# ZONING BOARD OF APPEALS MINUTES MAY 28, 2013

The meeting was called to order by Acting Chairman Edward Kolar at 7:33 p.m. Board Members Gregory Constantino, Barbara Fried, Meg Maloney and John Micheli were present. ZBA Member Chip Miller and Chairman Rick Garrity were excused. Also present were Building and Zoning Official Joe Kvapil and Recording Secretary Barbara Utterback. Trustee Liaison Tim Elliott was also excused.

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

ZBA Member Fried moved, seconded by ZBA Member Constantino, to approve the minutes of the April 23, 2013 Zoning Board of Appeals meeting. The motion carried unanimously by voice vote.

Two public hearings were on the agenda for the properties at 426 Hillside Avenue and 109 Grove Avenue.

## PUBLIC HEARING – 426 HILLSIDE AVENUE

A REQUEST FOR APPROVAL OF VARIATIONS FROM THE GLEN ELLYN ZONING CODE, SECTION 10-4-1(N)1, TO ALLOW THE CONSTRUCTION OF A SECOND FLOOR DORMER ADDITION TO A HOUSE WITH A FRONT YARD SETBACK OF 15.3 FEET IN LIEU OF THE MINIMUM REQUIRED FRONT YARD SETBACK OF 25 FEET AND SECTION 10-4-1(N)3 TO ALLOW THE CONSTRUCTION OF A SECOND FLOOR DORMER ADDITION TO A HOUSE WITH A CORNER SIDE YARD SETBACK OF 11.5 FEET IN LIEU OF THE MINIMUM REQUIRED CORNER SIDE YARD SETBACK OF 20 FEET.

(Adam and Susan Carter, owners)

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

### Staff Report

Building and Zoning Official Joe Kvapil stated that Adam and Susan Carter, owners of the property at 426 Hillside Avenue, are requesting two (2) variations from the Glen Ellyn Zoning Code and that the variations are from Section 10-4-1(N)1 to allow the construction of a second floor dormer addition to a house with a front yard setback of 15.3 feet in lieu of the minimum required front yard setback of 25 feet and from Section 10-4-1(N)3 to allow the construction of a second floor dormer addition to a house with a corner side yard setback of 11.5 feet in lieu of the minimum required corner side yard setback of 20 feet. Mr. Kvapil stated that the subject property is located in the R2 Single Family zoning district and is defined as an interior lot on the north side of Hillside Avenue. He added that the zoning and land use to the north, east and south is R2 Single

Family Residential and the zoning and land use to the west is R4 Multi-Family Residential. Mr. Kvapil stated that Village records indicate that zoning variations have been granted for the subject property which allow the porch roof to project 4 feet into the required front yard setback, to allow a dormer addition and a skylight to a structure on a nonconforming lot and to allow a detached garage on a nonconforming lot. He added that the subject lot is 48 feet in width and an interior lot width is 66 feet. He also stated that several permits have been granted over the years for the subject property.

Mr. Kvapil distributed a site plan to the ZBA members and stated that the homeowners propose to construct a two-story addition to the rear of the home that complies with all zoning regulations for setbacks, height and lot coverage ratio. He stated that the homeowners also propose to construct a second floor dormer addition that is approximately 49 square feet over a portion of the existing first floor that does not meet the minimum required front yard setback and corner side yard setback requirements. He added that a variation is required for the dormer addition which will be no higher than the peak of the existing roof. Mr. Kvapil also stated that the existing lot area, lot width, front yard setback and corner side yard setback of the subject home are nonconforming. He summarized that both the subject house and lot are nonconforming.

## Petitioners' Presentation

Adam and Susan Carter of 426 Hillside Avenue, Glen Ellyn, Illinois and Architect Daryl Drake, 422 Phillips Avenue, Glen Ellyn, Illinois were present to speak on behalf of the subject variation requests. Mr. Drake stated that his home is included in the neighboring area affected by these variation requests. Mr. Drake stated that the subject request is one of the smallest variations he has helped to assemble in Glen Ellyn. He stated that the purpose of the addition is to add more bedrooms to the home as the petitioners need four bedrooms for their growing family. Mr. Drake stated that the only feasible way to add more room to the subject home is to build up rather than extend out and added that they want to be sure the addition is in context with the architecture of the home. Mr. Drake also stated that the dormer comes out to the edge of the walls in the most logical location and that the dormer will be made as small as possible. Mr. Drake stated that the hardships are that the subject lot is substandard and the house is too close to the property in the corner. He also stated that the homeowners want to impact the lot as little as A petition with 14 signatures in support of the variation requests was possible. distributed to the ZBA members.

