

ZONING BOARD OF APPEALS  
MINUTES  
APRIL 23, 2013

The meeting was called to order by Chairman Richard Garrity at 7:30 p.m. Board Members Gregory Constantino, Barbara Fried, Edward Kolar, Meg Maloney, John Micheli and Chip Miller were present. Also present were Trustee Liaison Peter Cooper, Building and Zoning Official Joe Kvapil and Recording Secretary Barbara Utterback.

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

ZBA Member Fried moved, seconded by ZBA Member Kolar, to approve the minutes of the February 12, 2013 ZBA meeting. The motion carried unanimously by voice vote.

Two public hearings were on the agenda for the properties at 772 Wilson Avenue and 786 Euclid Avenue.

PUBLIC HEARING – 772 WILSON AVENUE

A REQUEST FOR APPROVAL OF A VARIATION FROM THE GLEN ELLYN ZONING CODE, SECTION 10-5-5(B)4, TO ALLOW THE CONSTRUCTION OF A SOLID WOOD FENCE ALONG THE REAR LOT LINE THAT IS EIGHT FEET HIGH IN LIEU OF THE MAXIMUM PERMITTED FENCE HEIGHT OF SIX FEET SIX INCHES.

*(John and Bridget King, owners)*

Staff Report

Building and Zoning Official Joe Kvapil stated that John and Bridget King, owners of the property at 772 Wilson Avenue, are requesting a variation from the Glen Ellyn Zoning Code, Section 10-5-5(B)4, to allow the construction of a solid wood fence along the rear lot line that is eight feet high in lieu of the maximum permitted fence height of six feet six inches. Mr. Kvapil stated that the subject property is located in an R2 Zoning District and is an interior lot on the north side of Wilson Avenue. He added that the zoning and land use to the east, south and west of the subject property is R2 Residential which is limited to single-family dwellings and the zoning and land use to the north is R4 Residential that permits multi-family dwellings. Mr. Kvapil stated that the property to the north at 775 Pershing Avenue is a two-story apartment building and indicated that photos of that property have been included in the petitioners' application packet. Mr. Kvapil also stated that no zoning variations have previously been granted for the subject property and that the home was constructed in 1987 and a fence permit and basement remodel permit have been applied for since that time. Mr. Kvapil added that the subject property complies in all respects with the current zoning code regulations.

Mr. Kvapil displayed a plat of survey that indicated the location of the proposed fence. He stated that the two-story apartment buildings to the north of the subject home are a

permitted use in the R4 Zoning District for height and setback, however, if the buildings were constructed today as a planned unit development, the Zoning Code would require that a solid screen at least 6 feet high but not more than 7 feet high be provided between these apartment buildings and the adjacent single-family lots (including the subject lot).

Mr. Kvapil distributed a letter provided by the property owner at 69 Nicoll Way which states that there is an agreement between the former owner of 772 Wilson Avenue and the current owner of 69 Nicoll Way regarding a strip of land adjacent to both property lines. He displayed both plats of survey that indicated all existing fencing. He stated that the agreement addresses the strip of land at the 69 Nicoll Way property and states that the land behind the property owners' fence appears to be part of the yard of 772 Wilson Avenue. Mr. Kvapil added that the agreement states that the prior property owner at 772 Wilson Avenue will allow a fence to be connected to the property owners' fence at 69 Nicoll Way provided they recognize that the area that is being enclosed by the fences and appears to be in the rear yard of 772 Wilson Avenue is, in fact, property that is owned by 69 Nicoll Way.

