

ZONING BOARD OF APPEALS  
MINUTES  
SEPTEMBER 24, 2013

The meeting was called to order by Chairperson Rick Garrity at 7:30 p.m. ZBA Members James Bourke, Edward Kolar, Larry LaVanway, John Micheli and Chip Miller were present. ZBA Members Gregory Constantino and Meg Maloney were excused. Also present were Trustee Liaison Tim Elliott, Building and Zoning Official Joe Kvapil and Recording Secretary Barbara Utterback.

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

ZBA Member Kolar moved, seconded by ZBA Member Bourke, to approve the minutes of the September 10, 2013 Zoning Board of Appeals meeting. The motion carried unanimously by voice vote.

Two public hearings were on the agenda for properties at 602 Prairie Avenue and 565 Lee Street.

PUBLIC HEARING – 602 PRAIRIE AVENUE

A REQUEST FOR APPROVAL OF A VARIATION FROM THE GLEN ELLYN ZONING CODE, SECTION 10-5-4(A)4c, TO ALLOW THE CONSTRUCTION OF A DETACHED GARAGE WITH A SIDE YARD SETBACK OF 3 FEET 6 INCHES IN LIEU OF THE MINIMUM REQUIRED SIDE YARD SETBACK OF 4 FEET 6 INCHES.

*(Vincent J. Griffin and Cari A. Dinneen, owners)*

Staff Report

Building and Zoning Official Joe Kvapil stated that Vincent Griffin and Cari Dinneen own the property at 602 Prairie Avenue, and he displayed photographs of the subject house and detached garage. Mr. Kvapil stated that the petitioners are requesting approval of a variation from the Glen Ellyn Zoning Code, Section 10-5-4(A)4c, to allow the construction of a detached garage with a 3 foot 6 inch rear yard setback in lieu of the minimum required 4 foot 6 inch rear yard setback. Mr. Kvapil displayed a plat of survey and stated that the subject property is located in the R2 Residential Zoning District and is defined as a corner lot on the northwest corner of the intersection of Hawthorne Avenue and Prairie Avenue. He added that the zoning and land use surrounding the subject property is single-family residential in the R2 Residential Zoning District. Mr. Kvapil stated that Village records indicate that Ordinance 5300 was passed on October 25, 2004 that permitted a subdivision that created the subject lot, granted several variations for the two lots that were created and designated this property and home as an historic landmark. Mr. Kvapil stated that several permits have been issued for this property, including an addition to the rear of the house in 2006.

Mr. Kvapil stated that the owners propose to remove the existing detached garage and construct a new detached garage with the same 497-square foot floor area in exactly the same location on the lot. He stated that the height of the proposed detached garage is 21 feet 9 inches and exceeds the height of the existing detached garage but does not exceed the maximum permitted height of 22 feet. He also stated that the existing detached garage is set back 3 feet 6 inches from the rear lot line and the minimum required setback from the rear lot line is 4 feet 6 inches which requires a zoning variation. Mr. Kvapil stated that when the lot was created by ordinance and subdivision, the existing detached garage was granted a variation that allowed the existing detached garage to remain set back 3 feet 6 inches from the rear lot line. Mr. Kvapil stated that when subdivisions normally occur, they must be done in a manner so that no non-conforming conditions are created on any lot. He stated that this was not the case in this instance, therefore, when this subdivision was created, variations were required. He added that this is one of approximately four other variations that were required for this one lot to be subdivided.

Mr. Kvapil stated that the subject property is not located within or adjacent to a designated flood area or a local depressional area. He added that although the development exceeds 300 square feet in area, the development will not increase the impervious surface area; therefore, compensatory stormwater storage is not required and a drainage plan submittal and review are not required. Mr. Kvapil stated that although the subject development exceeds 300 square feet, a tree preservation plan submittal and review is not required since replacement of a detached garage is a specific exception in the tree preservation requirements.

Mr. Kvapil stated that the normal process for any variation received for an historic landmarked home is to submit the application and plans to the Historic Preservation Commission for their review and approval. He stated he has received confirmation from the Assistant Village Manager that the Historic Preservation Commission has approved and recommended replacement of the subject detached garage.

#### Petitioners' Presentation

Vincent Griffin, the petitioner and owner of 602 Prairie Avenue, stated that he had received the Restoration of the Year award for the subject property in the year 2009. Mr. Griffin stated that he assumed the subject garage was built in the 1940's and has sat at 3 feet 6 inches off the property line since that time. Mr. Griffin stated that the proposed garage foundation meets the building code and that he believes the foundation that currently sits under the garage met the code in the 1940's. He stated he doesn't believe that it makes sense to build a garage on a poor foundation.