Mr. Carter stated that they purchased the subject home in 2006. He stated that they are very active in the community and that their family is growing. He stated that they considered moving when their family started to grow but do not want to leave this home. Mr. Carter stated that although they need to add space to their home, they want to maintain its historic nature and have limited the number of variations being requested. Mr. Carter stated that the addition is for a child's room which needs adequate light, ventilation and a fire escape. Mr. Carter also stated that their home is on a corner lot and the addition is a west wall that faces Melrose Avenue. He added that no neighbor will be directly affected by the proposed addition and that the addition will match the existing

home. He also stated that their existing home must comply with the current Zoning Code which did not exist when the house was built in 1904.

# Responses to Questions from the ZBA

ZBA Member Fried asked why no variation is required regarding the rear addition, and Mr. Kvapil responded that the Zoning Code allows additions and alterations to existing homes even if they are on nonconforming lots provided they meet all of the current Zoning Code requirements. Acting Chairman Kolar asked if the dormer projects any closer to the property line than the current house. Mr. Kvapil replied the plans indicate it does not and aligns with the exterior wall of the first floor. ZBA Member Fried asked what the specific hardship is regarding this home. Mr. Drake responded that the hardship is the location of the house on the property and added that no homes in the surrounding area meet the front yard setback requirements. Mr. Kvapil asked when the subject home was built as the Village has no records regarding that date, and Mr. Carter stated the home was built in 1904. ZBA Member Constantino asked if the size of the addition is the minimum to address the homeowners' needs. Mr. Drake responded that the minimum size required for a bedroom is 100 square feet and that the proposed bedroom has been made as small as possible at approximately 130 square feet. He added that the bedrooms at the front of the house to the south are also small. Mr. Drake also stated that they are not requesting an increase in the lot coverage ratio. ZBA Member Constantino asked if comments had been received from neighbors, and Mr. Carter distributed a petition signed by 14 neighbors in support of the variation requests.

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

Taivo Tammaru of 404 Prospect Avenue, Glen Ellyn, Illinois was supportive of the petitioners' variation requests and stated he was appreciative of the petitioners' significant commitment to their home.

### Comments from the ZBA

All of the ZBA Members were in favor of the variations being requested. ZBA Member Fried stated that the lot is substandard and the proposed addition is just about all they can do without increasing the setbacks. ZBA Member Micheli was supportive of the variation requests because the proposed addition is in keeping with the neighborhood and will have no effects on the neighbors. He added that the home is older and the Village encourages improvements on that type of home; therefore, allowances need to be made to work with this type of property. ZBA Member Maloney felt the homeowners have no other options based on where the house is located on the lot and, therefore, was supportive of the requested variations. ZBA Member Constantino was also supportive of the petitioners' variation requests as the proposed configuration is the minimum required to address the need for additional square footage. He stated that the location of the proposed dormer on the west side of the home will have no effect on light, air or drainage and will allow for an escape in the event of an emergency. He also added that the front setback matches the neighbors. He also stated there is an apparent hardship as the size

and square footage of the lot does not comply with the current zoning. He also stated that there will be no apparent effect upon their immediate neighbors and no increased traffic in the area. Acting Chairman Kolar was in favor of the variations because the addition is straight up with no expansion out. He also stated that family size is not a justification for a hardship.

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

# Motion

ZBA Member Fried moved, seconded by ZBA Member Micheli, to recommend approval of variations from Section 10-4-1(N)1 to allow the construction of a second floor dormer addition to a house with a front yard setback of 15.3 feet in lieu of the minimum required front yard setback of 25 feet and Section 10-4-1(N)3 to allow the construction of a second floor dormer addition to a house with a corner side yard setback of 11.5 feet in lieu of the minimum required corner side yard setback of 20 feet as the house was built in 1904 when lot sizes were smaller, the location of the house on the property is near the front of the lot, and the variations will not impact neighbors as the addition basically faces the street. ZBA Member Fried also stated that the recommendation for approval was based on the condition that the plans are carried out in substantial conformance with those as submitted at this meeting.

The motion carried unanimously with four (4) "yes" votes and zero (0) "no" votes as follows: ZBA Members Fried, Micheli, Constantino and Acting Chairman Kolar voted yes.

## PUBLIC HEARING - 109 GROVE AVENUE

A REQUEST FOR APPROVAL OF VARIATIONS FROM THE GLEN ELLYN ZONING CODE, SECTION 10-4-1(L)1, TO ALLOW THE CONSTRUCTION OF A NEW SINGLE-FAMILY HOME ON A LOT WITH AN AREA OF 6,250 SQUARE FEET IN LIEU OF THE MINIMUM REQUIRED LOT AREA OF 6,534 SQUARE FEET AND SECTION 10-4-1(L)2 TO ALLOW THE CONSTRUCTION OF A NEW DETACHED GARAGE ACCESSORY STRUCTURE WITH A CORNER SIDE YARD SETBACK OF 4 FEET IN LIEU OF THE MINIMUM REQUIRED CORNER SIDE YARD SETBACK OF 20 FEET.

