

ZONING BOARD OF APPEALS
MINUTES
JULY 27, 2010

The meeting was called to order by Chairman Richard Garrity at 7:30 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 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 Fried moved, seconded by Board Member Kolar, to approve the minutes of the April 27, 2010 Zoning Board of Appeals meeting. The motion carried unanimously by voice vote.

Two public hearings were on the agenda for properties at 289 Illinois Street and 980 Oxford Road.

PUBLIC HEARING – 289 ILLINOIS STREET

A REQUEST FOR APPROVAL OF ONE (1) VARIATION FROM THE GLEN ELLYN ZONING CODE, SECTION 10-4-8(D)3, TO ALLOW THE CONSTRUCTION OF A ONE-STORY ADDITION WITH A SIDE YARD SETBACK OF 5.3 FEET IN LIEU OF THE MINIMUM REQUIRED SIDE YARD SETBACK OF 6.5 FEET.

(Steven and Laverne Street, owners)

Staff Report

Building and Zoning Official Joe Kvpil stated that Steven and Laverne Street, the owners of the property at 289 Illinois Street, are requesting one (1) variation from Section 10-4-8(D)3 of the Zoning Code to allow the construction of a one-story addition to their existing home with a side yard setback of 5.3 feet in lieu of the minimum required setback of 6.5 feet. Mr. Kvpil displayed photographs of the subject property and a location map. He stated that the subject property is in the R2 Residential zoning district and is not in a designated flood area. Mr. Kvpil explained that the subject corner lot is nonconforming with a 50-foot width in lieu of 80 feet required and a lot area of 7,433 square feet in lieu of 8,712 square feet required. Mr. Kvpil stated that Village records indicate no variations have been granted for this property and he listed building permits previously issued. Mr. Kvpil displayed a site plan showing the location of the proposed one-story addition which is approximately 78 square feet. He explained that the addition will be aligned with the south side of the house which is 5.61 feet from the side lot line in lieu of 6.5 feet required; therefore, the proposed addition encroaches approximately 11 inches into the side lot line. (Mr. Kvpil explained that the publication notice states that the requested side yard setback is 5.3 feet, however, additional information was subsequently submitted indicating the side yard setback to be requested is actually 5.61 feet). Mr. Kvpil added that the lot coverage ratio including the proposed addition will

be less than the maximum allowed. Mr. Kvapil indicated that six neighbors signed a petition supporting the proposed variation request.

Petitioners' Presentation

Laverne Street, the petitioner and owner of 289 Illinois Street, and Timothy C. Berneche, Architect, 314 Illinois Street, Glen Ellyn, Illinois 60137, spoke regarding the subject variation request. Mr. Berneche stated that the petitioners would like to create a space for outdoor clothing, shoes, boots, etc. Displaying a site plan, Mr. Berneche explained that if the addition conformed to the code, the space would be too small to be used effectively as a mud room. He further explained that the addition will match the existing building wall line and will be in keeping with the character of the existing house. Ms. Street added that they planned the project to so that they could keep the view to the back yard open and not negatively impact their neighbors' view. She stated that two of her neighbors commented that they felt the addition would be more aesthetically appealing if it matched the wall line as proposed by the petitioners. Ms. Street described other options they considered that were not viable. Ms. Street stated that a hardship is that they do not have a door to the garage through their house and that the extra foot they are requesting is necessary for traffic flow purposes. Mr. Berneche added that another hardship is that if the variation is not granted, the 6-foot-2 inch wide patio door would have to be 5 feet 2 inches which he believes would be difficult with small children and would decrease visual access to the children outdoors.

Responses to Questions from the ZBA

Mr. Kvapil responded to Mr. Kolar that he was unable to locate any Planned Unit Developments requirements for the subject area in the Village records. Mr. Kvapil added that any additions/alterations being requested at this time are required to follow the current code. Mr. Kvapil clarified for Chairman Garrity that the only exception to allowing a straight-up addition without a variation is for construction over an existing foundation. Ms. Street clarified for Board Member Siligmueller that the proposed addition will connect the garage to the house. Mr. Berneche responded to Board Member Kolar that a unique circumstance is the relationship of the garage wall to the south wall which restricts the buildable area.

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

All but one of the ZBA members were in favor of the proposed variation request. The ZBA members in favor of the request felt that the variation is minimal and will not negatively impact the neighbors' view nor the essential character of the neighborhood. The ZBA members in favor felt that the hardships and/or unique circumstances were the location of the house on the lot and the existing nonconforming situation. Mr. Waterman

commented that he had no problem with aligning an addition with existing walls. Mr. Kolar did not feel unique circumstances were demonstrated by the petitioners.

