



**Agenda**  
**City of Crystal Lake Park**  
**Board of Adjustment Meeting**  
**Frontenac Municipal Complex,**  
**10555 Clayton Road, Frontenac, Missouri 63131**  
**June 28, 2012**

**Board of Adjustment Meeting**

- I. Pledge of Allegiance**
- II. Call to order / Roll Call**
- III. Approve Agenda**
- IV. Approval of September 29, 2011, and May 10, 2012, Board of Adjustment Minutes**
- V. Old Business**
- VI. New Business**
  1. **Resolution 2012-1.** A resolution establishing a reasonable notification policy for applications coming before the Board of Adjustment
  2. **Public Hearing.** Application by Ms. Phoebe Weil appealing the ruling of the Building Commissioner denying the erection of certain improvements, pursuant to the Fence Code, on property located at 2158 Oak Drive.
- VII. Vote to Adjourn the Meeting**
- VIII. Closed Session:**
  1. The Board of Adjustment may adjourn to closed session to discuss legal, confidential or privileged attorney-client matters pursuant to Section 610.021(1) or for any other reason allowed by Missouri law

**Please Note:**

- **Next meeting will be held when an Appeal or Variance Request(s) have been submitted.**



**Minutes**  
**City of Crystal Lake Park**  
**Board of Adjustment Meeting**  
**Frontenac Municipal Complex,**  
**10555 Clayton Road, Frontenac, Missouri 63131**  
**June 28, 2012, 7 p.m.**

**Pledge of Allegiance**

**Call to Order/Roll Call and Announcement of a Quorum:** Chair Matt Posey called the meeting to order at 7 p.m.

**Board Members:** Present: Stephanie Berk, Judy Kunkel, Mike Mason, Matt Posey, and Alternate Stacey Hance. Absent: Members Amin Haider and Judy Brog.

**City Officials:** Present: City Attorney Katherine Moore, City Planner Ada Hood, Building Inspector Neil Cantwell, City Clerk Amy Cutrell, Communications Coordinator Jonathan Carey-Voris, and Court Reporter Karen Russo

**Applicant Representatives Present:**

Brian Smith, AIA & AIA Gunn & Smith Architects (6651 Dale Avenue, St. Louis, MO 63139), and Matt Moynihan, Moynihan and Associates Landscapers

**Approve the Agenda**

Board of Adjustment Member Stephanie Berk moved and Member Mike Mason seconded the motion to approve the agenda for the June 28, 2012 meeting. The board unanimously approved it by voice vote.

**Approve September 29, 2011 and May 24, 2012 Meeting Minutes:**

Board Member Mike Mason moved and Member Judy Kunkel seconded a motion to approve the September 29, 2011, and May 24, 2012 Minutes. The board unanimously approved them by voice vote.

**Old Business: None**

**New Business:**

***1. Resolution 2012-1—A Resolution Establishing a Reasonable Notification Policy for Applications Coming Before the Board of Adjustment***

Chairperson Posey introduced the resolution explaining that it will standardize the manner in which Public Hearings before the Board of Adjustment are advertised.

After Attorney Moore read Resolution 2012-1 for the first time, Member Judy Kunkel moved and Member Mike Mason seconded that it be read for a second time by title only. The board voted as follows: Stephanie Berk –aye; Judy Kunkel – aye; Matt Posey – aye; Mike Mason – aye; and Alternate Member Stacey Hance - aye. Chair Posey declared the resolution approved.

**2. Fence Appeal for 2158 Oak Drive**

Appeal of Building Inspector's Decision for 2158 Oak Drive in Residence District D

Applicant: Phoebe Weil

Subject Property: 2158 Oak Drive

Zoning District: Residence District D

Appeal: Applicant appeals to the Board of Adjustment seeking a finding that section

Title V, Municipal Code of the City of Crystal Lake Park: Section 505.010, Subsection B.

City Attorney Katherine Moore read the following Exhibits into the Record:

- Exhibit 1: Chapter 420 of CLP's Municipal Code "Board of Adjustment"
- Exhibit 2: Chapter 505, Section 505.010 of CLP's Municipal Code "Fences"
- Exhibit 3: Building Inspector's Denial Letter to Mrs. Phoebe Weil dated June 1, 2012
- Exhibit 4: Applicant's appeal of the decision
- Exhibit 5: Notices published pursuant to Missouri's statutory requirements
- Exhibit 6: Applicant's plans for the fence at 2158 Oak Dr.
- Exhibit 7: Notice of public hearing
- Exhibit 8: Building Commissioner's drawing of a patio allowing for six-foot fence

Said exhibits are incorporated herein and made part of this decision as if fully set forth.

**Swearing in of Witnesses**

City Attorney Moore asked Court Reporter Karen Russo to swear in witnesses. She swore in:  
Neil Cantwell, C.O.B, CLP Building Inspector and Brian Smith, AIA Gunn & Smith Architects

Mr. Cantwell reviewed his letter to Mrs. Weil dated June 1, 2012, in which he denied her request for a building permit for a fence around her pool and property because it exceeded the height requirements and was less than 25% open.

