

ZONING BOARD OF APPEALS
MINUTES
NOVEMBER 23, 2010

The meeting was called to order by Chairman Richard Garrity at 7:30 p.m. Board Members Gregory Constantino, Barbara Fried, Edward Kolar, Mary Ozog, Dale Siligmuller and Michael Waterman were present. Also present were Trustee Liaison Peter Ladesic, Building and Zoning Official Joe Kvapil and Recording Secretary Barbara Utterback.

Board Member Kolar moved, seconded by Board Member Constantino, to approve the minutes of the November 9, 2010 Zoning Board of Appeals meeting. The motion carried unanimously by voice vote.

A continued public hearing for the property at 980 Oxford Road was on the agenda.

CONTINUED PUBLIC HEARING – 980 OXFORD ROAD

A REQUEST FOR APPROVAL OF FOUR (4) VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-5-5(B)4-15 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. 2. 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. 3. SECTION 10-5-5(B)4-36 TO ALLOW THE CONSTRUCTION OF A PATIO ACCESSORY STRUCTURE WITH A SIDE YARD SETBACK OF 3 FEET IN LIEU OF THE MINIMUM PERMITTED SIDE YARD SETBACK OF 12 FEET FOR A PATIO ACCESSORY STRUCTURE. 4. SECTION 10-5-5(B)4-18 TO ALLOW THE CONSTRUCTION OF AN IMPERVIOUS SURFACE AREA COVERING 58% OF THE REQUIRED REAR YARD IN LIEU OF THE MAXIMUM PERMITTED IMPERVIOUS SURFACE AREA COVERING 50% OF THE REQUIRED REAR YARD.

(Christopher and Nancy Desmond, Petitioners)

Staff Report

Building and Zoning Official Joe Kvapil stated that this public hearing was a continuation from July 27, 2010. Mr. Kvapil stated that the petitioners, Christopher and Nancy Desmond, are requesting four variations to construct a gazebo, outdoor fireplace and patio that do not meet the minimum side yard setbacks and exceed the maximum impervious surface requirement in the rear yard. Mr. Kvapil displayed a location map of the subject property which is an unusual pie-shaped corner lot. Mr. Kvapil explained that the lot width of the subject property is 120 feet and the side yard setback as determined at 10 percent of the lot width is 12 feet. Mr. Kvapil displayed a conceptual plan prepared by the petitioner from the July 27, 2010 meeting and stated that two neighbors had signed petitions supporting those proposed variation requests. Mr. Kvapil also displayed a revised plan dated 11/11/2010 and described the proposed variations, including changes

from the previous variation requests, as follows: 1. A variation 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. This variation was requested at the previous meeting. 2. A variation 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. This variation was requested at the previous meeting, however, the size of the fireplace has been reduced. 3. A variation to allow the construction of a patio accessory structure with a side yard setback of 3 feet in lieu of the minimum permitted side yard setback of 12 feet for a patio accessory structure. This variation was requested at the previous meeting. 4. A variation to allow the construction of an impervious surface area covering 58% of the required rear yard in lieu of the maximum permitted impervious surface area covering 50% of the required rear yard. At the previous meeting, the petitioners had requested an impervious surface area covering 71% of the required rear yard. Mr. Kvapil added that one variation has been eliminated because the size of the gazebo area has been reduced from 400 square feet to 250 square feet which conforms to the code. Mr. Kvapil referred to a concept drainage plan prepared for the petitioners by Spaceco Inc. and stated that the plan is acceptable to staff if conditions allow.

Petitioners' Presentation

Christopher and Nancy Desmond, the petitioners, were present to speak on behalf of their petition. Mr. Desmond stated that their original plan has been significantly reduced and a variation has been eliminated. Mr. Desmond displayed the plan originally proposed at the July 27, 2010 meeting and the proposed plan. He also displayed a plan that conformed to the code and stated that if they adhered to the code with their plan, the fireplace would be located in the middle of the rear yard because of the 12-foot side yard setback requirement, the gazebo would almost encroach on their home and would be restricted to a size of 180 square feet, and the patio would be built to alter the essential character of a typical patio/gazebo. Mr. Desmond displayed a plan indicating a "normal" shaped rear yard versus the subject rear yard and stated no variations would be necessary with a 66-foot x 40-foot rear yard. Mr. Desmond stated that they have addressed the ZBA's concern regarding irrigation by hiring an engineering firm to prepare a report. Mr. Desmond displayed an aerial view of their lot and surrounding lots and stated that the proposed location of the fireplace is farther from their neighbor's lot than it would be if it conformed to the code. Mr. Desmond stated that hardships related to their variation requests align with guidance contained within the zoning variation request packet and are the unique, irregular pie shape of the lot which is not typical in Glen Ellyn and the variations that are not generally applicable to other properties within the same zoning district. Mr. Desmond cited from the zoning code examples of structures that are allowed a rear yard setback of 3 feet.