#### Petitioners' Presentation

John King, the property owner of 772 Wilson Avenue, Glen Ellyn, Illinois, stated that a multi-unit apartment building is located directly behind his home and that those neighbors constantly change because the apartment is a rental unit. He also stated that a sidewalk provides access for several apartments to the rear of the building that is also an access route to the apartment swimming pool which allows people from the apartment building to see into the petitioners' yard as they walk by which Mr. King feels does not afford them privacy in their yard. He added that anyone entering the apartment's rear entrance or walking to the pool has an unshielded view of his entire yard and deck. Mr. King stated that his family has lived in Glen Ellyn for 29 years and that the extra two feet being requested for the proposed fence will provide privacy for his family. He also stated that the other portions of the fence adjacent to their neighbors that is not at the rear property line will comply at 6 feet in height. Mr. King stated that when they had their home for sale in 2011 due to his father-in-law's illness, comments received from potential purchasers indicated concern regarding the apartments to the rear. He added that a fence would also assist them in selling their home if they chose to do so.

#### Responses to Questions from the ZBA

ZBA Member Constantino asked if any other properties along Wilson Avenue have fences that exceed the 6-1/2 foot height limitation. Mr. Kvapil responded that a variation for a side yard fence higher than 6 feet 6 inches was approved approximately 2-1/2 years ago for a property on Harding Avenue because of the location of a nearby condominium building. Mr. Kvapil responded to ZBA Member Kolar that that fence was 7 feet tall in the rear and stepped down to 5 feet and 4 feet toward the front of the house. Trustee Cooper added that the Village Board removed at least one of the steps prior to their approval of the variation request. ZBA Member Fried asked if the subject fence will extend beyond the side property line onto the property at Nicoll Way. Mr. Kvapil

responded that fences have always been allowed to connect to adjacent properties when the fences are not on the property line and added that the property owner's written consent is required to allow the neighbor's fence to encroach on their property. Mr. King responded to ZBA Member Constantino that he has spoken to his neighbors regarding the subject issue and that his neighbors have no concerns regarding the variation request. He added that the back yard of one of his neighbors is against the side of the Kings' back yard. Mr. King added that his property is unique because the sidewalk starts where his fence begins. Mr. King responded to ZBA Member Constantino that he has spoken to landscapers regarding installing trees or some other type of plantings at the rear of his property and that Australian pines do not take care of the problem. Mr. King responded to ZBA Member Maloney that they do not intend to sell their home at this time. He also responded to ZBA Member Fried that the requested two feet added to the fence height will stop people who are using the sidewalk from looking directly into their back yard. ZBA Member Kolar asked the petitioner if he has considered the installation of a 7-foot fence as the area has precedence for a 7-foot fence between single-family and multi-family residences in the subject area. Mr. King responded that they prefer an 8-foot fence because the existing sidewalk is high on the ground and those walking on that sidewalk look down toward the petitioners' deck. Mr. King clarified for ZBA Member Kolar that the subject fence would have no effect on the second-story windows for the neighbors to the rear. At ZBA Member Micheli's request, Mr. King provided construction information regarding the proposed fence. Mr. Kvapil responded to ZBA Member Micheli that the Village has no construction installation requirements for fences although types of fences are restricted. He added that conventional fence construction is that fence posts are embedded in the ground one-third of the distance that they are above the ground. He added that a 9 or 10-foot fence post would be required to increase the depth into the ground for an 8-foot fence. ZBA Member Micheli asked if a 42-inch frost line footing could be required for inspection by the Building Department so that the fence will not blow over. Mr. Kvapil suggested that an embedded post 3 feet deep, 4 x 4, would be adequate for an 8-foot high fence. Mr. Kvapil also responded to Mr. Micheli that he does not feel any other restrictions would apply for an 8-foot high fence. Mr. Kvapil explained for ZBA Member Constantino that the height of a fence is determined by measuring the boards, panels or pickets from the bottom to the top and that an 8-foot fence could be as tall as 8-1/2 feet as a fence post may extend above the top of a picket because of an ornamental post cap. Mr. Kvapil responded to ZBA Member Miller that the boards would be 8 feet high.

