

VILLAGE OF LIBERTYVILLE

ORDINANCE NO. 13-O- 36

AN ORDINANCE AMENDING SECTION 13-6
OF THE LIBERTYVILLE ZONING CODE
RELATING TO RESIDENTIAL RECREATIONAL FACILITIES
AND SWIMMING POOLS

Adopted by the
President and Board of Trustees
of
the Village of Libertyville
Lake County, Illinois
this 9th day of July, 2013

Published in pamphlet form by direction
and authority of the Village of Libertyville
Lake County, Illinois
this 10th day of July, 2013

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RELATING TO RESIDENTIAL RECREATIONAL FACILITIES
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WHEREAS, the President and Board of Trustees of the Village of Libertyville have considered amending the Libertyville Zoning Code to allow for neighbor sign-off in lieu of providing landscape screening for outdoor Residential Recreational Facilities and Swimming Pools; and

WHEREAS, on March 18, 2013, the Development Review Committee reviewed and recommended approval of the requested zoning relief; and

WHEREAS, the Plan Commission of the Village of Libertyville, pursuant to notice duly published on March 23, 2013, in the *Daily Herald*, held a public hearing on April 8, 2013, at 7:05 p.m., at the Village Hall, 118 West Cook Avenue, Libertyville, Illinois for the purpose of hearing and considering testimony regarding the requested zoning relief; and

WHEREAS, on April 8, 2013, the Plan Commission, having fully heard and considered the testimony of all those present at the public hearing who wished to testify, made findings of fact as required by law and recommended to the President and Board of Trustees of the Village of Libertyville that the proposed text amendment be approved, all as is more specifically set forth in that certain Report of the Plan Commission on Case No. PC 13-14, dated as of June 5, 2013; and

WHEREAS, the President and Board of Trustees of the Village of Libertyville have considered the findings and recommendations of the Plan Commission and are fully advised in the premises.

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

SECTION ONE: Recitals. The foregoing recitals are hereby incorporated herein as if fully set forth.

SECTION TWO: Determination as to Findings. The Village Board finds the following:

- a. *The consistency of the proposed amendment with the purposes of this Code.* The Text Amendment to Section 13-6 of the Libertyville Zoning Code relating to Residential Recreational Facilities and Swimming Pools regarding required screening is consistent with the purposes of the Zoning Code.
- b. *The existing uses and zoning classifications of properties in the vicinity of the subject property.* Outdoor residential recreational facilities and swimming pools are permitted accessory uses to any dwelling located in any Residential District.
- c. *The trend of development in the vicinity of the subject property, including changes, if any, in such trend since the subject property was placed in its present zoning classification.* The trend of development of outdoor residential recreational facilities and swimming pools accessory to any dwelling located in any Residential District in the Village of Libertyville, including changes, if any, in such trend, has persuaded the Village Board to closely examine the screening requirements for outdoor residential recreational facilities and swimming pools accessory to any dwelling located in any Residential District.
- d. *The extent to which the value of the subject property is diminished by its present zoning classification.* The extent to which the value of residential properties is diminished by its present zoning classification is not applicable as zoning classifications will not change.
- e. *The extent to which such diminution in value is offset by an increase in the public health, safety and welfare.* The extent to which such diminution in value is offset by an increase in the public health, safety and welfare of residential properties is diminished by their present zoning classification is not applicable as zoning classifications will not change.
- f. *The extent, if any, to which the use and enjoyment of adjacent properties would be adversely affected by the proposed amendment.* The enjoyment of adjacent properties is the reason for the amendment as it allows abutting owners to determine if buffering is required.
- g. *The extent, if any, to which the value of adjacent properties would be adversely affected by the proposed amendment.* The value of adjacent properties would not be adversely affected by the proposed amendment as the owners of those properties will determine if screening is required.