Responses to Questions from the ZBA

Mr. Kvapil clarified for Board Member Constantino that the 12-foot side yards are accurate and confirmed the lot width is 120 feet. Mr. Kvapil also responded to Board Member Constantino that, regarding impervious surface, the difference in square feet

between 50% and 58% is approximately 170 square feet. Mr. Kvapil responded to Board Member Kolar that pavers are considered impervious surface. Mr. Desmond responded to Mr. Constantino that the proposed patio material will be semi-pervious pavers. Mr. Desmond responded to Mr. Constantino that the proposed gazebo will be a 3-season structure. Mr. Kvapil explained for Ms. Fried that a gazebo must be 50 percent open on the sides, and he also responded to Mr. Kolar that a gazebo can be screened. At the request of Mr. SiligmueLLer, Mr. Desmond stated that the gazebo will be placed on the patio and he displayed a photograph of a gazebo similar to the proposed structure. Mr. Desmond confirmed for Mr. SiligmueLLer that they intend to adhere to Safeco's recommendations regarding drainage. Mr. Kvapil responded to Ms. Ozog that staff did not receive any comments from the public regarding the proposed variation requests. Ms. Desmond responded to Mr. Kolar that their house was built in 2005, and Mr. Kvapil responded to Ms. Ozog that the lot coverage ratio was 20 percent when the petitioner's home was built.

Persons in Favor of or in Opposition to the Request

Mary Firestone, 298 Grandview, Glen Ellyn, Illinois, who is Mr. Desmond's mother, has mobility issues and stated she is unable to navigate the back yard area to visit with her grandchildren. Ms. Firestone added that mosquitoes also are a huge problem in the yard.

Comments from the ZBA

Six of the seven ZBA members were in favor of the petitioners' variation requests although Board Member Fried initially expressed a concern regarding the location of the fireplace in the required side yard. The ZBA members in favor of the project appreciated that the petitioners had addressed issues of concern raised at the previous meeting and reduced the scope of the request, including eliminating one variation request. Most ZBA members supporting the project felt that the irregular shape of the lot is a hardship and the location of the principal structure restricts the buildable area in the yard. Board Member Ozog felt that the mosquito problem in the area was more of a hardship than the shape of the lot. Board Member Constantino suggested as conditions of approval that the proposed gazebo will not be allowed to become a 4-season structure and that adequate drainage must be provided on the site. Mr. Kolar was not in favor of the variation requests because he felt the petitioners' property was not unique to the neighborhood. He also indicated that the petitioners had prepared a plan that conforms to the code which has a sufficient amount of available space.

Motion

Board Member Constantino moved, seconded by Board Member SiligmueLLer to recommend that the Village Board recommend approval of four (4) variations from the Glen Ellyn Zoning Code as follows: 1. Section 10-5-5(B)4-15 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. 2. Section 10-5-4(A)4c to allow the construction of an outdoor fireplace accessory structure with a side yard setback of 6 feet for an accessory structure greater than 10 feet from the principal structure. 3. Section 10-5-5(B)4-36 to allow the construction of a patio accessory

structure with a side yard setback of 3 feet in lieu of the minimum permitted side yard setback of 12 feet for a patio accessory structure. 4. Section 10-5-5(B)4-18 to allow the construction of an impervious surface area covering 58% of the required rear yard in lieu of the maximum permitted impervious surface area covering 50% of the required rear yard. The recommendation for approval was based on the findings of fact that the shape of the lot is a hardship and restricts the buildable area. The recommendation for approval was based on the conditions that the gazebo is not allowed to become a 4-season room, adequate drainage must be provided on the site and construction must be in conformance with Village codes. The motion carried with six "yes" votes and one (1) "no" vote as follows: Board Members Constantino, Siligmuller, Fried, Ozog, Waterman and Chairman Garrity voted yes; Board Member Kolar voted no.

Chairman's Report

Chairman Garrity read a letter from President Pfefferman thanking the Zoning Board of Appeals members for their service.

Trustee Report

Trustee Ladesic stated that the Village Board is in the process of reviewing an ethics policy and encouraged the ZBA to view the policy on line and comment.

Staff Report

Mr. Kvapil announced that the next regularly scheduled ZBA meeting is December 14, 2010 and one variation is on that agenda.

There being no further business before the Zoning Board of Appeals, the meeting was adjourned at 8:35 p.m.

Submitted by:

Barbara Utterback
Recording Secretary

Reviewed by:

Joe Kvapil
Building & Zoning Official