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

Bob Johnson, 179 Braeburn Court, Glen Ellyn, Illinois, stated that he represents the ownership of the 775 Pershing Avenue building and also manages the 785 Pershing Avenue apartment building. He stated that several homeowners in that area have fences that are 6 feet high and he felt it was out of character for the subject property at 772 Wilson Avenue to have an 8-foot high fence. Mr. Johnson stated that the subject area is a true residential district and that the apartment buildings have a number of residents who have lived at that location for many years. He stated that an 8-foot fence would affect the first floor of the apartment building by screening off some of the sunlight on the patios

and affecting vegetation. Mr. Johnson stated that the pool does not have many users. Using a ruler, Mr. Johnson displayed a height of 8 feet and stated that the rear yard of 775 Wilson Avenue is not that deep as compared to the rear yard of 772 Wilson Avenue and will be more negatively impacted by a tall fence. ZBA Member Constantino asked if the apartment management would have any objection if a variance was granted for a maximum of a 7-foot fence as opposed to a 6-1/2-foot fence. Mr. Johnson stated that the subject site is not a Planned Unit Development and that the existing code for a fence in this location is 6 feet. Mr. Kvapil clarified that the maximum panel height for a fence is 6 feet and that the total overall post height for a fence is 6 feet 6 inches. Mr. Kvapil added that, per the current code, a fence is required to provide 7-foot high screening along a property line between an R4 multi-family district and a single-family residential property. ZBA Member Constantino stated that the loss of sunlight would not be an issue if the petitioners installed an 8 or 9-foot tall planting. Mr. Johnson responded that he had no problem with any type of landscaping as landscaping is a softer type of screening. ZBA Member Kolar asked Mr. Johnson if he had an objection to the petitioners installing a 7-foot fence inside his property line to avoid a utility easement. Mr. Johnson responded he did not as there is currently a continuous line of fencing at that location that would be disrupted. ZBA Member Miller stated that the fence is lower than other fences in the area. ZBA Member Micheli asked if any of the apartment building tenants objected to the subject fence, and Mr. Johnson replied that the tenants did not receive notification of the request. Mr. Johnson also responded to ZBA Member Micheli that there is a natural slope from the sidewalk to the property line, including the easement, of approximately 20-25 feet. He added that there are no major grade changes or retaining walls that would substantially increase the slope. Mr. Johnson also stated that the rear yard of 775 Wilson Avenue is smaller than the petitioners' rear yard and the proposed higher fence would create a tunnel effect.

#### Comments from the ZBA

ZBA Member Constantino expressed concern regarding setting a precedent for an 8-foot high fence as requested by the petitioners. He stated that a variance for a 7-foot high fence was acceptable although he felt that sufficient investigation into landscaping had not been done. ZBA Member Constantino felt that the subject property had no hardships or unique characteristics to require a variation for an 8-foot fence. ZBA Member Maloney was supportive of an 8-foot fence because pine trees planted at that location would be tall and it would make no difference if a fence was installed. ZBA Members Fried, Kolar, Miller and Micheli felt an 8-foot fence was too high but were supportive of a 7-foot fence. ZBA Member Kolar added that a precedent of 7 feet for a fence has been set. ZBA Member Micheli felt that there is a hardship regarding the elevation as the sidewalk is significantly higher than where it would be if it was level with the fence. ZBA Member Micheli supported the 7-foot high fence because the building management felt they would suffer for whatever reason from an 8-foot high fence. Mr. Micheli added that it was not in the best interest of the community to push down rents and that housing should be kept solid.

Mr. King responded to Chairman Garrity that he would be willing to compromise and request a 7-foot fence in lieu of an 8-foot fence.

ZBA Member Fried moved, seconded by ZBA Member Kolar, to close the public hearing. The motion carried unanimously by voice vote.

#### Motion

ZBA Member Micheli moved, seconded by ZBA Member Fried, to approve the construction of a 7-foot fence embedded 30 inches into the ground at 772 Wilson Avenue in accordance with standards as set by the Village Building Department. The recommendation for approval was based on the hardship of the elevation of the sidewalk and the proximity of the falling back yard to the rising sidewalk and the practical difficulty that a sense of privacy from a higher, denser use will be gained by the petitioners with the construction of a fence.

