to be asking them to go through a special use permit process because people do additions all the time. If they're sharing ingress egress, the likelihood of this becoming a rental unit ever is nil. If that's the concern, which is why the regulation exists here anyways. I think that if we're going to redefine it, it's that there's the sanitary and the kitchen stuff is probably in these other codes because if they're going to be rental units, they want to make sure that they're providing all the necessary things in a unit and not just renting out a space that has a sink in it and that's it. I think for us, we should also include the egress is in there as well. It just helps further define it.

Vice-Chair McGary asked, do we want to add something so that reconversion is not required for this particular case and how do you all feel about that? Vice-Chair McGary asked, do we want to add something so that reconversion is not required for this particular case and how do you all feel about that? Commissioner Bradarich asked, this is our current code? Assistant Planner Udarbe replied, yes. Commissioner Bradarich said, I agree one hundred (100) percent. Commissioner Bugos-Komperda asked, if the code gets changed later, it wouldn't be retrospect back to this property? Director King said, I think it depends on the planner interpretation who's sitting here. My concern is not tomorrow or in two (2) years, it's in ten (10) years when there's somebody different sitting here with different interpretation. If it's not made clear in the code, sometimes I've seen where planners will look back at something that's like a date stamp in time. There is a code change that becomes more restrictive, then it's like, are we going to go in and force them to comply with that? If you use that same logic in the opposite direction, when something becomes less restrictive, I think what happens mostly in planning is that we want to be consistent with how we apply our interpretations. I think it just depends on the scenario. If the Plan Commission does not think that we should require a reconversion plan, you should just put it on this special use permit. I think that's the cleanest way to do that. It makes it very clear moving into the future. Vice-Chair McGary said, instead of writing into the amended ordinance? Commissioner Bradarich said, or just waive the requirement of reconversion. Vice-Chair McGary said, the new amended ordinance applies to all previous. Commissioner Bugos-

Komperda said that's what I was thinking. When you think it later, then it says it applies to previous. This also applies to previous approved. Director King said, I think the only reason why you would do that is if you wanted to wait to see how the process unfolds to change the code. I think that we don't know what will happen with the code change so if you reference a code change that hasn't happened yet and that could maybe never happen.

Chairman Hand asked, we can waive reconversion, but the affidavits are still required for the occupancy of this? Director King said, correct. Chairman Hand said, that shouldn't get lost in the clouds here. Director King said, my first thought with the affidavits is that we create a license in our iWorQ system, which is our permit and licensing system. We can put an inspection in there or we can do it on a permit where there's an annual inspection that gets placed on there. I believe that you can do these automatically where they will regenerate. I have to ask Joe, but there needs to be something in place that works without staff in it. The concern is always the staff leaves. That's what I always think about, is that there's a turnover and then you lose the tracking of it. Then a homeowner forgets to do this or it changes hands and they forget or don't know. Chairman Hand asked, if it's something done online? Director King said, no. They could still submit it to us. I think that it needs to be automated in our office in some way where there's something tied to a license that is renewed every year automatically. Chairman Hand said, I think if we're granting this special use for it, then it could be permanent based on an annual affidavit. Whether it's occupied or not occupied. The Village is keeping track it's conforming to the ordinance. Director King said, the tracking of the affidavit is what I want to be automated. Commissioner Bradarich said, we could just waive article D? Director King said, that is what I was thinking too. Can we be really specific and say, chapter 220-821 Article D.? Chairman Hand said, simple as that. As far as amending the ordinance, that would be something in the future.