(Timothy Betts, owner)

## **Staff Report**

Building and Zoning Official Joe Kvapil stated that Timothy Betts, the owner of 109 Grove Avenue, is present and represented at this public hearing by Alexander Wolfram who intends to purchase the subject property. Mr. Kvapil stated that the property owner is requesting approval of two variations from the Glen Ellyn Zoning Code as follows: 1. Section 10-4-1(L)1 to allow the construction of a new single-family home on a lot with an area of 6,250 square feet in lieu of the minimum required lot area of 6,534 square feet.

2. Section 20-4-1(L)2 to allow the construction of a new detached garage accessory structure with a corner side yard setback of 4 feet in lieu of the minimum required corner side yard setback of 18 feet. Mr. Kvapil stated that the subject property is located in the R2 Single-Family Residential Zoning District and is defined as a corner lot on the southeast corner of the intersection of Grove Avenue and Lombard Street. He stated that the subject lot does not appear to be a corner lot because Lombard Avenue has not been improved further to the east from Grove Avenue. He stated that the lot appears to be vacant but is owned by the Village and is a right-of-way extension of Lombard Street. He added that the lot is 60 feet wide and has a large 48" stormwater sewer located underground which discharges to the East Branch of the DuPage River. The zoning and land use surrounding the subject property is R2 Single-Family Residential. Village records indicate no zoning variations have ever been granted for the subject property and some minor building permits have been issued in the past.

Mr. Kvapil stated that the owner proposes to demolish the existing home on the property and construct a new single-family home. He also stated that new structures must comply with all current zoning regulations, however, this lot does not comply with lot area requirements. He added that there is a section in the Zoning Code that addresses nonconforming lots that allows a new home to be constructed on a lot with a non-conforming minimum area of 6,534 square feet if a home has been legally constructed on the lot on or after October 28, 1974. He added that the subject house meets that date requirement, however, the lot area of 6,250 square feet does not meet the minimum lot area of 6,534 square feet. Mr. Kvapil also stated that Zoning Code Section 10-4-1(L) also makes an exception to allow a detached garage to be constructed on a lot with a nonconforming minimum lot area of 6,534 square feet provided the detached garage meets all other applicable zoning regulations for an accessory. He added that the garage is proposed to be set back 4 feet from the corner side yard property line and that the current Zoning Code regulations require a minimum setback of 18 feet. Therefore, a variation is required for the position of the garage on the subject lot. Mr. Kvapil added that the lot has been configured and designed to represent a typical interior lot rather than a corner lot and that if the lot had been an interior lot, it would have been conforming.

### Petitioners' Presentation

Alexander Wolfram of Loftis Homes of Illinois, 1732 Main Street, Suite 3, Concord, MA intends to purchase the property from Timothy Betts, the current owner, 2219 Barger Court, Wheaton, IL and spoke on behalf of the variation requests. Mr. Wolfram displayed a site plan of the subject property. He stated that the house to be built on the site fully complies with the Zoning Code, however, the lot has an area of 6,250 square feet in lieu of the minimum required lot area of 6,534 square feet. Mr. Wolfram stated that the proposed garage does not comply with the Zoning Code and added that if the garage was placed in a conforming location, the impervious surface of the driveway would not comply with the code. He added that the variations being requested are at a minimum. Mr. Wolfram also stated that the current home on the site is deteriorated and redevelopment of the site will help to improve the neighborhood.

Timothy Betts, the property owner, of 2219 Barger Court, Wheaton, IL stated he was in favor of the proposed variation requests. Mr. Betts stated that when he purchased the property, he intended to demolish the house and build a new house. He stated that the subject lot is nonconforming at 50 feet wide. He stated that when he asked to purchase 10 feet of green space, he was told no building will take place at that location because the road will never go through as the floodplain will remain the floodplain forever and the river and I-355 are located there. He also stated that the nearby owners could not sell 10 feet of their lot because their lot was only 60 feet wide and their lot would become nonconforming if 10 feet of their width was sold.

# Responses to Questions from the ZBA

Mr. Kvapil responded to ZBA Member Micheli that the property on the east of the subject property is in the Conservation Recreation Zoning District that is mostly floodplain. He also responded that it is extremely unlikely that Lombard Avenue will continue through to the east. He added that the subject lot must meet the requirements of a corner lot, however, it is extremely unlikely that it will ever be improved to a right-of-way street. ZBA Member Kolar asked if the Village would sell a small portion of land in order to create a conforming lot, and Mr. Kvapil replied that was unlikely because undeveloped Lombard Avenue is only 60 feet wide, there is an easement on each side for stormwater purposes and this area is one of the few access points that the Village has to the East Branch of the DuPage River. ZBA Member Constantino asked if the property to the east faces any significant flood issues, and Mr. Kvapil responded it does because there is a floodplain to the east. Mr. Kvapil also stated that 109 Grove Avenue is not in a designated flood area so there are no restrictions on that property.

