

ZONING BOARD OF APPEALS  
MINUTES  
MARCH 9, 2010

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

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

Board Member Kolar moved, seconded by Board Member Waterman, to approve the minutes of the December 8, 2009 Zoning Board of Appeals meetings. The motion carried unanimously by voice vote.

Two public hearings were on the agenda for properties at 573 Summerdale Avenue and 342 Taylor Avenue.

PUBLIC HEARING – 573 SUMMERDALE AVENUE

A REQUEST FOR APPROVAL OF THREE (3) VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-4-1(N)1 TO ALLOW THE RECONSTRUCTION OF A PORTION OF THE EXISTING ATTACHED GARAGE THAT ENCROACHES 10 FEET INTO THE MINIMUM REQUIRED FRONT YARD SETBACK IN LIEU OF THE MAXIMUM PERMITTED ENCROACHMENT OF 5 FEET. 2. A VARIATION FROM SECTION 10-4-1(N)2 TO ALLOW THE RECONSTRUCTION OF A PORTION OF THE EXISTING ATTACHED GARAGE WITH A FOUNDATION THAT DOES NOT MEET CODE REQUIREMENTS IN THE SIDE YARD SETBACK IN LIEU OF THE REQUIREMENT TO ALLOW EXISTING STRUCTURES TO BE RECONSTRUCTED WITH FOUNDATIONS THAT MEET CODE REQUIREMENTS IN THE SIDE YARD SETBACK. 3. A VARIATION FROM SECTION 10-4-8(D)3 TO ALLOW THE CONSTRUCTION OF A NEW SUNROOM WITH A SIDE YARD SETBACK OF 7.5 FEET IN LIEU OF THE MINIMUM REQUIRED SIDE YARD SETBACK OF 8.5 FEET.

*(James and Sandra Minogue, owners)*

Staff Report

Building and Zoning Official Joe Kvpil stated that James and Sandra Minogue, the owners of the property at 573 Summerdale Avenue, are requesting three variations from the Zoning Code in order to reconstruct an existing attached garage that does not meet the minimum required front yard setback nor the required code compliant foundation and to construct a new sunroom addition that does not meet the minimum required side yard setback. Mr. Kvpil displayed various photographs showing different views of the subject property. He also displayed an area map and described the location of the subject property which is in the R2 Residential zoning district. Mr. Kvpil stated that Village records indicate two previous building permits have been issued for the subject property and no variations have been granted for the subject property. Mr. Kvpil displayed a site plan and a diagram and indicated the areas on the property where the requested variations

are required. He stated that the proposed sunroom encroaches approximately one foot into the required side yard setback, that a portion of the proposed reconstructed attached garage foundation encroaches approximately one foot into the required side yard setback and that a portion of the proposed reconstructed attached garage encroaches 10 feet into the minimum required front yard setback in lieu of the maximum permitted encroachment of 5 feet.

### Petitioners' Presentation

Sandra Minogue, the petitioner and owner of 573 Summerdale Avenue, and Ken Kloss, architect, 350 Ridgewood, Glen Ellyn, Illinois 60137, spoke regarding the subject variation requests. Ms. Minogue stated that the hardship surrounding her variation request is the triangular shape of the lot. She described the deteriorated condition of the existing garage which includes the possibility of a non-existing foundation and stated that they would like to continue to have a one-car garage on the property. She added that there is nowhere else on the property to locate the garage. Ms. Minogue stated that the reason for constructing the proposed sunroom is to bring sunlight into the back of the home. Ms. Minogue submitted a letter from Marsha and David Houser who live next door at 87 Parkside in support of the variation requests as well as seven photographs of various views of their home.

Architect Kloss stated that three surveys with different information created problems during the variation process, however, he displayed an accurate survey that has been prepared. Mr. Kloss stated that the setback of the house at 577 Summerdale has created a hardship for the petitioners. He also stated that if the subject lot was an average 50-foot lot in Glen Ellyn, the side yard setback would be 6.5 feet. Mr. Kloss stated that the petitioners' hardship is the triangular shape of the lot and that his duty as an architect is to create a sunroom in which the homeowners can fit furniture.