Director King said, what are the Plan Commissioners thoughts about the part that says every special use for accessory housing shall expire when any owner conveys any portion of his or her interest in the property, unless the conveyance goes to a trust of which that owner is a beneficiary. Commissioner Bradarich said, that should be waived as well. Chairman Hand asked, it would stay with the address, so to speak? Director King said, correct. Regardless of who owns the property. Chairman Hand asked, if they were to sell the house, the new owners automatically are entitled to the special use permit? Director King said, yes. It would run with the land versus running with the owner, which is what this is causing. It's running with the owner. Then the affidavit would still be required and the Village would have to reach out to them. Commissioner Fiskow said, can I ask one more question? I guess a lot of the verbiage in here of having to be sixty-two (62) years and older, what if this property was sold to someone and they had a special needs young adult? From what I'm reading, it looks like either the parents that own the house have to be over sixty-two (62) years old or the resident has to be sixty-two (62) years old. You could have somebody that's in their twenties, and you're only forty-five (45) years old, maybe fifty (50) years old. That doesn't seem fair either. Director King said, there's always options. If people want to do that they could come back and amend the special use requesting that they'd be allowed to have someone under the age of sixty-two (62) years old living in that. It could be a condition with that special use. I certainly think that it's worth the discussion here and at the Board level on expanding this. We don't have to do this tonight, but I'd love to hear everybody's thoughts about these units as detached structures as well in Homer Glen, because it's been talked about a lot by many planners. It's a really low hanging fruit for getting additional housing in this Village. I think it helps with all the things you're talking about

and our aging population. We have land here to be able to do it. Chairman Hand said, well and a lot of large parcels where there's room to build a coach house per se.

Commissioner Bradarich said, I think we do need to talk about Article A. I agree with Steve. That can be conflicted. If someone bought the house that was fifty-nine (59) years old and some person in his family is sleeping in that bedroom, you are in violation. Chairman Hand asked, well is sleeping in the bedroom the same as occupying the space? The commissioners replied, yes. Commissioner Bradarich said, using the living space or a playroom, or anything. That would be in violation. Director King said, I think the intention would be that there would be separate households though. Commissioner Bradarich said, that is not what it says. I think they have to be related. I think the person has to be related, but I don't think the person should have to be over sixty-two (62) years old. Director King said, I guess what I'm saying is that if it's a husband and wife and they're both one household and owners of the property, like the husband sleeping in that unit, I don't think they're in violation because they're a single household still. Vice-Chair McGary said, when I was in my early twenties, we had friends with a house like this. The couple lived in the house and their son occupied the suite. In other words, instead of sleeping in the bedroom in the house, he took advantage of the mother-in-law suite. Chairman Hand said, our intention here was to make it easier for the older people to either move in with their family, stay with their family and stay in the Village. If we take that out of there, it's really not our intention anymore. It's just an addition. Commissioner Bradarich said, the conflict is if we waive the reconversion and there's a person in there that is under sixty-two (62) years old, what is the penalty for that? Chairman Hand said, isn't that where the affidavit comes into play. Commissioner Bradarich said, but what is the penalty? Chairman Hand said, yeah, we don't have a penalty. Director King said, the penalty is the special use is revoked. Commissioner Bradarich said, the special use is revoked, but then what is the penalty for that? Commissioner Bugos-Komperda said, but then we're trying to rewrite the whole entire code and that is not our intention tonight. Vice-Chair McGary said, it's just to protect this applicant. Commissioner Stanly said, just taking out the reconversion, my only problem would be that it would become a rental. Commissioner Bradarich said, they have to be blood. I'm fine with everything. Like there's a brother coming in from out of state or something like that, and they're going to rent it out. Other than that, I have no problem with it. The reconversion that's going to be so expensive it would not be worth it. Chairman Hand said, it was built and intended to be used and it is all there. The plumbing lines are basically all there, everything is there. Commissioner Stanly said, and why take that out? That is a bonus. That situation that he has, with an in-law and maybe they're not sixty-two (62) years old, maybe the mom passed away and Dad's fifty-seven (57) years old and he's going to sell his house and come live with us. I don't like the sixty-two (62) years old or older. Vice-Chair McGary said, I also think it's an opportunity for a lawsuit. I really do.

