

ZONING BOARD OF APPEALS  
MINUTES  
MARCH 24, 2009

The meeting was called to order by Chairman Richard Garrity at 7:33 p.m. Board Members Gregory Constantino, Edward Kolar, Mary Ozog, Dale SiligmueLLer and Michael Waterman were present. Board Member Barbara Fried was excused. Also present was Building and Zoning Official Joe Kvpil.

Chairman Garrity described the proceedings of the Zoning Board of Appeals and stated that one continuation of a public hearing was on the agenda for properties at 151 and 155 N. Main Street.

Mr. Kolar moved, seconded by Mr. Waterman, to approve the minutes of the January 13, 2009 Zoning Board of Appeals meeting. The motion carried unanimously by voice vote.

CONTINUED PUBLIC HEARING – 151 and 155 N. MAIN STREET

A REQUEST FOR APPROVAL OF TWO VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. A REQUEST TO BUILD, AT AN UNDETERMINED FUTURE DATE, A NEW SINGLE-FAMILY RESIDENCE ON THE VACANT LOT AT 151 N. MAIN STREET. 2. A REQUEST TO CONSTRUCT A FENCE ON A VACANT LOT AT 151 N. MAIN STREET.

*(David and Jennifer Eldersveld, owners)*

Staff Introduction

Building and Zoning Official Joe Kvpil stated that this public hearing regarding 155 and 151 N. Main Street is a continuation from January 13, 2009, however, the variations are somewhat different than at the previous meeting. Mr. Kvpil added that a variation to allow two driveway approaches and an impervious surface setback variation requested at the January 13, 2009 meeting have been eliminated.

Mr. Kvpil stated that David and Jennifer Eldersveld, the petitioners, own both properties at 151 and 155 N. Main Street and are requesting two variations. Displaying a map, Mr. Kvpil described the location of the subject lots which he stated are interior lots in the R2 zoning district surrounded by single-family residential. Mr. Kvpil displayed a combination of two plats of survey of the subject lots.

The first variation request is to designate the two lots as separate zoning lots that would allow both lots to have a single-family house on each, and the second variation request is to allow a fence to be constructed on the vacant lot at 151 N. Main Street. Mr. Kvpil stated that the variation for the two separate zoning lots is necessary because the Zoning Code permits a home to be built on a vacant non-conforming lot under common ownership with an adjacent lot if certain conditions are met. He stated that the petitioners do not meet three of the required conditions; therefore, a variation is required. The conditions are as follows: 1. The lots are required to be under common ownership in

June, 1989. The lots came under common ownership by the petitioners in 2008. 2. The lots must be combined into one conforming zoning lot. The petitioners would like the lots to remain as separate zoning lots. 3. Seventy-five percent (75%) of the lots on either side of the subject block must have lot widths the same or less than the subject lot. The percentage of lots that have the same or less lot width than the lot at 151 N. Main Street is 47%. Mr. Kvapil pointed out that if the lot at 151 N. Main was not owned by either of the adjacent property owners, the lot would be buildable because it was platted prior to 1974, it has a minimum lot width of 50 feet and it has a minimum area of 6,534 square feet.

The second variation request is to construct a fence on the vacant lot at 151 N. Main Street. However, if the first variation request to designate the two lots as separate zoning lots is approved, a fence cannot be built at 151 N. Main Street because that property does not have a principal structure. Therefore, a variation is required. Mr. Kvapil displayed a diagram indicating the location of proposed and existing fences on both lots. Mr. Kvapil also displayed a photograph of a fence that meets zoning requirements which will be similar to the fence proposed to be constructed at 151 N. Main Street.

#### Petitioners' Presentation

David and Jennifer Eldersveld, owners of both properties at 151 and 155 N. Main Street, reside at 155 N. Main. Mr. Eldersveld stated that he bought the property at 155 N. Main Street in 2005 and that property is his family's main residence. Mr. Eldersveld stated that shortly after they purchased their home, the house next door at 151 N. Main Street sold and renovation work began on that house, however, the site remained in an extreme state of disrepair for approximately two years. Conditions on the site were dangerous and the house was eventually torn down. The property went into foreclosure at the end of 2007, however, the bank/mortgage holder was unaware that there was no longer a house on the lot. The property was subsequently put on the market, and although Mr. Eldersveld stated that he told a realtor he was not interested in purchasing the lot, the bank eventually offered the property to the Eldersvelds' at a reasonable price and the Eldersvelds' purchased the lot.

Mr. Eldersveld stated that he had had discussions with Village staff prior to purchasing the property at 151 N. Main regarding general development plans for that property and that at no time during those discussions was he informed that the two lots would become one zoning lot once he owned both lots.

Mr. Eldersveld stated that the request for a fence variation is reasonable and affords his family the ability to safely enjoy the property during the time the two lots are under common ownership. He added that the fence would be consistent with the fencing at his property at 155 N. Main as well as other fences in the area.