Mr. Wolfram responded to ZBA Member Micheli that materials that will be used to construct the proposed house are on the plans submitted with the application. Mr. Wolfram also responded to ZBA Member Fried that the subject house will be for sale. ZBA Member Constantino inquired as to the trees on the subject site, and Mr. Wolfram responded that all but one tree may be able to be preserved. Mr. Wolfram also responded to ZBA Member Constantino that the closing of the home is subject to Village approval of the variations. Mr. Wolfram responded to ZBA Member Constantino that the amount of developed area is not being expanded on the site and he has not yet looked at drainage issues which he believes will be similar to the existing conditions. ZBA Member Constantino asked if Mr. Wolfram has inquired at the Village about obtaining rights east on Lombard Avenue for driveway or right-of-way purposes, and Mr. Wolfram replied he has not. Mr. Kvapil added that an option for a license agreement could be available for the use of a driveway on Village property. Mr. Wolfram responded to ZBA Member Constantino that he has had no contact with any neighbors near the subject site. Mr. Kvapil responded to Acting Chairman Kolar that trees near the property would be considered to be protected trees during construction and he described the tree protection process. ZBA Member Micheli asked when the Village has some oversight of the trees, and Mr. Kvapil responded that oversight begins when the building permit is issued.

# Persons in Favor of or in Opposition to the Petition

Bob Harbacek, 119 Grove, Avenue, Glen Ellyn, IL had no objections to the requested variations as the house is vacant and there are problems with children and animals being on the property. Mr. Harbacek stated that the land to the east of the subject property belongs to DuPage County Forest Preserve District who patrol and maintain that property. He also stated that the Village originally owned the property and that the property was condemned and turned over to the Tollway Authority when the tollway was built. He added that retention ponds in the area were filled in when the tollway was built. Mr. Harbacek stated that the subject home has been an eyesore for a long time and that potential purchasers find that it would be impractical to build a new home on the lot under the existing zoning regulations. He added that if a home is not allowed to be built on the lot with variations, the existing home will eventually be torn down and the lot will remain vacant. He also stated that he does not feel any of the neighbors have an objection to a new home being built on the subject site.

Joyce Koslow, 105 Grove Avenue, Glen Ellyn, IL was in favor of the proposed variation requests as she felt that the subject property needs improvement. She also stated that children and animals must be kept away from the property as it is dangerous and damage is occurring there. Ms. Koslow added that she has called the police regarding children being at the site.

ZBA Member Fried moved, seconded by ZBA Member Micheli, to accept the findings of fact. The motion carried unanimously by voice vote.

### Comments from the ZBA

All of the ZBA Members were supportive of the subject variation requests as they felt a new home would be a good improvement and asset to the neighborhood and Village. Mr. Micheli stated that the site is not truly a corner lot and added that he would grant a variation for a driveway setback because of the hardship on the property. ZBA Member Maloney added that a new home will make the neighborhood safer and the value of the site will increase. ZBA Member Constantino stated that the practical difficulties and hardships are the location of the lot that adjoins a dedicated street that will not be used as a street and consequently will not offer any access onto the street. He added that no neighbors to the north will be impacted because that property will not be developed and for that reason he does not feel that granting the variance setback would create any issues for anybody involved there. He also stated that building a new home will improve the character of the neighborhood. Acting Chairperson Kolar was also supportive of the requests and commented that drainage is basically to the north.

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

### Motion

ZBA Member Micheli moved, seconded by ZBA Member Fried, to recommend approval of two variation requests from Glen Ellyn Zoning Code Section 10-4-1(L)1 to allow the construction of a new single-family home on a lot with an area of 6,250 square feet in lieu of the minimum required lot area of 6,534 and from Section 10-4-1(L)2 to allow the construction of a new detached garage accessory structure with a corner side yard setback of 4 feet in lieu of the minimum required corner side yard setback of 20 feet as the hardship is that the lot is being subjected to the rules of a corner lot without being able to acquire additional land at that site and the new home will be an improvement to the neighborhood and the Village. ZBA Member Micheli also stated that the recommendation for approval was based on the condition that the plans are carried out in substantial conformance with those as submitted at this meeting.

The motion carried unanimously with four (4) "yes" votes as follows: ZBA Members Micheli, Fried, Constantino and Acting Chairperson Kolar voted yes.

# Staff Report

Mr. Kvapil stated that the next two ZBA meetings will be cancelled due to a lack of petitions.

There being no further business before the Zoning Board of Appeals. the meeting was adjourned at 9:08 p.m.

Submitted by: Barbara Utterback Recording Secretary

Reviewed by: Joe Kvapil Building & Zoning Official