

ZONING BOARD OF APPEALS
MINUTES
JULY 26, 2011

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

Acting Chairman Kolar described the proceedings of the Zoning Board of Appeals.

Board Member Fried moved, seconded by Board Member Constantino, to approve the minutes of the June 28, 2011 Zoning Board of Appeals meetings. The motion carried unanimously by voice vote.

A continuation of a public hearing for property at 780 Harding Avenue and a public hearing for property at 761 Highview Avenue were on the agenda.

CONTINUED PUBLIC HEARING – 780 HARDING AVENUE

A CONTINUATION OF THE PUBLIC HEARING CONDUCTED ON JULY 12, 2011 FOR DISCUSSION, CONSIDERATION AND RECOMMENDATION REGARDING A ZONING VARIATION REQUEST TO CONSTRUCT A NEW FENCE THAT EXCEEDS THE MAXIMUM HEIGHT LIMITATION AND DOES NOT MEET THE OPENNESS REQUIREMENTS FOR A FENCE IN THE REQUIRED FRONT, SIDE AND REAR YARDS.

(Joseph and Roxanne Simon, owners)

Staff Report

Building and Zoning Official Joe Kvapil stated that the public hearing for 780 Harding Avenue is a continuation of a public hearing first held on July 12, 2011. Mr. Kvapil displayed a photograph of the subject property and reviewed the public hearing held on that date. He stated that Joseph and Roxanne Simon, the petitioners, had requested a variation to construct an 8-foot high fence along the east property line extending from the rear property line to the front property line for privacy, security and nuisance control reasons. Mr. Kvapil stated that the petitioners have resubmitted a request for a fence in the same location as previously requested, however, with a height reduction across the entire length of the fence as follows: The height in the side yard behind the front of the house would be 7 feet, the height in the 16-foot section of fence toward the front property line would be 6 feet and the height in the 14-foot section of fence to the front property line would be 5 feet. Mr. Kvapil displayed right-of-way vacation information regarding the nearby Water's Edge development. He stated that the setbacks at the condominium next to the subject property from Route 53/Harding Avenue would limit the condominium's fence to be 4 feet in height and 50 percent open. Adjacent to the property at 780 Harding Avenue, Mr. Kvapil stated that the condominium's fence height

could be solid and a maximum of 6 feet in height. In response to a question asked at the previous ZBA meeting, Mr. Kvapil stated that Harding Avenue has not been vacated.

Petitioners' Presentation

Joseph and Roxanne Simon, the petitioners and owners of 780 Harding Avenue, were present to speak on behalf of their variation request. Mr. Simon reviewed their reasons for requesting the fence variation and stated that amendments have been made to their original request. Photographs of the subject site and condominium next door to the subject property were displayed. Mr. Simon stated that two window wells are located on the east side of their residence which leave 3 feet of space to the property line. Mr. Simon stated that the elevation of the condominium property is 2-3 feet higher than their property elevation, and the elevation of Illinois Route 53 is another 3-5 feet above the condominium property. Mr. Simon stated that the east side of their property borders the high traffic common area and the back yard of the condominium complex and the high traffic of Lincoln Avenue/Route 53 with its noise. Mr. Simon added that the orientation of the condominium property to the east with its attendant activity is adjacent to the east side of the Simons' house. Mr. Simon also stated that there is no vehicle access to the condominium property from Harding Avenue. Mr. Simon stated that their situation is unique because of their close proximity to Illinois Route 53, the elevation differences of that property and the Simon's property and being located on the end of an active street.

Ms. Simon stated that their request has been reviewed with all of their neighbors on their block with the exception of the property next door on which a new house is in the process of being built. Ms. Simon stated that their neighbors are fully supportive of their request and that a petition has been signed by five neighbors. Ms. Simon added that their intent in adding a fence on their property is to add value to their home and retain the character of Glen Ellyn and their neighborhood.

Responses to Questions from the ZBA

Ms. Simon responded to Board Member Constantino that they have had to clean up after a dog that comes onto their property but that they have had no issues since contacting the police. Ms. Simon added that one of the reasons they would like a physical barrier on their property is to keep dogs off of their property. Ms. Simon responded to Board Member Fried that a picket-type fence would keep dogs off of their property but would not address noise issues. Mr. Kvapil responded to Board Member Kolar that every tenant in the condominium building next door to the subject property was sent a notice regarding the public hearing. Mr. Simon also responded to Board Member Kolar that they have spoken with the neighbors who do not front on the fence and that those neighbors are supportive of the proposed fence.

Persons in Favor of or in Opposition to the Petition

Eric Scharaga, 97 Nicoll Way, Glen Ellyn, Illinois stated that his home faces Nicoll Way and his detached garage faces Harding Avenue. Mr. Scharaga strongly supported a 7-

foot privacy fence on the subject property. Mr. Scharaga responded to Board Member Constantino that he has not had a problem with dogs in the area and that the petitioners experience sound and privacy issues because of the condominium building next door.