Mr. Griffin stated they are proposing to rebuild a garage on the footprint of the existing garage and added that Ordinance No. 5300 does not preclude another ordinance from being created. He added that this ordinance which allows the garage to be located 3 feet 6 inches from the lot line has been in effect for decades and that he and his wife are seeking a continuation of the subject variation. Mr. Griffin stated that the existing garage

is an eyesore and a new garage would be much more appealing to those walking and driving by his home.

Mr. Griffin stated that the reason they are requesting a variation is because the side yard is rather large and the back yard is tight. He added that they would like to build a new garage with a new foundation in the footprint of the existing garage that has been in that location for decades. Mr. Griffin stated that the Historic Preservation Commission approved the plans for their new garage and voted to endorse the variation at this property. Mr. Griffin stated their house is Queen Anne architecture and has been at the subject location for 118 years. He stated that he does not believe any of his neighbors are opposed to him building a new garage.

#### Responses to Questions from the ZBA

Mr. Kvapil responded to ZBA Member Kolar that the subdivision of the subject property and zoning variations were originally approved by the Village Plan Commission. Mr. Kvapil responded to ZBA Member Kolar that the garage was allowed to remain because it was existing and will be re-built in exactly the same location. Mr. Kvapil also responded to ZBA Member Kolar that since the existing garage was constructed under a permit, it met the building code requirements at that time. Mr. Kvapil also responded that when structures were constructed in the past under a code and met all of the code requirements at that time and then they altered or added to a structure, the existing structure is not required to be made to comply with current building code requirements unless there are health or safety issues. Mr. Kvapil clarified for ZBA Member Micheli that the lot subdivided to the north had no impact on the garage or the setback to the garage on the west because the setback had always been 3 feet 6 inches. ZBA Member Micheli asked why the variation states that the existing detached garage was allowed to remain but did not allow it to be reconstructed. Mr. Kvapil stated that there is no specific language in the original ordinance that allowed the existing detached garage to be reconstructed in place and the Zoning Code prohibits nonconforming structures to be structurally altered or reconstructed.

Mr. Griffin responded to ZBA Member LaVanway that a concern of the neighbor at 601 Western Avenue was the height of the proposed garage and he explained to her that the height would be 21 feet 3 or 8 inches which is 6 feet taller than the existing garage. ZBA Member LaVanway stated that the neighbor was not at this meeting to object to the garage, and Mr. Griffin stated she was not opposed to the garage. ZBA Member Kolar stated that if the garage was moved over one foot, a variation wouldn't be necessary and he inquired about setback regulations. Mr. Kvapil responded that there is only one requirement which is if the detached garage gets as close as 10 feet to the house, then setbacks must be the same as setbacks for the principal house. Mr. Griffin responded to ZBA Member Miller that the second floor of the garage will be for storage and will not be heated. ZBA Member Miller also asked if there is a hardship regarding having the foundation further back one foot, and Mr. Griffin responded that the garage has been at its existing location for decades and they would like to locate it on the same footprint as the existing garage. Mr. Kvapil added that if the garage was moved over to a setback of

4-1/2 feet, the edge of the driveway will no longer align with the edge of the garage which is unusual and unnecessary. Mr. Griffin also added that the driveway apron is new.

Persons in Favor of or in Opposition to the Petition

No persons spoke in favor or against the requested variation.

Comments from the ZBA

All but one of the ZBA members were supportive of the petitioner's variation request. Those in favor of the variation request stated there were no objections from neighbors, the garage would be consistent with the architecture and nature of the home, the garage footprint had been at its current location for decades, the garage will enhance the neighborhood, it is logical to keep the same garage footprint and the driveway would be one foot off of the garage if moved. ZBA Member Kolar was not in favor of the proposed variation request because there is room on the property to move the garage from its current location. He also stated that Ordinance 5300 states that the variation to allow the 3.6 foot setback is not in perpetuity. He felt that because the foundation and garage would be new, they could be moved one foot from the current location.

A motion was made to close the public hearing and carried unanimously by voice vote.

Motion

ZBA Member Miller moved, seconded by ZBA Member Bourke, to recommend approval of a variation from the Glen Ellyn Zoning Code, Section 10-5-4(A)4c, to allow the construction of a detached garage with a side yard setback of 3 feet 6 inches in lieu of the minimum required side yard setback of 4 feet 6 inches for the property at 602 Prairie Avenue. The recommendation for approval was based on the fact that if the garage was moved one foot to conform to the code, it would not align with the existing driveway.

The motion carried with five (5) "yes" votes and one (1) "no" vote as follows: ZBA Members Miller, Bourke, LaVanway, Micheli and Chairperson Garrity voted yes; ZBA Member Kolar voted no.