Vice-Chair McGary said, so, Article C, Subsection B(1) through (8) is waived? Commissioner Bugos-Komperda said, let's say the code gets all rewritten, it sounds like it's going to in the future. The own property owner can come later and say, I want to come in front of you because I want my property now to be a part of this new code. Then change it to the new code so that he could follow the new rules and wouldn't be subject to the old rules. Is that something the homeowner can do in the future? Director King said, absolutely. Commissioner Stanly asked, would that be something he would be grandfathered in if there was a change since it's like the original? Director King said, I feel when we've applied changes it's what happened. It's what is required at the time of approval. Assistant Planner Udarbe said, I also feel we don't have a good tracking of all of our coaching tools. The one I can think of is how our special use permits for A-1

Agricultural District used to be less than five (5) acres for that single-family home. That's the only special use that I can think of that has changed. Director King said, this would also be kind of weird because it's conditions of a special use. Big R had all kinds of signage approval and it was on the old code and some of their allowances don't apply anymore. The code doesn't work. Assistant Planner Udarbe said, the new code allows them more than they were even granted before that. Then there are other things like numbers of signs and all that kind of stuff. We usually look back at the situation at the time. Maybe it's a combined. I really think it's a little inconsistent. Assistant Planner Udarbe said, for the new sign permits I go by the new code of what they're permitted. Director King said, unless it's something specifically in the ordinance granted via variance. Which is a little different because it's not like there's a list of conditions tied to it. I think if you take that example and look at it from like a lesser change in the code and a greater change in the code, you would want to apply it the same no matter what you did as a planner. Commissioner Bradarich said, as long as you're in conformance with the new code, you are in conformance with the new code. Director King said, if it changes to be more restrictive, you'll have residents that are angry with you. I know we're not trying to rewrite the code, but I would recommend if there are hiccups with things, we don't like that we should put them in this ordinance.

Commissioner Bradarich said, for the purpose of approval tonight, we can waive Article D and then also waive sixty-two (62) years old or older anywhere it appears in the code. Director King said, it would be just by blood, marriage, adoption or guardianship. That way what you're saying would include special needs children or even children by blood that would like to use it. Chairman Hand said, any blood. Vice-Chair McGary said, now I'm losing that. There are too many. Commissioner Bradarich said, there are one (1), two (2), three (3). I thought I saw four (4). I know there's at least three (3) places in here where it said sixty-two (62) years old or older. Director King said, you could just say waive the restriction of sixty-two (62) years old or older. Commissioner Bugos-Komperda said, waive the age restriction. Then what about the last line of Article C? Vice-Chair McGary said, Article C Subsection B(1) through (8). Director King said, wait say that again. Vice-Chair McGary said, Article C Subsection B(1) through (8). Director King said, I think those are just references. I think we were talking about this last sentence. Chairman Hand said, if we're allowing any blood adoption or marriage and the affidavit is still required, how is that certified? It's just under oath that this is my fourth cousin, Tony? Commissioner Stanly said, or just will it be occupied or not occupied. Director King said, this is an enforcement thing. They submit the affidavit, it says, my son John lives in the mother-in-law suite and they sign it and notarize it. They will probably have to notarize it. We may need to have these recorded. We need to have something recorded. I think otherwise it's not going to come up with a title. If they transfer, don't you think? Something needs to be there. I don't know if we have these affidavits recorded or the ordinance just at the time that we authorize this. I think notarized at least. If there was a complaint from a neighbor that there was somebody living there that was a problem and it wasn't a relative and the Village looked into it, we would have these documents that they claimed that they were by blood. I think it just helps to have documentation purposes for enforcement reasons. Commissioner Bradarich said, it says by blood, marriage, adoption etc. Those are all provable documents. Director King said, they would have to prove those things if it was questioned. Commissioner Bradarich said, then you got that last sentence in C and all of D. Vice-Chair McGary said, every special use for accessory policy shall not expire when any owner conveys any portion of his or her interest in the practice. Commissioner Bradarich said, we don't really have to go there. We can just say, omit the last