Jennifer Ledet, 775 Wilson Avenue, Glen Ellyn, Illinois stated that her husband and she support the petitioners' request for a fence. Ms. Ledet stated that a neighborhood dog used to disturb their dog who is behind their 4-foot high fence. She stated that she has may neighborhood get-togethers in her back yard and the proposed fence would help the sound problem. Ms. Ledet responded to Board Member Kolar that a 7-foot fence as requested by the petitioners would offer privacy for all the neighbors in that area. Ms. Ledet verified for Board Member Ozog that the property next door at 781 Wilson has a 6-foot fence.

Comments from the ZBA

Board Member Constantino was supportive of the variation request because of the significant difference in grade between the subject house and the neighboring condominium building and the subject house and Route 53 which creates a practical difficulty. Mr. Constantino indicated that the petitioners experience a loss of privacy because of condominiums with balconies on their terraces and single-family to multi-family residences without a buffer. He indicated that a fence would help with health issues due to animal droppings in the neighborhood. Mr. Constantino also felt that no adverse effect upon the neighborhood would be created by the requested fence. Board Member Siligmuller was also supportive of the variation request because the subject situation is unique. Board Member Ozog was also supportive of the variation request and appreciated that the petitioners revised their proposal. She felt that mitigating noise is very important and also commented that no condominium owners expressed opposition to the variation request. Board Member Fried stated that she could support a 7-foot fence but not a 6-foot fence and that the 5-foot fence should remain 50 percent open. Board Member Kolar stated that he has a problem with higher fences in front yards. Mr. Kvapil responded that 7-foot fence limits are allowed to separate commercial districts from residential districts in the Village and that there are no screening requirements between single-family and multi-family residences.

Motions

The following two motions were made:

1. Board Member Fried moved, seconded by Board Member Constantino, to recommend that the Village Board approve a variation for the property at 780 Harding Avenue to allow a 7-foot tall solid wood fence located from the 30-foot setback to the rear property line.

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

2. Board Member Constantino moved, seconded by Board Member SiligmueLLer, to recommend that the Village Board approve a variation for the property at 780 Harding Avenue to allow a 6-foot tall fence within the 30-foot setback for a 16-foot length and to allow the balance of the fence to be 5 feet in height with both sections of the fence to be solid.

The motion did not carry with three (3) “yes” votes and two (2) “no” votes as follows: Board Members Constantino, SiligmueLLer and Ozog voted yes; Board Member Fried and Acting Chairman Kolar voted no.

Some discussion then took place regarding whether or not the fence should be partially open. Trustee Cooper asked Mr. Kvpil if the ZBA adopted the 6-foot/5-foot fence height with 50% of the fence remaining open, could the petitioners request the Village Board to modify that portion of the motion to make the fence solid. Mr. Kvpil replied yes.

Mr. Simon interjected that a 5-foot fence makes less impact to a property if it is farther from the property.

Motion 2 above was withdrawn and two additional motions were made:

3. Board Member Fried moved, seconded by Board Member SiligmueLLer, to recommend that the Village Board allow the height of the fence from the 30-foot setback line to the front property line at 6 feet and 5 feet.

The motion carried with four (4) “yes” votes and one (1) “no” vote as follows: Board Members Fried, SiligmueLLer, Constantino and Ozog voted yes; Acting Chairman Kolar voted no.

4. Board Member Constantino moved, seconded by Board Member SiligmueLLer, to recommend that the Village Board allow the subject fence installed from the 30-foot setback to the front property line and to be a solid privacy fence rather than 50% open.

The motion did not carry with three (3) “yes” votes and two (2) “no” votes as follows: Board Members Constantino, SiligmueLLer and Ozog voted yes; Board Member Fried and Acting Chairman Kolar voted no.

PUBLIC HEARING – 761 HIGHVIEW AVENUE

A PUBLIC HEARING REGARDING A ZONING VARIATION REQUEST TO CONSTRUCT AN ADDITION TO A SINGLE FAMILY RESIDENCE THAT DOES NOT MEET THE MINIMUM REQUIRED REAR YARD SETBACK FROM THE LOT LINE.

(Gene and LaVonne Ruoff, owners)

Staff Report

Building and Zoning Official Joe Kvapil stated that Gene and LaVonne Ruoff, the petitioners and owners of the property at 761 Highview Avenue, are requesting approval of a variation from Glen Ellyn Zoning Code Section 10-4-8(D)2 to allow a building addition with a rear yard setback of 26 feet in lieu of the minimum required rear yard setback of 40 feet. Three letters in favor of the variation request were contained in the petitioners' packet, and two additional letters in favor of the variation request were distributed to the ZBA members just prior to this meeting. Mr. Kvapil displayed a photograph of the subject one-story home located on the corner lot at the intersection of Highview Avenue and Van Damin Avenue. The subject property is in the R2 Zoning District as are the homes in the surrounding area. The subject home was built in 1955. Several permits have been issued for the subject property, however, no zoning variations have been issued. Mr. Kvapil displayed a site plan and photos of the subject home. He also displayed a location map on which neighbors in support of the variation were indicated.