### Responses to Questions from the ZBA

Mr. Kvpil clarified for Mr. Constantino that the front yard setback for the subject property is 35 feet in lieu of the standard 40 feet because an exception in the Zoning Code allows existing structures to be reconstructed as they exist 5 feet closer to the front property line. He added that the petitioners are requesting to encroach an additional 3-1/2 feet into the front yard setback from the 35-foot benchmark. Mr. Kvpil also clarified for Mr. Constantino that the foundation variation is being requested in the event that the foundation is not compliant with the code. Mr. Kvpil responded to Mr. Constantino that although the height of the subject structure may change, it will comply with the height requirements of the code. Mr. Kvpil clarified for Ms. Fried that the proposed front yard setback will remain the same as the existing setback and that the proposed side yard setback will be improved. Mr. Kloss responded to Mr. Waterman that the distance from the southwest corner of the sunroom to the lot line is 7 feet 5 inches and that the sunroom is able to be 12 feet deep because 2 feet are being cut from the existing garage. When Mr. Waterman pointed out that a 12-foot by 10-foot sunroom as shown on the plan would not require a variation, Mr. Kloss responded to Mr. Waterman that increasing the size of the sunroom will allow room for furniture in that space. Regarding an existing utility easement along the petitioners' lot line, Ms. Minogue responded to Mr. Constantino that

she has contacted ComEd and the utility pole will be moved out of the easement and that the easement will be reduced in size. Mr. Kvapil responded to Mr. Waterman that a roof overhang is allowed in a setback.

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

No persons spoke in favor of or in opposition to the variation requests.

#### Comments from the ZBA

The ZBA members were in favor of the variations requested by the petitioners. They felt that the shape of the lot is a particular hardship, that repairing the foundation will correct a potentially hazardous condition and that the variation for the proposed sunroom is minimal. They also were in favor of the variation requests because the proposal will reduce an existing nonconforming setback. Mr. Kolar recommended as a condition of approval that the utility easement situation is handled as represented at this public hearing.

#### Motion

Ms. Fried moved, seconded by Mr. Waterman, to recommend that the Village Board approve variations from the Zoning Code as follows: 1. A variation from Section 10-4-1(N)1 to allow the reconstruction of a portion of the existing attached garage that encroaches 10 feet into the minimum required front yard setback in lieu of the maximum permitted encroachment of 5 feet. 2. A variation from Section 10-4-1(N)2 to allow the reconstruction of a portion of the existing attached garage with a foundation that does not meet code requirements in the side yard setback in lieu of the requirement to allow existing structures to be reconstructed with foundations that meet code requirements in the side yard setback. 3. A variation from Section 10-4-8(D)3 to allow the construction of a new sunroom with a side yard setback of 7.5 feet in lieu of the minimum required side yard setback of 8.5 feet. The recommendation for approval was based on the findings of fact that the lot is triangular in shape, that safety issues related to the garage foundation exist and that the request is minimal. Also, the recommendation for approval was based on the conditions that the construction is in compliance with the plans as submitted at this public hearing and that the utility easement situation is handled as represented at this public hearing.

The motion carried unanimously with five (5) "yes" votes as follows: Board Members Fried, Waterman, Constantino, Kolar and Chairman Garrity voted yes.

#### PUBLIC HEARING – 342 TAYLOR AVENUE

A REQUEST FOR APPROVAL OF SEVEN (7) VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. A VARIATION FROM SECTION 10-4-8(D)1 TO ALLOW A FRONT YARD SETBACK OF 28.33 FEET IN LIEU OF THE MINIMUM REQUIRED FRONT YARD SETBACK OF 30 FEET FOR THE PROPOSED FIRST-FLOOR EXTERIOR WALL EXTENSION. 2. A VARIATION FROM SECTION 10-4-8(D)3 TO ALLOW AN INTERIOR SIDE YARD SETBACK OF 3.93 FEET IN LIEU OF THE MINIMUM REQUIRED INTERIOR SIDE YARD

