

ZONING BOARD OF APPEALS  
MINUTES  
DECEMBER 8, 2009

The meeting was called to order by Chairman Richard Garrity at 7:34 p.m. Board Members Gregory Constantino, Barbara Fried, Edward Kolar, Mary Ozog, Dale Siligmuller and Michael Waterman were present. Also present were Building and Zoning Official Joe Kvapil and Recording Secretary Barbara Utterback.

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

Board Member Fried moved, seconded by Board Member Kolar, to approve the minutes of the August 25, 2009 Zoning Board of Appeals meetings. The motion carried unanimously by voice vote.

One public hearing was on the agenda for the property at 670 Kenilworth Avenue.

PUBLIC HEARING – 670 KENILWORTH AVENUE

A REQUEST FOR APPROVAL OF ONE (1) VARIATION FROM THE GLEN ELLYN ZONING CODE, SECTION 10-5-5(B)4-30, TO ALLOW THE CONSTRUCTION OF A STORAGE SHED ACCESSORY STRUCTURE OF 576 SQUARE FEET IN LIEU OF THE MAXIMUM PERMITTED AREA OF 150 SQUARE FEET.

*(John and Linda Wachter, owners)*

Staff Report

Building and Zoning Official Joe Kvapil stated that the petitioners, John and Linda Wachter, are requesting a variation from the Glen Ellyn Zoning Code, Section 10-10-5(B)4-30, to allow the construction of a storage shed with an area of 576 square feet in lieu of the maximum permitted shed area of 150 square feet. Mr. Kvapil displayed a photograph of the front of the subject house and a map that indicated the location of the subject property which is in the R2 Residential zoning district. Mr. Kvapil stated that the subject lot is in excess of 13,000 square feet and that the rear property line abuts properties located in the City of Wheaton. Mr. Kvapil displayed a survey and indicated an existing deck and a paver patio that had been added at the rear of the house. He also indicated the location of the existing shed and the proposed shed for comparison purposes. Referring to the zoning table provided to the ZBA members, Mr. Kvapil stated that the subject property is generally in compliance with the code with the exception of the distance between the south property line and the closest point of the house which is approximately 7.3 feet and is required to be 10.1 feet (10 percent of the lot width). Mr. Kvapil indicated that the proposed shed is in compliance with all of the setback requirements of the Zoning Code and displayed an elevation of the proposed shed which showed a height of 15 feet 0 inches which is the maximum allowed per code.

Petitioner's Presentation

John Wachter, the petitioner, 670 Kenilworth Avenue, stated that he needs additional storage space and that the proposed shed will be no closer to the property lines than the

existing shed. Mr. Kvapil interjected that the subject house has had several additions, the last one in 1992. Mr. Wachter stated that if he added an attached or detached garage, a variance would be required for the driveway because of its close proximity to the house next door and additional water could run onto the neighbors' property. Mr. Wachter added that he prefers to build one structure on his property at this time rather than build three separate structures at different times. Mr. Wachter stated that the proposed shed should not be visible except in winter to his neighbors and that he is willing to plant more trees to screen the structure.

#### Responses to Questions from the ZBA

Mr. Kvapil responded to Chairman Garrity that the Zoning Code allows a maximum of three accessory structures (roofed-over) with a total combined maximum of 1,000 square feet. Mr. Kvapil clarified for Mr. Siligmuller that a detached garage cannot exceed 660 square feet, a shed cannot exceed 150 square feet and other miscellaneous structures cannot exceed 250 square feet. Mr. Kvapil explained for Chairman Garrity that the proposed shed cannot be considered a garage because the definition of a garage states that a garage stores (licensed) vehicles and also verified Mr. Kolar's comment that a detached garage must have a hard interior surface and a hard surface driveway from the street to the garage. Mr. Kvapil responded to Ms. Fried that neither a driveway to the shed nor any other paving is proposed on the petitioner's plans. Mr. Kvapil responded to Ms. Ozog that some fieldstone could be placed at the entrance to the shed and that an area of impervious surface under 100 square feet is not regulated. Mr. Kvapil agreed with Ms. Ozog that the proposed structure could be used as a greenhouse if a window and skylight were added or if all artificial lighting was provided.