- h. *The extent, if any, to which the future orderly development of adjacent properties would be adversely affected by the proposed amendment.* The future orderly development of adjacent properties would not be adversely affected by the proposed amendment.
- i. *The suitability of the subject property for uses permitted or specially permitted under its zoning classification.* The suitability of the subject property for uses permitted or specially permitted under its zoning classification is not applicable as zoning classifications will not change.
- j. *The availability of adequate ingress to and egress from the subject property and the extent to which traffic conditions in the immediate vicinity of the subject property would be affected by the proposed amendment.* The availability of adequate ingress to and egress from properties and the extent to which traffic conditions in the immediate vicinity of properties shall remain unaffected by the proposed amendment.
- k. *The availability of adequate utilities and essential public services to the subject property to accommodate the uses permitted or specially permitted under its present and proposed zoning classification.* The availability of adequate utilities and essential public services to properties subject to the proposed text amendment intended to accommodate the uses permitted or specially permitted will not be impacted by the proposed text amendment.
- l. *The length of time, if any, that the subject property has been vacant, considered in the context of the pace of development in the vicinity of the subject property.* The length of time, if any, that the properties subject to or affected by the proposed text amendment have been vacant, shall be considered in the context of the pace of development in the vicinity of the subject property and all applicable Village codes and ordinances.
- m. *The community need for the proposed amendment and for the uses and development it would allow.* The community has demonstrated a need for the proposed amendment to allow neighboring properties to determine the need for buffering of residential recreational facilities.

SECTION THREE: Amendment of Article 13. Article 13-6, entitled “Residential Recreational Facilities and Swimming Pools” of the Libertyville Zoning Code shall be, and it hereby is, amended pursuant to Section 16-14 of the Libertyville Zoning Code, as follows:

13-6 RESIDENTIAL RECREATIONAL FACILITIES AND SWIMMING POOLS

Except as provided herein, outdoor residential recreational facilities and swimming pools accessory to any dwelling located in any Residential District shall be buffered and screened by a solid fence or a densely planted evergreen hedge of not less than six (6) feet in height in combination along with any other landscaping materials as may be needed. Such screening shall be provided on all sides of such facility or swimming pool which are visible from any property or street which is adjacent to the zoning lot on which such residential recreational

facility or swimming pool is located. If the owner of a residential recreational device or swimming pool desires to obtain a waiver from this screening requirement, the owner shall identify the side or sides of the residential recreational device or swimming pool for which the owner is seeking a waiver from the screening requirements and must obtain consent to such waiver by written agreement from the owners of all adjacent residentially zoned lots that are both within the Village and within one hundred (100) feet of the lot on which the recreational facility or swimming pool is located. Upon receipt of an agreement executed by all such adjacent property owners, the portion of the screening for which a waiver is being sought shall not be required. The waiver shall remain in effect during such time as the adjacent property owners continue to hold the legal or beneficial interest in the title to such adjacent properties. The written agreement shall provide that upon written demand of any of the adjacent property owners or upon the sale or transfer of the legal or beneficial interest in any of the adjacent properties, all otherwise required screening shall be installed, in compliance with this section, within ninety (90) days of either such written demand or the sale or transfer of the legal or beneficial interest in any of the adjacent properties. Failure to install the required screening within such ninety (90) day period shall be deemed a violation of this Code. In the event that the new owner of the legal or beneficial interest of an adjacent property executes the agreement required by this section, the waiver with respect to screening shall remain in force. The written agreement shall be recorded with the Lake County Recorder of Deeds against the property upon which the residential recreational facility or swimming pool is located and each of the adjacent properties.

SECTION FOUR: Effective Date. This ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

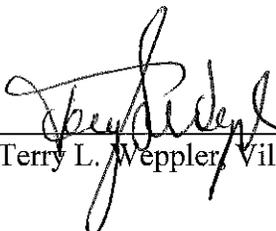
PASSED this 9th day of July, 2013.

AYES: Cullum, Moras, Justice, Gaines, Moran

NAYS: None

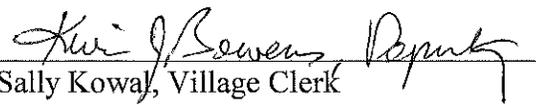
ABSENT: Johnson

APPROVED this 10th day of July, 2013.



Terry L. Weppeler, Village President

ATTEST:



Sally Kowal, Village Clerk