sentence in Article C. Director King said, I know we have to read it and it kind of stinks, but it may be nice to have it read. Vice-Chair McGary said, okay. Omit the last sentence in Article C that states that every special use for accessory housing shall also expire when any owner conveys any portion of his or her interest in the property, unless the conveyance is to a trust of which that owner is a beneficiary. Director King said, I don't think you have to say, unless the conveyance because that part's gone now. You are just saying it's not going to expire. Commissioner Bradarich said, so the first part of the sentence. Director King said, except instead of saying shall expire, you're also going to say shall not expire. Vice-Chair McGary asked, what did you say about Chapter 220-821? Director King said, instead of just saying D put Chapter 220-821 Section D. Vice-Chair McGary asked, but that applies to all three (3) things, right? Commissioner Bradarich, we are waiving the age requirement, we are waiving the last sentence in Article C and we are waiving Article D. Director King said, you could simply say that you waive the requirement for a reconversion plan or something like that per section D. Waive the requirement for a reconversion plan. Commissioner Bradarich said, or waive the requirement for reconversion.

*Chairman Hand asked for a motion. Vice-Chair McGary made a motion to recommend approval with conditions for Special Use Permit for an Accessory Unit for certain real property located in the R-5 Single-Family District at 12032 W. Forestview Drive, Orland Park, Illinois (within Homer Glen Corporate limits [Case No. HG-2325-SP] in Chapter 220-821:*

1. *Waive the age restriction.*
2. *Waive the requirement for reconversion.*
3. *This special use for accessory housing shall not expire when any owner conveys any portion of his or her interest in the property.*

*The motion was seconded by Commissioner Bradarich. A roll call vote was taken with Commissioners Foley, Stanly, Bugos-Komperda, Bradarich, Fiskow, Vice-Chair McGary and Chairman Hand voting in favor seven (7) to zero (0). The motion passed and will go before the Village Board on January 24, 2024.*

*Chairman Hand asked for a motion. Vice-Chair McGary made a motion to adopt staff's findings as the findings of the Plan Commission. The motion was seconded by Commissioner Stanly. A roll call vote was taken with Commissioners Fiskow, Bradarich, Bugos-Komperda, Stanly, Foley, Vice-Chair McGary and Chairman Hand voting in favor seven (7) to zero (0). The motion passed and will go before the Village Board on January 24, 2024.*

- c) Case No. HG-2326-SP, PIN 1605362000190000 (Public Hearing): Consideration of a request for approval of a Special Use Permit for a Single-family home, on a lot of less than 10 acres of land area but at least one acre in size for certain real property located in the A-1 Agriculture District at PIN 1605362000190000, Mokena, Illinois (within Homer Glen Corporate limits).**

Assistant Planner Udarbe presented the facts of this case. This is a request for approval of a special use permit for a single-family home on a property on a lot of less than ten (10) acres of land area, but at least one acre in size for certain real property located in the A-1 Agricultural District at PIN 1605362000190000, Mokena, Illinois (within Homer Glen Corporate Limits). The applicant and property owner, Janina Staszal, is proposing to build a single-family home on the vacant eight point six eight (8.68) acre property off of 179<sup>th</sup> Street the A-1 Agricultural District.

Per Village Code, the A-1 District requires a special use permit to allow a single-family home on a lot of less than ten (10) acres of land area, but at least one acre in size.

I've only received one public comment on this case. One of the neighbors called to see what the request was for. Staff explained the request and this resident stated they do not have any issues with the request for a single-family home. They were only concerned that the notice was for a multiple unit subdivision development. That was all for public comment.