In response to Mr. Kolar's request to address drainage, Mr. Kvapil stated that the subject property has a considerable slope toward the neighbor to the north. Mr. Kvapil added that all improvements on the property such as the deck, patio and retaining wall were reviewed by the Village stormwater consultant prior to the issuance of building permits and that the petitioner has installed underground piping that directs discharge from gutters to underground dry wells to help alleviate stormwater runoff. Mr. Kolar asked if the existing retaining wall on the site was originally installed for drainage purposes, and Mr. Wachter replied yes.

Mr. Kvapil verified for Ms. Ozog that Wheaton residents within the surrounding area were notified regarding the subject variation request.

Mr. Constantino asked the petitioner what the hardships and/or unique circumstances are regarding the proposed shed, and Mr. Wachter responded he does not have enough room for storage and also that he also needs a shed with a concrete floor to prevent damage to his possessions. Rick Rearick, the architect for the project, 155 N. Park Boulevard, Glen Ellyn, Illinois added that there is no easy access to the subject rear yard, the petitioner has difficulty storing both of his cars and other equipment in the existing garage, the existing shed is also full, the concrete floor is deteriorated, he has outdoor furniture that needs to be stored during the winter months, and he would like to keep the existing trees on the property. Mr. Rearick stated that a driveway to a garage would need to be installed on

the south side of the house because the slope on the north side is too great and that the required impervious area would not be available at that location. Mr. Kvapil added that a detached garage could be constructed on the site if a variation was granted for a side yard setback for impervious surface (approximately 4 feet in this case). Mr. Kvapil responded to Mr. Kolar that the code does not consider less than a 50 percent impervious surface to be a driveway. Mr. Kvapil responded to Chairman Garrity that an additional curb cut would not be allowed on a 100-foot lot. Mr. Rearick then added that another option would be to construct a garage or a double tandem garage in the front of the house although that option would not be aesthetically pleasing. Mr. Siligmuller stated that an attached garage could be added to the rear of the home, and Mr. Rearick commented that the neighbors would not be in favor of an increase in the size of the existing house. Mr. Rearick verified for Mr. Siligmuller that the proposed shed will be located behind the existing trees/bushes. Mr. Kvapil responded to Ms. Fried that the code allows only one type of an accessory structure per lot.

#### Persons in Favor of or in Opposition to the Petition

Eight (8) persons spoke in opposition to the variation request.

Chris Savaiano, 244 Linden Street, Glen Ellyn, Illinois submitted a letter he wrote dated 12/8/09 and identical form letters/petitions recommending denial of the proposed shed from himself, Dennis Boccard, 1803 Marion Court, Wheaton, Illinois, Jill Paulus, 1806 Marion Court, Wheaton, Illinois, Dean Paulus, 1806 Marion Court, Wheaton, Illinois, Lindsay Paulus, 1806 Marion Court, Wheaton, Illinois, Norm Hansen, 1766 Marion Court, Wheaton, Illinois and Mary Ann Rogers, 1810 Marion Court, Wheaton, Illinois. Reasons for requesting denial of the proposed variation request cited in the letters/petitions include that the shed will violate the essential tranquil character of the locality, the wooded area must be protected, views from homes in the area will be interrupted by the shed, the flow of surface water will increase, the subject request does not meet the variance request evidence standard for hardship or unique circumstances, the proposed request is out of proportion, drainage issues will increase and market value will decline. Mr. Savaiano also read portions of a letter in opposition to the request submitted by Jane Garvey, 702 Elm Street, Glen Ellyn, Illinois and Mary Henderson, owner of 238 Linden Street, Glen Ellyn, Illinois. Reasons for requesting denial of the proposed variation request include that the proposed shed is oversized and will have a negative impact on the views of many of the neighbors, drainage in the area and property values. Ms. Garvey and Ms. Henderson also feel that the proposal does not meet the definition of hardship per the Zoning Code. Mr. Savaiano displayed a map that indicated the distance of the subject shed from the subject home and the neighbors' homes. Mr. Savaiano stated that the shed is much farther from the subject house than the neighbors' houses and he displayed two photographs of the existing shed from the view of neighbors. Mr. Savaiano responded to Ms. Fried that the trees in the photographs are on Marion property. Mr. Savaiano also displayed a photograph of the existing shed with the proposed shed outlined on the photograph. As a realtor, Mr. Savaiano stated that homes he has sold in the subject area are valued for their views and the tranquil setting.