Mr. Kvapil stated that the owners would like to convert an existing concrete patio to a one-story sunroom addition on the rear of the home. The proposed sunroom covers an area of approximately 346 square feet and extends slightly beyond the corner of the existing patio which results in an increase of approximately 8 square feet of impervious surface area on the property. Mr. Kvapil stated that the subject home is set back 48 feet from the front lot line which results in a small rear yard and the need for this variation. The existing home is 24 feet from the rear lot line in lieu of the required 40 feet and the house is closer than the required 30 feet to the corner side yard property line. Mr. Kvapil pointed out that the required minimum interior side yard setback is indicated as 6.5 feet on the zoning variation table, however, that figure should be 8 feet which complies with the Zoning Code. Mr. Kvapil stated that the subject house covers 25% of the lot coverage ratio but that the maximum for a one-story house is 35%. He stated that the addition would add another 2.7% so the lot coverage ratio would increase to 27.7%.

Mr. Kvapil displayed a drawing that indicated the location of the proposed one-story sunroom which is 26 feet from one corner of the property to the rear property line. The proposed sunroom is mostly glass and windows on the exposed sides with a low-sloped roof.

Petitioners' Presentation

Gene W. Ruoff, the petitioner, of 761 Highview Avenue, and Josh Delpierre, installation manager, Champion Patios, 549 W. Lake Street, Elmhurst, Illinois, spoke on behalf of the proposed variation request. Mr. Ruoff stated that the 26-foot area on the west side of the subject property is a utility easement in a swale which has many wires, is in a drainage ditch and is unkempt by ComEd. Mr. Ruoff stated that the slope from his patio to the edge of his property (southwest corner) is not usable except as a perennial garden which it currently is. He stated that drainage from his property goes toward the house to the south on Van Damin and not toward the swale. Mr. Ruoff added that a screen porch

would make a portion of his property more usable and would not be visible from the street. He also stated that a stairwell at the east corner of the addition prevents construction at that location.

Responses to Questions from the ZBA

Mr. Kvpil responded to ZBA Member Kolar that, from a variation point-of-view, all of the requirements from the building code would apply on an enclosed structural addition to a house. Mr. Kvpil clarified for Board Member Constantino that the front yard is always the side of the lot that is on a public way and that is the shortest distance in length/width so the subject front yard faces Van Damin. Mr. Kvpil further explained that the front yard setback would be no less than 30 feet and no more than 50 feet but no closer to the front property line than the closest house on either side of the subject property. Mr. Kvpil clarified for Board Member Kolar that if the house next door is set back 50 feet, the subject property does not have to be set back more than 50 feet. Mr. Kvpil added that the petitioners are near the maximum setback on their lot. Mr. Kvpil responded to Board Member Kolar that he did not calculate the impervious surface on the subject lot but believes it will not exceed 50% of the rear yard area. Board Member SiligmueLLer asked if the Village Engineer would review the proposed variation request because the Franchi's at 272 Van Damin Avenue commented that there is currently ponding in their back yard. Mr. Kvpil responded that no engineering review would be conducted because the impervious surface is not increasing more than 300 square feet. Mr. Kvpil responded to Board Member Kolar that the first floor area plus a second story area cannot exceed 40% of a subject lot without a variation. Mr. Kvpil responded to Board Member Ozog that a variation should have been required when a garage was added onto the existing home. Mr. Delpierre responded to Board Member Ozog that the existing patio will be saw cut and the proposed foundation will be a 12-inch by 42-inch concrete trench foundation. Mr. Ruoff responded to Board Member Ozog that the roof will be white aluminum.

Persons in Favor of or in Opposition to the Petition

No persons spoke in favor of or in opposition to the petition.

Comments from the ZBA

All ZBA members were in favor of approving the requested zoning variation to allow a building addition (sunroom) with a rear yard setback of 26 feet in lieu of the minimum required rear yard setback of 40 feet. The members were in favor of the request because a large setback of the house from the front property line reduces the rear lot line, there are no drainage problems currently at the subject site, the neighbors do not object to the request, and the essential character of the neighborhood will not be altered by the request.

Motion

Board Member Mary Ozog moved, seconded by Board Member Barbara Fried, to recommend approval from the Glen Ellyn Zoning Code, Section 10-4-8(D)2, to allow a building addition with a rear yard setback with a setback of 26 feet in lieu of the minimum required rear yard setback of 40 feet.

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

Trustee Report

Trustee Cooper and Building and Zoning Official Joe Kvapil updated the ZBA members on the College of DuPage issues.

Staff Report

Mr. Kvapil stated that the next ZBA meeting will be cancelled, however, one variation request is scheduled for the meeting on August 23, 2011.

There being no further business before the Zoning Board of Appeals, the meeting was adjourned at 9:36 p.m.

Submitted by:
Barbara Utterback
Recording Secretary

Reviewed by:
Joe Kvapil
Building & Zoning Official