The motion carried unanimously with six (6) “yes” votes and zero (0) “no” votes as follows: ZBA Members Micheli, Fried, Constantino, Kolar, Miller and Chairman Garrity voted yes.

#### PUBLIC HEARING – 786 EUCLID AVENUE

A REQUEST FOR APPROVAL OF A VARIATION FROM THE GLEN ELLYN ZONING CODE, SECTION 10-4-8(E)1 TO ALLOW THE CONSTRUCTION OF A ONE-STORY SCREEN PORCH ADDITION WHICH WILL RESULT IN A LOT COVERAGE RATIO OF 21.8% IN LIEU OF THE MAXIMUM PERMITTED LOT COVERAGE RATIO OF 20%.

*(Michael and Patricia LaMonica, owners)*

#### Staff Report

Building and Zoning Official Joe Kvapil stated that Michael and Patricia LaMonica, the owners of the property at 786 Euclid Avenue, are requesting a variation from the Glen Ellyn Zoning Code, Section 10-4-8(E)1, to allow the construction of a one-story screen porch addition that will result in a lot coverage ratio of 21.8% in lieu of the maximum permitted lot coverage ratio of 20%. Mr. Kvapil stated that the subject property is located in the R2 Zoning District and is defined as an interior lot on the west side of Euclid Avenue. He added that the zoning and land use surrounding the subject property is single-family residential. Mr. Kvapil also stated that no zoning variations have been granted for this property. He stated that the subject home was constructed in 1996 and that seven additional permits have been granted for this property since that time, none of which are additions to the home.

Mr. Kvapil stated that the subject property complies in almost all respects with the current zoning regulations, including lot width, lot area and setbacks. The property, however, has a lot coverage ratio of 20.4% which exceeds the permitted maximum lot coverage ratio of 20%. He added that the subject house was constructed in 1996, at

which time the maximum permitted lot coverage ratio was 25% and therefore complied with the code.

Mr. Kvapil stated that the property owners purchased the subject home in 2012 and he displayed a site plan that showed the existing 151-square foot screen porch. He added that the petitioners propose to construct a new one-story screen porch addition on the rear of the home that will replace the existing one-story screen porch in approximately the same location. Mr. Kvapil indicated that the area of the new screen porch is proposed to be 360 square feet and will be no closer to the adjacent side yard property line than the existing screen porch. He added that the proposed porch will extend slightly further to the rear yard but will not be located in the required 40 feet of the rear yard setback. Mr. Kvapil stated that the addition of the new screen porch will result in a lot coverage ratio of 21.8% which exceeds the maximum lot coverage ratio of 20% and requires a variation. Mr. Kvapil added that the subject home has a 3-car attached garage and, therefore, no lot coverage ratio bonus is applicable for a detached garage. He added that if this home had been constructed with a detached garage of 270 square feet and the attached garage was removed from the house, the lot coverage ratio with the proposed new screen porch would be in compliance at 20% and no variation would be required. Mr. Kvapil displayed a configuration of the proposed new screen porch and stated that the layout of the proposed screen porch protects an existing tree which is why there is a notch in the corner of the screen porch.

#### Petitioners' Presentation

Michael and Patricia LaMonica, the petitioners, of 786 Euclid Avenue, were present to speak on behalf of their variation request. Mr. LaMonica stated that they moved to Glen Ellyn in order to be closer to their children who live in neighboring suburbs. He stated that their existing porch seats approximately four people and that they would like to expand the porch so that more family members can use it and monitor the children playing in the back yard. Mr. LaMonica stated that their hardship is that the attached garage utilizes a large amount of usable living space. He added that the porch design is unique because of the location of a large tree in their yard that they would like to retain. Mr. LaMonica stated the porch will not be turned into a three-season room as heating and/or air conditioning will not be installed. Mr. LaMonica also stated that they will be sure to do whatever is necessary regarding the proposed porch in order to prevent water issues for their neighbors. Mr. LaMonica stated that no water issues occurred at his or his neighbors' homes from the recent rains. A petition signed by four (4) of the LaMonicas' neighbors in support of the variation request was distributed at this meeting. Ms. LaMonica displayed a photo of her family to the ZBA members.