Dean Paulus, 1806 Marion Court, Wheaton, Illinois commented that the majority of his taxes are paid to Glen Ellyn and that he was opposed to the variation requested by the petitioner. Mr. Paulus submitted a copy of his prepared speech and stated that his home is 71 feet from the proposed shed. Mr. Paulus stated that water problems in the area have exacerbated with the elimination of trees and that he has spent approximately \$6,000 to alleviate water problems on his property. He feels that the addition of the proposed shed will further exacerbate water problems in the area. Mr. Paulus added that the views from his rear windows will be of the proposed shed, if constructed, rather than the existing trees. Mr. Paulus also stated that the proposed shed could be a fire hazard because access to the shed would be a narrow area between his and his neighbors' homes, and he displayed a photograph of that of that access area.

Kathy Colliander, 678 Kenilworth, Glen Ellyn, Illinois, who is the neighbor to the north of the subject property, was opposed to the variation request. Ms. Colliander gave a brief history of water problems in the area as well as improvements made to the subject property over the years. Ms. Colliander also stated that she has gone to a great deal of expense in an effort to mitigate water problems on her property and that she was not in favor of the proposed shed because of possible additional water runoff onto her property from the petitioner's lot caused by an increase in impervious surface. Ms. Colliander stated that the petitioner installed a retaining wall that he believed would correct the water situation in the area, however, the Collianders' property now holds more water than prior to the installation of that structure.

Jill Paulus, 1806 Marion Court, Wheaton, Illinois read into the record and submitted letters in opposition to the variation request from Jack Nies, 650 Kenilworth, Glen Ellyn, Illinois and Thomas Blackwell, 1760 Marion Court, Wheaton, Illinois who had issues with the large size of the proposed shed and its proximity to the neighbors. Ms. Paulus submitted a copy of her prepared speech and displayed an aerial photograph of the subject area. Ms. Paulus was opposed to the proposed shed because of its proximity to her home, and she also stated that the design of the neighborhood would be irrevocably altered if the shed was constructed. Ms. Paulus submitted one page of 20 photographs as well as descriptions of "Spring Wildflowers of Arboretum Woodlands" from The Morton Arboretum files, most of which she has on her property. She also submitted three photographs of flowers and trees on her property and stated that she is very concerned that the proposed shed will block the light to her flowers and plants and that the flowers/plants will be damaged during construction of the shed.

Robert P. Rogers, 1913 Bayview Lane, Aurora, Illinois spoke on behalf of his mother who lives at 1810 Marion Court, Wheaton, Illinois and indicated her property on a location map. Mr. Rogers also indicated areas where the woods have diminished since 1971 (when his family moved into the neighborhood). Mr. Rogers did not have a problem with the size of the proposed shed but felt that the petitioner should not build a shed at the property line where it will be closer to the neighbors' homes than his own home. Mr. Rogers stated that his family moved to the subject area for its natural wooded beauty and tranquility. He commented that the existing shed has been part of the scenery for many years and that the proposed shed will require the removal of a number of trees.

Mr. Rogers asked what the purpose of the shed was, and Mr. Wachter responded that the shed will be used for the storage of patio furniture, garden equipment, bicycles, etc.