Motion

Mr. SiligmueLLer moved, seconded by Ms. Fried, to recommend that the Village Board approve a variation from the Glen Ellyn Zoning Code, Section 10-4-8(D)3, for property at 289 Illinois Street as requested by Steven and Laverne Street to allow the construction of a one-story addition with a side yard setback of 5.3 feet in lieu of the minimum required side yard setback of 6.5 feet. The recommendation for approval was based on the findings of fact that the proposed addition will not change the essential character of the neighborhood, the nonconforming location of the house on the lot is a practical difficulty and the proposed addition will not increase the amount of nonconformance. The recommendation for approval was based on the condition that the construction is in compliance with the plans as submitted at this public hearing.

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

PUBLIC HEARING – 980 OXFORD ROAD

A REQUEST FOR APPROVAL OF FIVE (5) VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-5-5(D)4 TO ALLOW THE CONSTRUCTION OF A GAZEBO ACCESSORY STRUCTURE OF 400 SQUARE FEET IN LIEU OF THE MAXIMUM PERMITTED AREA OF 250 SQUARE FEET FOR A GAZEBO ACCESSORY STRUCTURE. 2. SECTION 10-5-5(B)4 TO ALLOW THE CONSTRUCTION OF A GAZEBO ACCESSORY STRUCTURE WITH A SIDE YARD SETBACK OF 3 FEET IN LIEU OF THE MINIMUM PERMITTED SIDE YARD SETBACK OF 12 FEET FOR A GAZEBO ACCESSORY STRUCTURE. 3. SECTION 10-5-4(A)4c TO ALLOW THE CONSTRUCTION OF AN OUTDOOR FIREPLACE ACCESSORY STRUCTURE WITH A SIDE YARD SETBACK OF 3 FEET IN LIEU OF THE MINIMUM PERMITTED SIDE YARD SETBACK OF 6 FEET FOR AN ACCESSORY STRUCTURE GREATER THAN 10 FEET FROM THE PRINCIPAL STRUCTURE. 4. SECTION 10-5-5(B)4-36 TO ALLOW THE CONSTRUCTION OF A PATIO ACCESSORY STRUCTURE WITH A SIDE YARD SETBACK OF 12 FEET FOR A PATIO ACCESSORY STRUCTURE. 5. SECTION 10-10-5(B)4-18 TO ALLOW THE CONSTRUCTION OF AN IMPERVIOUS SURFACE AREA COVERING 71.1% OF THE REQUIRED REAR YARD IN LIEU OF THE MAXIMUM PERMITTED IMPERVIOUS SURFACE AREA COVERING 50% OF THE REQUIRED REAR YARD.

Staff Report

Building and Zoning Official Joe Kvpil distributed an updated site plan to the ZBA members. Mr. Kvpil stated that Christopher and Nancy Desmond, the petitioners, are requesting five variations from the Zoning Code to construct a gazebo, outdoor fireplace

and patio in the required rear yard that do not meet the minimum side yard setbacks and exceed the maximum permitted area for a gazebo and the maximum permitted impervious surface area. Mr. Kvapil displayed a location map of the subject property which is an unusually shaped corner lot that conforms to the code in width, depth and area in the R2 Residential zoning district. Mr. Kvapil added that the subject property is not in a designated flood area. Referring to the Staff Report distributed to the ZBA, Mr. Kvapil stated that some of the previous building permits listed refer to a previous house on the site, and he reviewed building permits issued for the existing home. Mr. Kvapil stated that the original permit application submitted when the subject house was built has several discrepancies, and he explained how lot width is calculated for a lot of this shape. Although Village records indicate that no prior variations have been granted for the subject property, Mr. Kvapil believes the existing home should have required a variation for lot width in order to be constructed. He added that all calculations for the variations being requested have been based on a lot width of 120 feet.

Displaying a site plan and referring to the Zoning Code, Mr. Kvapil reviewed the five variations being requested by the petitioners: 1. A gazebo cannot exceed 250 square feet, and the petitioners are requesting a variation to construct a 400-square foot gazebo. 2. The side yard setback for the proposed gazebo is required to be 12 feet, and the petitioners are requesting a side yard setback of 3 feet. 3. The side yard setback for the proposed outdoor fireplace is required to be 6 feet, and the petitioners are requesting a side yard setback of 3 feet. 4. The sideyard setback for a patio that the petitioners are proposing to construct is required to be 12 feet, and the petitioners are requesting a side yard setback of 3 feet. 5. The proposed gazebo, fireplace and patio areas cover 71% of the required rear yard which exceeds the maximum permitted rear yard impervious coverage area of 50%. Mr. Kvapil explained how the required rear yard for the subject lot was calculated. Mr. Kvapil pointed out that when comparing the petitioners' lot regarding impervious surface with a typical rectangular-shaped nonconforming 50-foot wide lot, the petitioners are asking for less than 50% of the required rear yard; therefore, the shape of their lot results in a hardship. Mr. Kvapil added that the petitioners do not have the same required rear yard area as a regularly-shaped lot; therefore, their lot coverage percentage is higher.

Two neighbors signed petitions supporting the proposed variation requests.