SETBACK OF 6.5 FEET FOR THE PROPOSED TWO-STORY ADDITION. 3. A VARIATION FROM SECTION 10-4-1(N) TO ALLOW AN INTERIOR SIDE YARD SETBACK OF 3.93 FEET IN LIEU OF THE MINIMUM REQUIRED INTERIOR SIDE YARD SETBACK OF 4.5 FEET FOR THE PROPOSED SECOND-FLOOR ADDITION. 4. A VARIATION FROM SECTION 10-4-8(D)4b TO ALLOW A CORNER SIDE YARD SETBACK OF 11.38 FEET IN LIEU OF THE MINIMUM REQUIRED INTERIOR SIDE YARD SETBACK OF 15.55 FEET FOR THE PROPOSED SECOND-FLOOR ADDITION. 5. A VARIATION FROM SECTION 10-5-5(B)4(8) TO ALLOW AN INTERIOR SIDE YARD SETBACK OF 3.21 FEET IN LIEU OF THE MINIMUM REQUIRED INTERIOR SIDE YARD SETBACK OF 4.5 FEET FOR THE PROPOSED FIREPLACE CHIMNEY. 6. A VARIATION FROM SECTION 10-5-5(B)4(21) TO ALLOW AN INTERIOR SIDE YARD SETBACK OF 3.75 FEET IN LIEU OF THE MINIMUM REQUIRED INTERIOR SIDE YARD SETBACK OF 6.5 FEET FOR THE PROPOSED AIR CONDITIONING UNITS. 7. A VARIATION FROM SECTION 10-8-6(B)3 TO ALLOW A CLASS II ALTERATION IN LIEU OF THE MAXIMUM PERMITTED CLASS I ALTERATION FOR A NON-CONFORMING SINGLE-FAMILY DWELLING.

#### Staff Report

Building and Zoning Official Joe Kvapil stated that Amy and Joshua Storm, the petitioners and owners of 342 Taylor, are requesting seven (7) variations to construct a first-floor expansion, a new 2-story addition, a fireplace chimney addition and the installation of air conditioning equipment, all that do not meet the minimum required side, front or corner side yard setbacks. The petitioners are also requesting a variation to allow a Class II Alteration in lieu of the maximum Class I Alteration permitted. Mr. Kvapil displayed photographs and a map of the subject property, which is a corner lot, and he described the location of the property. He stated that three of the petitioners' neighbors have submitted letters of support regarding the requested variations. Mr. Kvapil stated that Village records indicate two previous building permits have been issued for the subject property and no variations have been granted for the subject property. He described the seven requested variations and indicated the areas that encroach into the required setbacks using a site plan and a floor plan. Regarding the first variation to allow a front yard setback of 28.33 feet in lieu of the minimum required front yard setback of 30 feet for the proposed first-floor exterior wall extension, Mr. Kvapil explained that an architectural element is being applied to the front of the nonconforming exterior wall. Regarding the second variation to allow an interior side yard setback of 3.93 feet in lieu of the minimum required interior side yard setback of 6.5 feet for the proposed two-story addition, Mr. Kvapil explained that a portion of the structure is being removed and a new 2-story addition that will line up with the existing house will be constructed. Regarding the third variation to allow an interior side yard setback of 3.93 feet in lieu of the minimum required interior side yard setback of 4.5 feet for the proposed second-floor addition, Mr. Kvapil explained that the second floor of the existing nonconforming structure that is proposed to be constructed must maintain a minimum distance of 4.5 feet from the property line. The fourth variation is to allow a corner side yard setback of 11.38 feet in lieu of the minimum required interior side yard setback of 15.55 feet for the proposed second-floor addition to the existing structure. The fifth variation requested is to allow an interior side yard setback of 3.21 feet in lieu of the

minimum required interior side yard setback of 4.5 feet for the proposed fireplace chimney, and Mr. Kvapil explained that a chimney is allowed to extend 2 feet into the required setback. The sixth variation is to allow an interior side yard setback of 3.75 feet in lieu of the minimum required interior side yard setback of 6.5 feet for the proposed air conditioning units. Regarding the seventh variation to allow a Class II Alteration in lieu of the maximum permitted Class I Alteration for a non-conforming single-family dwelling, Mr. Kvapil explained that a Class I Alteration allows the exterior surfaces of a nonconforming building to be altered up to 50 percent of all the exterior surfaces of the existing structure and that the proposed alterations exceed that maximum and become a Class II Alteration which is not permitted per the code.