Missy (Mary Ann) Rogers, 172 Thunderbird Train, Carol Stream, Illinois spoke on behalf of her mother, Mary Ann Rogers, whose property at 1810 Marion Court, Wheaton, Illinois, adjoins the west property line of the petitioner's property. Ms. Rogers displayed a map and indicated the location of her mother's home as well as the homes of surrounding neighbors who are not in favor of the variation request. Ms. Rogers read into the record and submitted a letter from her mother in opposition to the proposed variation request because the shed would be in close proximity to her home and would significantly alter the views from her home as well as the character of the area. Ms. Rogers also submitted three photographs of various views in the area and two (2) photographs of garages by Danley Garage that are the size of the proposed shed. Ms. Rogers stated that the rear neighbors are the most impacted by the proposed shed and that the neighbors who signed a petition in favor of the shed live several hundred feet from where the shed will be located. Ms. Rogers requested that the shed be required to meet the 150 square foot maximum of the code, and she submitted three pages of storage guidelines for comparison purposes from Public Storage. Ms. Rogers added that struggling with storage space is not unique nor a hardship and she believes that the petitioner created the problem by accumulating the amount of material that he would like to store. Ms. Rogers gave a history of the area, including changes in tree lines, improvements to the petitioner's home, the loss of trees and water/flooding issues. Ms. Rogers also expressed a concern regarding precedent-setting and added that three of the four surrounding property owners are opposed to the variation request.

Dennis Bocard, a long time resident at 1803 Marion Court, Wheaton, Illinois indicated his property on a location map. Mr. Bocard stated that his primary concerns are the impact of the proposed shed on property values in the neighborhood and future use of the shed by new owners. Mr. Bocard did not feel that the petitioner's request meets the requirements for uniqueness or hardship as required by the variation standards. He also feels that the size of the proposed shed is excessive and pointed out that three of the four surrounding property owners are opposed to the variation request.

Ken Colliander, 678 Kenilworth, Glen Ellyn, Illinois, the neighbor directly to the north, stated that he was opposed to the variation request because the proposed shed will add 576 square feet of impervious surface to an area that already has water problems. Mr. Colliander displayed a photograph of a two-story shed in the area and expressed a concern that the petitioner could add onto the proposed shed in the future. He also displayed two (2) photographs of sheds in the area that he felt were reasonable in size. Mr. Colliander stated that water problems in his back yard have exacerbated over the years, and he displayed two (2) photographs of flooded areas in his and his neighbor's back yards after a rain. Mr. Colliander expressed a concern that the existing storm drain in the area will collapse if more water is added to the system. He stated that the request for a variation is a self-created hardship due to the petitioner constructing additions to his home that did not afford space for storage and that the lack of storage is not a hardship nor a unique circumstance. Mr. Colliander also stated that the proposed shed will be detrimental to the character of the area especially if other residents in the area construct

similar sheds. Mr. Colliander offered other options for storage such as constructing a shed that conforms in size to the code, extending the attached two-car garage 24 feet and reducing the size of the master suite to allow for a driveway on the south side of the house.

#### Comments from the ZBA

The ZBA members were not in favor of the proposed variation request for the shed. They felt that the proposed shed would change the essential character of the neighborhood, no hardships nor unique circumstances were proven, a precedent would be set if the shed was constructed, construction of the shed with additional impervious surface would impact drainage issues in the area, and there could be a potential fire risk due to accessibility issues. Ms. Fried commented that 12 neighbors signed a petition in favor of the variation, the size of the lot is unique, and a detached garage larger than the shed could be built if a variation for access was approved. Mr. Kolar commented that other storage alternatives are available on the site, and Ms. Ozog suggested adding improvements to a conforming shed that would be aesthetically pleasing.

#### Motion

Mr. Siligmueller moved, seconded by Mr. Waterman, to recommend that the Village Board deny the request for a variation from the Glen Ellyn Zoning Code, Section 10-5-5(B)4-30, to allow the construction of a storage shed with an area of 576 square feet in lieu of the maximum permitted shed area of 150 square feet at 670 Kenilworth Avenue. The recommendation for denial was based on the findings of fact that the essential character of the neighborhood would change with the construction of the shed and that no practical difficulties or hardships were proven.

The motion to deny carried unanimously with seven (7) "yes" votes as follows: Board Members Siligmueller, Waterman, Constantino, Fried, Kolar, Ozog and Chairman Garrity voted yes.

#### Staff Report

Mr. Kvapil announced that ZBA meetings have been cancelled for December 22, 2009 and January 12, 2010 due to a lack of petitions.

There being no further business before the Zoning Board of Appeals, the meeting was adjourned at 9:43 p.m.

Submitted by:

Barbara Utterback, Recording Secretary

Reviewed by:

Joe Kvapil, Building and Zoning Official