The proposed special use permit for a single-family home on a lot of less than ten (10) acres of land area, but at least one acre in size is a permitted special use and is required in order to develop the subject property since it does not meet the minimum ten (10) acre size requirement for the A-1 District. The proposed single-family home is compatible with the A-1 Agriculture District and the Comprehensive Plan, which designates this property as Single-Family Estate. The subject property cannot be used for a single-family home without the special use permit. Other special use permits granted most recently recommended for approval from the Plan Commission was the vacant 139th Street property. This was a special use permit for a single-family home on a lot of less than ten (10) acres, also in the A-1 Agricultural District. Then this was an older case for 17045 S Parker Road, also in the A-1 District where they were granted a special permit for an existing single-family home on a lot of less than five (5) acres in size. That's actually what our code used to say. That was an existing structure and they were coming through for other variances, so I think they were just made legal at the time. That concludes my presentation.

A motion was made to open the public hearing by Commissioner Foley, seconded by Commissioner Stanly all in favor, zero (0) opposed. Motion carried.

The petitioner did not have anything to add.

The public spoke.

Michael Alfaro- I live at 12155 179<sup>th</sup> Street in Mokena. My property is actually the one that's just south of this property in question here. There are a couple of things that I would like to bring up to the Board. First off, I just want to say thank you for letting me speak here. A large factor of me purchasing the property that I did was being able to view that nice open land. It kind of reminded me of the great American dream. You look out there and you see the farmland and it's very beautiful. My big thing is that unfortunately here in America, we lose about one point eight (1.8) million acres of farmland every year. To me, this is very important because it does affect our American way of life. I think the big thing for me is I've got an issue with flooding on my property. The south end of my property has an issue with flooding. I've got a creek that runs along the side of my property and it culverts to the opposite end of the street. My biggest fear is that with the addition of a property on that north property, the one that we have in question, that with less ground soil to absorb, less farmland, less plants to absorb the water, I'm going to have a bigger issue with flooding on my property more than it already is. That's my biggest question of concern with the addition of a residential structure being placed onto that property. If I would have to add something like a small pond or widen the creek, is this going to come out of my pocket to do it or do I have to employ the Army Corps of Engineers? Chairman Hand said, this is if you believe flooding on your property is caused by the house going up? Mr. Alfaro said, that's correct. I'm sloped lower than that north property. I fear that with the addition of a structure and the repurposing of the land rather than farmland with the absorption of water into the soil. Am I going experience more flooding on my property, especially towards the south end and also

on the creek on the side of my property? That's my biggest concern. Chairman Hand said, when the house comes in for permit, they will need engineering plans for all of the drainage and that will be taken care of. Any home that goes up in the Village, there's a site plan and engineering plan that's very specific. I understand how you see and I see it too. If you're to the south, you're probably a good ten (10) feet or so. I'm not sure where the house is planned for, but probably the high point way to the north. Melissa or Taylor, do you have any idea? Assistant Planner Udarbe said, I've not seen a site plan for this yet. The applicant wanted to make sure that they were granted single-family use of the property before investing in the site plan. Commissioner Bradarich said, we could make a condition that the engineering takes into account the adjacent properties. Assistant Planner Udarbe said, it always will. I can put you in contact with our engineer if you have any specific concerns or questions. He's very helpful. We're planners, so we can't really speak to all the requirements there, but Brett's very helpful to address most of these questions and concerns. Mr. Alfaro said, I think the biggest thing is the flooding and if any of this is going to have to come out of my pocket in terms of doing some sort of structure, addition, digging out the creek or adding a pond for overflow. That's my biggest thing. Chairman Hand asked, is there actually water that crosses over the road to your property? Mr. Alfaro said, it crosses underneath and then it goes on the side of the property. Director King asked, there is a tributary on your property, correct? Mr. Alfaro said, I believe so, but even with that tributary, I do experience flooding. Director King said, you said it's on the southern portion of your property. Where is that flooding exactly? Mr. Alfaro said, it would be the southwest portion of the property. Director King said, that is where I'm seeing that there's a creek tributary. My guess is that Brett is going to tell you that might be naturalized anyway. I think that's kind of normal because of the type of draining, but Brett will come out to your property. He is very helpful. Mr. Alfaro said, then with heavy rainfall, it does extend further north. After I get off of work every day I walk around the property. It kind of brings me peace, especially from the job that I have. It's very stressful. With the addition of water and flooding on the path, I can't walk through there. It kind of disrupts my way of life sometimes. That's my biggest concern. Do you guys have any questions for me?