#### Petitioners' Presentation

Amy Storm, the petitioner and owner of the subject property, stated that their family is outgrowing their home. Ms. Storm stated that the reason that they need to reconstruct the walls on the second floor is because the house, which is existing nonconforming, is over 100 years old. She stated that there are different roof heights on the house and that an existing addition cannot support a second story. Ms. Storm stated that they would like to eliminate variation five regarding the fireplace chimney. She stated that the reason they want to locate the air conditioners in the proposed location is because they basically use the Turner Avenue side of their home as the front and the air conditioning units will line up with their neighbors' garage to the north. She added that the neighbor to the north has reviewed the plans and is supportive of the variation requests.

#### Responses to Questions from the ZBA

When Mr. Kolar asked why the new construction portion of the project does not conform to the code, Ms. Storm responded that they could not get the space they need without squaring off the house. Ms. Storm responded to Mr. Constantino that the particular hardships or unique circumstances are that the house is 100 years old and is existing nonconforming and the lot is an odd size. Ms. Storm responded to Ms. Fried that the air conditioning units may be able to be placed under the deck if the deck is raised up. She also responded to Mr. Kolar that if the air conditioning units were moved to the south out of the setback, the units would be able to be seen through the windows of their family room.

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

Nancy Meyers, 352 Taylor Avenue, Glen Ellyn, Illinois was in favor of the variation requests because the petitioners' house is an odd shape, the petitioners need more space and the variation requests are minimal and will aesthetically improve the house.

John Ruckstaetter, 348 Taylor Avenue, Glen Ellyn, Illinois was in favor of the variation requests and stated that the three neighbors closest to the Storms' are supportive of the variation requests. Mr. Ruckstaetter felt that if the variations are not approved, the petitioners may sell their home and the property could become a vacant lot. Mr. Ruckstaetter stated that the improvements to the petitioners' home will increase his property values.

Comments from the ZBA

Four of the five ZBA members present were supportive of the variation requests. Those in favor felt that the location of the existing home and the width of the front yard facing Taylor Avenue are particular hardships. They also felt that a unique situation exists because the structure predates the existing zoning code. Some Board members felt that a straight-up addition to square off the house makes sense aesthetically. Board Members Kolar and Fried suggested relocating the air conditioning units so that a variation would not be required and the impact on the neighbors would be lessened. Mr. Kolar suggested reducing the size of the deck to allow space for the units. Although Mr. Kolar was supportive of some of the variation requests, he had problems with allowing new construction to be nonconforming and, therefore, was not supportive of variation requests 2 and 6.

Motion

Mr. Waterman moved, seconded by Ms. Fried, to recommend that the Village Board approve variation requests 1, 2, 3, 4, 6 and 7 (the petitioner eliminated variation 5 regarding the fireplace chimney during the public hearing) due to the practical difficulties of the age of the home and the location of the existing house on the lot.

The motion carried with four (4) "yes" votes and one (1) "no" vote as follows: Board Members Waterman, Fried, Constantino, and Waterman voted yes; Board Member Kolar voted no.

Trustee Report

Trustee Ladesic stated that the Village Board recently approved contractor registration in the Village.

Staff Report

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

There being no further business before the Zoning Board of Appeals, the meeting was adjourned at 9:20 p.m.

Submitted by:  
Barbara Utterback  
Recording Secretary

Reviewed by:  
Joe Kvapil  
Building & Zoning Official