Responses to Questions from the ZBA

Mr. Kvapil responded to Mr. Kolar that the fence proposed at 151 N. Main will be attached to the existing fence at 155 N. Main. Mr. Kvapil added that there is no setback requirement for a fence and that a property owner can have a fence in other locations on his lot than just at the property line.

Mr. Kvapil clarified for Mr. Kolar that the driveway at 151 N. Main has been removed, however, the approach still remains on that property. Mr. Eldersveld responded to Mr. Kolar that there is debris on the driveway approach at 151 N. Main as shown in the photograph.

Mr. Eldersveld confirmed for Mr. Constantino that, as stated in the variation packet submitted, he had been told by Village staff prior to the purchase of 151 N. Main that the two parcels would remain as separate zoning lots. Mr. Eldersveld also responded to Mr. Constantino that they have received no objections to their proposed variation requests and that the neighbors have been very supportive.

Mr. Siligmuller asked Mr. Eldersveld if he had given any more thought to comments from some ZBA members at the previous meeting regarding selling the 151 N. Main lot, perhaps during a specific time frame, because of the concern that the petitioners “want it both ways” with current common ownership and future separate zoning lots. Mr. Eldersveld responded that he never had intentions to purchase the lot when he purchased his home but finally did because so because the lot was a safety hazard and an eyesore and staff had told him that the lots would remain as two separate zoning lots. He added that constructing a fence around the 151 N. Main property is a reasonable request. Mr. Kolar asked Mr. Eldersveld what staff member specifically told him that the properties at 151 and 155 N. Main would remain as two separate lots after he purchased 151 N. Main, and Mr. Eldersveld replied that the presumption of a discussion with Building and Zoning official Joe Kvapil was that the two properties would remain as two separate zoning lots.

Persons in Favor of or in Opposition to the Petition

No persons spoke in favor of or in opposition to the petition.

Comments from the ZBA

The majority of the ZBA members were in favor of granting both variations. Those members in favor felt that unique circumstances led the petitioners to purchase the lot at 151 N. Main because when they purchased their home at 155 N. Main, they had no intention to purchase the adjacent lot and were urged to do so by a bank after that property went into foreclosure. The ZBA members also felt that due to miscommunication and/or mis-information between the petitioners and staff, the petitioners believed that the two lots would be separate zoning lots upon purchase of the second lot.

Mr. SiligmueLLer added that the petitioners had reason to believe that they could construct a new single-family house on the lot in the future as it had been built upon in the past. Mr. Constantino added that the lot at 151 N. Main would be considered a separate zoning lot if purchased by an individual who did not live adjacent to it. Mr. Waterman felt that the ordinance that created common ownership of adjacent lots was enacted to prevent developers from purchasing a property and subdividing it into two lots. Some ZBA members felt that the petitioners actually helped the Village by improving the subject lot which had been abandoned and that the addition of landscaping and fencing will further improve the property. Some ZBA members also commented that the variation requests will have no detrimental effects on the area and will not change the essential character of the neighborhood. Mr. Kolar, who was not supportive of the variation requests, commented that when a variation is granted to build a house, there is an 18-month expiration date unless an extension is granted and that the petitioners' variation request has no time limit. Mr. Kolar also stated that the variation request is an economic issue with financial gain in the future.

### Motion

Mr. Constantino moved, seconded by Mr. SiligmueLLer, to recommend approval of a variation from Section 10-4-1(K) of the Zoning Code and 10-4-1(J) to allow David and Jennifer Eldersveld to build at a future undetermined date a new single-family residence on the vacant lot at 151 N. Main Street and a variation from Section 10-4-1(C) of the Zoning Code to allow the construction of a fence deemed as an accessory use on a vacant lot that does not presently have a primary use. The recommendations for approval were based on the findings of fact that the petitioners had no intention of purchasing the lot next door when they purchased their original home, there was mis-communication and/or mis-information between the petitioners and staff that led the petitioners to believe that the two lots would be separate zoning lots upon purchase of the second lot, the lot at 151 N. Main would be considered a separate zoning lot if purchased by an individual who did not live adjacent to it and that the variation requests will have no detrimental effects on the area and will not change the essential character of the neighborhood. The recommendation for approval was contingent upon the petitioners complying with plans for development as submitted at this public hearing.

The motion carried with five (5) "yes" votes and one (1) "no" vote as follows: Board Members Constantino, SiligmueLLer, Ozog, Waterman and Chairman Garrity voted yes; Board Member Kolar voted no.

### Staff Report

Mr. Kvapil reviewed the agenda for the next regularly scheduled ZBA meeting.

There being no further business before the Zoning Board of Appeals, the meeting was adjourned at 8:20 p.m.

Submitted by:

Barbara Utterback  
Recording Secretary

Reviewed by:

Joe Kvapil  
Building and Zoning Official