A motion was made to close the public hearing by Commissioner Bradarich, seconded by Commissioner Foley all in favor, zero (0) opposed. Motion carried.

*Chairman Hand asked for a motion. Commissioner Foley made a motion to recommend approval for a Special Use Permit for a Single-family home, on a lot of less than 10 acres of land area but at least one acre in size for certain real property located in the A-1 Agriculture District at PIN 1605362000190000, Mokena, Illinois (within Homer Glen Corporate limits). [Case No. HG-2326-SPJ]? The motion was seconded by Commissioner Bradarich. A roll call vote was taken with Commissioners Stanly, Foley, Fiskow, Bugos-Komperda, Bradarich, Vice-Chair McGary and Chairman Hand voting in favor seven (7) to zero (0). The motion passed and will go before the Village Board on January 24, 2024.*

*Chairman Hand asked for a motion. Commissioner Foley made a motion to adopt staff's findings as the findings of the Plan Commission. The motion was seconded by Commissioner Bugos-Komperda. A roll call vote was taken with Commissioners Fiskow, Bugos-Komperda, Stanly, Foley, Bradarich, Vice-Chair McGary and Chairman Hand voting in favor seven (7) to zero (0). The motion passed and will go before the Village Board on January 24, 2024.*

## **7. Old Business**

## **8. Reports of Plan Commissioners and Staff**

Assistant Planner Udarbe said, I have one case for an oversized accessory structure in February. This is the first meeting. That's the only thing I have in the pipeline.

Vice-Chair McGary asked, when we get ready to talk about this, can we see a couple other ordinances from other Villages? Sometimes they anticipated a problem that I didn't even think of. Director King said, sure. We would handle it like any other code change that we do. We typically do all nine (9) of our peer communities. Then if we find that we don't have enough information from those peer communities, like say they don't have ordinances or we find that some other communities might have really good ones that work in our research will do as well. They will be in the matrix of all the different requirements. Also, we don't have any cases that are scheduled for the second January meeting. Unless something that comes up on the agenda that is not a case, we will probably cancel it. Commissioner Foley asked, did Dunkin Donuts move in yet on 159<sup>th</sup> Street? Director King said, it is slow. We did recently get their Letter of Credit that was required for the project. They still need contractors. The building review is done. Everything else is done so we were waiting on the Letter of Credit and contractors. The property was sold. So, for those of you who don't know that George Marsh, who owned ACE Hardware sold the property. I think the closing of that lot combined with the fact that it had got sold was complicated. It is still moving, but just slow.

Director King said, Marian Village just came in with their plans. That also has been slow. Two (2) years of extensions. Chairman Hand asked, and that was how many unites going in? Director King said, I think it was somewhere over one hundred (100) units. Chairman Hand asked, there were no other changes that needed to be made? Director King said, I have not reviewed it yet. The engineering is being looked at right now. Vice-Chair McGary asked, where are these properties going to go? Director King said, it is in front of everything. Chairman Hand said, I just have a tidbit because I'm at Menards like twice a day, but looks like they did soil testing for the Menards property. Director King said, they resubmitted twice with review. They're still moving on that. I would be anticipating they would be looking at Spring.

**9. Adjournment**

A motion was made to adjourn by Commissioner Bugos-Komperda, seconded by Commissioner Stanly. All in favor, zero (0) opposed and the meeting was adjourned at 8:27 PM.

Minutes transcribed and respectfully submitted by Sarah Pesavento.

Sarah Pesavento (Plan Commission Secretary): Sarah Pesavento

Approved Date: 2/1/2024