#### Responses to Questions from the ZBA

ZBA Member Kolar stated that the subject lot slopes significantly from the northwest corner to the southeast corner and a path cuts onto the neighbor's property from drainage caused by rain. He asked what the Village requires regarding drainage issues for the neighbor to the south as 250 feet of additional impervious surface is requested to be

added to the subject site. Mr. Kvapil responded that a stormwater engineering review is required for any additional impervious surface that exceeds 300 square feet. ZBA Member Kolar added that he does not feel water in the area can be kept on the petitioner's property which impacts the neighbor's property. Mr. Kvapil verified for ZBA Member Micheli that the total proposed lot coverage ratio is 21.8%.

Mr. LaMonica responded to ZBA Member Constantino that they received no objections by neighbors regarding the proposed project. Mr. LaMonica also responded to ZBA Member Constantino that they were unaware of the code regarding expansion of the porch when they purchased the home last year. ZBA Member Kolar asked if the petitioners considered converting their garage into a porch and building a detached garage in order to receive an additional allowed 500 square feet, and Ms. LaMonica responded that that situation could create a drainage problem. Mr. LaMonica added that they would like to keep the porch at the rear of the house.

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

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

#### Comments from the ZBA

ZBA Member Constantino felt that the attached garage exists as a hardship and was supportive of the variation request which he felt would be minimal. He requested that the Village Engineer review the drainage situation regarding this project and felt that the screen porch should not be developed as a 3-season room. With the exception of ZBA Member Kolar, the other ZBA Members were supportive of this project. ZBA Member Miller felt the neighbors would not be impacted by this request. ZBA Member Micheli expressed some concern that incremental increases in lot coverage is not the direction the Village Board would like to go but was supportive of solid improvements in the Glen Ellyn housing stock. ZBA Member Kolar was not supportive of an increase in lot coverage ratio in this instance, stating that family size is not a criteria for a variation.

ZBA Member Fried moved, seconded by ZBA Member Kolar, to close the public hearing. The motion carried unanimously by voice vote.

#### Motion

ZBA Member Fried moved, seconded by ZBA Member Constantino, to approve the variation from Glen Ellyn Zoning Code Section 10-4-8(E)1 for 786 Euclid Avenue to allow the construction of a one-story screen porch that will result in a lot coverage ratio not to exceed 21.8% in lieu of the maximum permitted ratio of 20% based on the hardship that the garage is not attached which eliminates a square footage bonus. ZBA Member Fried added that the proposed porch will need to be constructed per the plans as submitted and would require a drainage review plan prior to construction.

The motion carried with five (5) “yes” votes and one (1) “no” votes as follows: ZBA Members Fried, Constantino, Micheli, Miller and Chairman Garrity voted yes; ZBA Member Kolar voted no.

#### Trustee Report

Trustee Cooper reviewed the impact of the recent rain storms in the area and complimented the Public Works Departments’ efforts. He also provided a brief summary regarding a proposed subdivision called Amber Ridge near Glen Crest School appearing before the Village Board. Trustee Cooper also stated that the Village budget recently passed with a 4-1 vote. The ZBA Members wished Trustee Cooper well and thanked him for his efforts as his term as Village Trustee ends.

#### Staff Report

Mr. Kvapil reviewed upcoming variation requests.

#### ZBA Member Report

ZBA Member Fried stated that she has submitted a resignation from the ZBA but will remain on the Board until a replacement is appointed.

There being no further business before the Zoning Board of Appeals, the meeting was adjourned at 9:25 p.m.

Submitted by:  
Barbara Utterback  
Recording Secretary

Reviewed by:  
Joe Kvapil  
Building & Zoning Official