Petitioners' Presentation

Christopher and Nancy Desmond, the petitioners, spoke on behalf of their variation requests. Mr. Desmond distributed a revised site plan entitled "Appendix 1 – Proposed Backyard plan." Mr. Desmond stated that the revised plan is for aesthetic purposes only and that the dimensions will be the same as in the originally submitted plan. Mr. Desmond stated that they would like to have a covered gazebo because of noise from nearby Illinois Route 355 and mosquitoes from nearby ponds which they believe are hardships. Mr. Desmond stated that another hardship is that they need a large area for outdoor entertainment to accommodate their family and neighborhood friends. Mr. Desmond stated that the gazebo is designed to match the arts and crafts style of their

home. Mr. Desmond clarified that their back yard is 1,019 square feet and stated that they would like to make the shady part of their yard where greenery does not grow usable by installing a patio. He added that they would like to raise the patio to match the house in order to accommodate a disabled relative who is in a wheelchair and that they would also like to level out the back yard. Mr. Desmond stated that the hardship regarding the proposed fireplace is the triangular shape of the lot. He added that they would like the fireplace to be located away from their house and that the location they have chosen will be aesthetically pleasing. Mr. Desmond added that another issue is a telephone pole that is located on their lot and they would like the fireplace to block their view of that pole. Mr. Desmond stated that they had a drainage problem one time in the past but that they have since installed drain tiles on the sides of the house and intend to install more drain tiles to connect to the existing tiles and subsequently to the street. He stated that their home has never flooded.

Responses to Questions from the ZBA

Mr. Kvapil responded to Board Member Constantino that the code has no restrictions regarding impervious surface material for a patio. Mr. Desmond responded to Board Member Constantino that the patio material is proposed to be either pavers or bricks and that they cannot reduce the size of the patio to conform to the impervious surface code regulations of the code because the fireplace and gazebo would then have to be relocated to the middle of the back yard. Mr. Kvapil responded to Chairman Garrity that brick-like products are available that are 50% open and considered pervious and do not count toward the impervious surface ratio. Mr. Kvapil responded to Board Member Siligmuller that the size of the subject rear yard is 900 square feet. Mr. Desmond responded to Board Member Constantino that the gazebo will be open with fly netting used. Mr. Desmond responded to Board Member Siligmuller that the floor of the gazebo will be an impervious surface. Board Member Siligmuller questioned if the flooring could be a pervious material, however, Mr. Kvapil explained that roofed-over structures such as the gazebo are considered impervious surfaces. Mr. Desmond responded to Chairman Garrity and Board Member Fried that they do not intend to install windows nor a permanent heating system in the gazebo. Mr. Desmond clarified for Board Member Kolar they their preferred plan for approval is the plan that illustrates the 400-square foot trapezoidal-shaped gazebo. Board Member Kolar asked what the unique situation is that would allow for the proposed gazebo to be 60% larger than allowed per code, and Mr. Desmond responded that their lot is not conforming, the back yard is very small and they hold large family/friend gatherings. Ms. Desmond added that the rear yard does not get sunlight which creates a muddy situation and they would like to create livable space in that location.

Persons in Favor of or in Opposition to the Request

David and Laurie Swatek, 979 Oxford, Glen Ellyn, Illinois, spoke in favor of the petitioner's variation requests. Mr. Swatek stated that the petitioners' yard will be able to be utilized more if the variations are granted and the proposed project will not negatively impact the view of the neighbor to the west. Ms. Swatek added that a hardship is that all

guests would not all be able to gather in the same area if the variations are not granted because the back yard is so small.

Comments from the ZBA

The ZBA members were not supportive of the variation requests as proposed because they felt that many of the requests were excessive. The Board Members were willing to approve side yard setback variations because of the lot configuration if the proposed gazebo and impervious structure were more in line with code requirements. Board Member Constantino felt drainage was a potential problem and wanted an expert's opinion as to whether or not installing drain tiles would be sufficient to control stormwater. The Board Members did not feel that the petitioners proved there were unique circumstances or hardships that would justify increasing the area of the gazebo and the impervious surface. Board Member Kolar clarified that guests are not a zoning issue. Board Member Fried expressed concern regarding the setback for the fireplace being a hazard for the neighbors.

Motion

Based on the ZBA members' comments, the petitioners decided to continue the public hearing in order to revise and resubmit their plans. Board Member Fried moved, seconded by Board Member Kolar, to continue the public hearing to the 4th Tuesday of August, 2010. The motion carried unanimously by voice vote as follows: Board Members Fried, Kolar, Constantino, SiligmueLLer, Waterman and Chairman Garrity voted yes.

Staff Report

Mr. Kvapil announced that the next regularly scheduled ZBA meeting is cancelled due to a lack of petitions.

Trustee Report

Trustee Ladesic announced that the Phillip Rock Center may soon close due to a lack of funding.

There being no further business before the Zoning Board of Appeals, the meeting was adjourned at 9:26 p.m.

Submitted by:
Barbara Utterback, Recording Secretary

Reviewed by:
Joe Kvapil, Building & Zoning Official