

ZONING BOARD OF APPEALS
MINUTES
AUGUST 11, 2009

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

Chairman Garrity described the procedures of the Zoning Board of Appeals.

Ms. Fried moved, seconded by Mr. Kolar, to approve the minutes of the June 9, 2009 and July 14, 2009 Zoning Board of Appeals meetings. The motion carried unanimously by voice vote.

On the agenda was a public hearing for property located at 486 Phillips Avenue.

PUBLIC HEARING – 486 PHILLIPS AVENUE

A REQUEST FOR APPROVAL OF A VARIATION FROM THE GLEN ELLYN ZONING CODE, SECTION 10-5-5(B)4, TABLE ITEM 11, TO ALLOW THE CONSTRUCTION OF A SOLID FENCE IN A CORNER SIDE YARD SETBACK IN LIEU OF THE REQUIRED OPEN FENCE.

(Mark and Wendi Pasterik, owners)

Staff Introduction

Building and Zoning Official Joe Kvapil stated that Mark and Wendi Pasterik, the petitioners and owners of 486 Phillips Avenue, are requesting one variation from the Zoning Code, Section 10-10-5(B)4, to allow the construction of a solid fence in lieu of the requirement for an open fence in the required corner side yard setback. Mr. Kvapil displayed photographs of the subject property which showed an existing fence in the same general location as the proposed fence. Mr. Kvapil displayed a map and described the location of the subject property which he stated is in the R2 zoning district. He also described the surrounding uses. Mr. Kvapil stated that Village records indicate that only one permit has been issued and no zoning variations have been granted for the subject property.

Mr. Kvapil displayed a site plan on which he had drawn the location of the proposed fence along the west property line. He stated that the existing fence appears to be located in the public right-of-way. Mr. Kvapil displayed a diagram of the proposed fence which consists of solid wood panels 4 feet in height with a 2-foot lattice panel above and posts extending to 6 feet-4 inches. Also included in the fence diagram was an ornamental gate that is permitted in the fence at any point and is not part of the zoning variation request. Mr. Kvapil then displayed a drawing he prepared for comparison purposes of the proposed fence shown as 50% open.

Mr. Kvapil displayed a plat of survey and pointed out that the subject lot is nonconforming with a 55-foot width in lieu of the required 80 feet. Mr. Kvapil stated that the location of the house is unique because it is very close to the west property line (1.6 feet), and he added that the required setback for the principal structure is 16.5 feet. Mr. Kvapil added that the driveway on the lot is off of Phillips Avenue and that a site of this configuration would generally have a driveway off of the side street to allow for a shorter driveway that would take up less space on the site.

Mr. Kvapil displayed an aerial photograph of the area and indicated the surrounding uses.

Petitioners' Presentation

Mark and Wendi Pasterik, the owners of 486 Phillips Avenue, were present. Ms. Pasterik stated that the two hardships related to their variation request are safety and privacy. She stated that they have two young daughters who play in the yard and that she is concerned for their safety when people walking by speak to them. Regarding privacy, Ms. Pasterik stated that commuters walk by their home on a daily basis and that on Saturday nights and Sundays mornings, people park their cars on the streets by the Pasteriks' home and walk by to attend churches in the area.

Ms. Pasterik stated that an alternative they considered was a privacy hedge, and she displayed a photograph of an overgrown privacy hedge in her neighborhood. She stated that a hedge can become unattractive if it grows over the sidewalk and it can interfere with pedestrians walking on the sidewalk. Ms. Pasterik stated that several neighbors signed a petition in support of their variation request that has been included in the ZBA members' packets. Mr. Pasterik added that they would not be able to enjoy any privacy in their back yard if the fence was 50% open, and Mr. and Mrs. Pasterik stated that they would make a solid wood fence attractive by having ivy or flowers growing up the fence.

Ms. Pasterik pointed out that a handout in the building department is misleading regarding the height of a fence allowed on a nonconforming lot. Ms. Pasterik also stated that there are many nonconforming 6-foot fences in Glen Ellyn. Mr. Pasterik asked if a 6-foot hedge meets the code, and Mr. Kvapil responded that there is no restriction on plant materials provided they do not cause an obstruction in the public right-of-way. Mr. Pasterik felt that a solid 6-foot tall hedge would be more of a barrier than a solid fence with climbing plants set back 3 feet.

Responses to Questions from the ZBA

Mr. Kvapil responded to Mr. Constantino that an offset panel type of fence would not be considered 50% open and, therefore, would not conform to the code in a corner side yard. Ms. Pasterik responded to Mr. Siligmuller that that an offset panel fence does not afford privacy because one can see through it from the side when walking by. Mr. Kvapil responded to Ms. Fried that the height limit on a corner side yard is 4 feet but can be 6 feet if the fence is set back to the face of the principal structure which applies in this case. Mr. Kvapil responded to Mr. Waterman that the fence could be solid if built to the 16-

foot setback. Mr. SiligmueLLer asked if the overgrown hedge displayed in Ms. Pasterik's photograph was in violation of the code, and Mr. Kvapil responded it was and that staff enforces obstructions over sidewalks. Mr. Kvapil responded to Mr. SiligmueLLer that a 4-foot high fence would also need to be 50% open. Chairman Garrity asked the petitioners if they had considered planting bushes on the inside of a 50% open fence, and Ms. Pasterik replied that the back yard would then be smaller and there would be the issue of replacing bushes if they die. Mr. Kvapil responded to Mr. Waterman that there is no limit to the amount of vegetation allowed to be grown on a fence as long as it does not create an obstruction on the public way.

Persons in Favor of or in Opposition to the Petition

Two persons were in the audience who had signed a petition in support of the variation request, however, they did not speak.

Comments from the ZBA

Four of the six ZBA members were not in favor of recommending approval of the variation request to allow a proposed fence in the corner side yard to be solid in lieu of the required 50% open. The Board Members who were supportive of the request felt that the shape of the lot and the placement of the driveway on the site were hardships and that there is a potential safety issue regarding increased church traffic in the area. The ZBA members who were not supportive of the variation request felt that no hardships or uniquenesses were demonstrated by the petitioners, a 50% open fence would afford as much safety as a solid fence, the times when traffic increases are limited, a solid fence would change the character of the neighborhood and allowing a solid fence in the corner side yard would set a bad precedent. Chairman Garrity commented that climbing flowers can be grown on a fence that is 6-foot high and 50% open.

Motion

Mr. Kolar moved, seconded by Ms. Fried, to recommend that the Village Board deny a variation from Section 10-5-5(B)4, Table Item 11, of the Zoning Code to allow the construction of a solid fence in a corner side yard setback in lieu of the required open fence based on the findings of fact that the petitioners did not prove a hardship or uniqueness, that other alternatives are available and that approval of this request would set a precedent regarding openness in the Village.

The motion to deny carried with four (4) "yes" votes and two (2) "no" votes as follows: Board Members Kolar, Fried, Waterman and Chairman Garrity voted yes; Board Members Constantino and SiligmueLLer voted no.

Staff Report

Mr. Kvapil reviewed two items on 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 8:29 p.m.

Submitted by:

Barbara Utterback, Recording Secretary

Reviewed by:

Joe Kvapil, Building and Zoning Official