**Testimony:**

At this point, Chair Posey opened the meeting to hear testimony from residents and other interested parties.

Brian Smith, AIA Gunn & Smith Architects (6651 Dale Avenue, St. Louis, MO 63139), spoke on behalf of the application. Mr. Smith described the project and noted a neighbor has a six-foot lattice fence in disrepair, and Phoebe Weil's existing fence is a six-foot lattice fence, which they plan to match. The neighbors are happy with a six-foot lattice fence as they expressed at a meeting a couple weeks ago. Chair Posey asked if he had letters from any of them, and Mr. Smith said he did not. The fence satisfies pool enclosure codes as well as the neighbors who are happy with the project and the fence design.

Chair Posey asked what makes this project different. Mr. Smith responded that a four-foot fence provides no privacy, different because it's a lap pool. There is no buffer and no room for landscape buffer. Member Stephanie Berk asked what was the size of the neighboring homes. Mr. Smith said two are two-story; and one is one-story. Member Stephanie Berk said two more feet of fence would not provide much more privacy.

City Attorney Katherine Moore noted the applicant would need to convince the board one of three items:

1. Ruling by the building commissioner was incorrectly interpreted,
2. Doesn't fully apply, or
3. Equally good or better alternate has been proposed

City Attorney Moore asked Mr. Smith if this project met any of the three requirements. He responded not really. He noted the six-foot tall fence to the south is rickety and will be replaced. Resident Jonathan Carey-Voris, resident at 2138 Oak, noted that the fence was built prior to the code change, and if that owner replaced the fence they would be subject to same rules.

Chair Posey noted the board is not here to make exceptions. The process to change the code would be a zoning amendment. Resident David Evans, 2146 Lakeview, said he would file for the same fence if this project was approved. Resident Troy Burrus, 2110 Crystal Drive, asked where the fence is measured from.

Matt Moynihan, landscape architect, noted the neighbor's dogs were quite large and could jump the fence.

**Board of Adjustment Discussion**

Chair Posey asked Board Members if they had any questions.

City Attorney Moore asked staff, is this equally good or better than code. Building Commissioner Cantwell said no, structurally, but yes, better because it's more aesthetic than a regular pool fence.

City Attorney Moore added, in addition to criteria, the Board of adjustment is charged with the responsibility to only modify application of code so that the spirit of the code is intact and consider each application of facts before the board. Member Stephanie Berk said this is not the forum to change the city code.

Stephan Cook, resident at 2147 Oak, noted much work went into the comprehensive plan and openness of the neighborhood. He also noted the provision allowed for a privacy fence.

Member Stacey Hance asked why this is not a privacy fence. Building Commissioner Cantwell explained the difference between a fence enclosure and fence around patio areas where fences are only allowed on one-half of patio, not to rear of property, and not around entire yard. To illustrate, Building Commissioner Neil Cantwell drew a mock-up, which became Exhibit 8 and was entered into the record.

City Attorney Katherine Moore reiterated the board has limited criteria to review a matter. Member Stacey Hance sees the fence as aesthetic improvement. Member Mike Mason likes proposal; however, expressed discomfort with overriding the guidelines set.

Before the vote, City Attorney Katherine Moore asked Mr. Smith if he had any response to these two sections not completed on the application: "This appeal of the Code Official's interpretation with regard to the above-referenced code contends that" and "Suggested alternative interpretation or solution offered by the applicant." Mr. Smith said that no, they didn't have anything for those sections and were appealing on aesthetic and privacy considerations.

Board Member Mike Mason moved that the appeal be granted for a fence six-feet high and Member Stephanie Berk seconded it. The board voted as follows: Stephanie Berk – nay; Judy Kunkel – nay; Matt Posey – nay; Mike Mason – nay; and Alternate Member Stacey Hance - nay. Chair Posey declared the appeal denied.

City Attorney Moore noted the city will present findings to the applicant within two days. The applicant can ask for a zoning amendment. Public hearing was closed.

**VOTE TO ADJOURN MEETING**

There being no further business, a motion was made by Member Judy Kunkel and seconded by Member Stephanie Berk to adjourn the meeting. The motion to close the meeting was unanimously approved by voice vote. The meeting adjourned at 7:45 p.m.

**Next Meeting:** The next Board of Adjustment meeting may be held July 28, 2012, at the Frontenac Municipal Complex, 10555 Clayton Road, Frontenac, Missouri. The board will be notified if there is no agenda for the month.

MINUTES RECORDED BY: \_\_\_\_\_  
**Amy Cutrell, City Clerk**

ATTEST: \_\_\_\_\_  
**Matt Posey, Chairperson, Board of Adjustment/Presiding Officer**