PUBLIC HEARING – 565 LEE STREET

A REQUEST FOR APPROVAL OF A VARIATION FROM THE GLEN ELLYN ZONING CODE, SECTION 10-4-8(D)2, TO ALLOW THE CONSTRUCTION OF A ONE-STORY ATTACHED ADDITION WITH A REAR YARD SETBACK OF 14 FEET IN LIEU OF THE MINIMUM REQUIRED REAR YARD SETBACK OF 40 FEET.

*(John and Jen Atkinson, owners)*

Staff Report

Building and Zoning Official Joe Kvapil stated that John and Jen Atkinson, the owners of the property at 565 Lee Street, are requesting approval of a variation from the Glen Ellyn Zoning Code, Section 10-4-8(D)2, to allow the construction of a one-story addition with a 14-foot rear yard setback in lieu of the minimum required 40-foot rear yard setback. Mr. Kvapil displayed a photo of the subject property and a map of the area and stated that the property is located in the R2 Zoning District and is defined as a corner lot on the northeast corner of the intersection of Willis Street and Lee Street. He added that the zoning and land use surrounding the subject property is single-family residential in the R2 Residential Zoning District. Mr. Kvapil stated that there was a letter in the applicants' packet in support of this variation from the owners of 780 Willis Street. Mr. Kvapil stated that Village records indicate that an ordinance was passed in 1967 permitting an addition on this rear of this home and granting variations from the minimum required side yard and rear yard setbacks. He also stated that many permits have been issued for this property since it was built in 1955. Mr. Kvapil displayed a site plan and stated that variations from the minimum required side yard and rear yard setbacks which did not meet the minimum setback requirements were approved for an addition in 1967. Mr. Kvapil stated that the owners would like to modify their existing home by constructing a one-story addition that is proposed to be 14 feet from the rear yard lot line, however, the Zoning Code does not allow principal structures to be within 40 feet of the rear yard lot line. He added that the proposed addition is 410 square feet in area and meets all other zoning regulations. He stated that although the lot is 113 feet deep and meets the minimum required 110-foot lot depth, corner lots are often not as deep as interior lots and require a greater side yard setback than interior lots which tend to restrict the permitted building area.

Mr. Kvapil stated that the subject property is not located within or adjacent to a designated flood area, however, the intersection of Lee Street and Willis Street appears to be within a depressional area. He added that properties that are adjacent to stormwater areas are reviewed by the Village Stormwater Engineer to determine if any compensatory storage may be necessary to control stormwater runoff. He added that since the development exceeds 300 square feet, a tree preservation plan will be required to be submitted. He added that the subject property is not designated as a landmark or significant home by the Historic Preservation Commission or plaqued by the Historical Society.

Petitioner's Presentation

Jen Atkinson of 565 Lee Street stated that her family has been long-time residents of Glen Ellyn. She stated that one of her family members has been diagnosed with a medical condition which required them to move to a one-story ranch style home. Ms. Atkinson stated that after they moved into their current home, they discovered they do not have enough recreational living space for their family. Ms. Atkinson stated that their hardship is that their lot is awkward in size and because of how the house was built on the lot, they do not have a 40-foot rear yard setback to work with. Ms. Atkinson added that

the neighbors to the rear of their home as well as others in their neighborhood are in favor of the proposed variation request. She added that they have done many improvements to their home over the years and love their neighborhood. Ms. Atkinson stated she was unaware that there was a previous variation granted for their home in 1967.

#### Responses to Questions from the ZBA

Mr. Kvapil responded to ZBA Member Kolar that he did not know what percentage of the required rear yard is taken up by the addition but it does not appear to exceed the maximum permitted impervious surface area. ZBA Member Bourke asked if photos could be taken of the variation areas and distributed to the ZBA Members rather than providing stock photos from Village records. Mr. Kvapil stated that the petitioners could be required to provide photos of the subject area for the variation packets. ZBA Member Micheli asked how often property owners return to the ZBA for more changes regarding lot coverage and/or variations for the same property. Mr. Kvapil responded that that does not happen very often and that over the past six years, there have been 6-8 variations granted for homes that had prior variations granted. Mr. Kvapil also responded that there are no limitations, conditions or restrictions on the number of requests for variations that can be granted for a single property. ZBA Member LaVanway asked if there has been more latitude regarding the subject site because there is more latitude for a corner lot due to its setbacks. Mr. Kvapil responded that a typical interior lot tends to be long and narrow with an adequate rear yard. He added that for some reason when the subject properties were subdivided and corner lots were created, they became square and the disadvantage of that is there 30-50 foot front and corner side yard setbacks required on two sides of the property which creates a more restricted building area on many corner lots. ZBA Member Micheli asked if the 30-foot side lot was stripped off, would the minimum lot still be greater than the minimum required 66 foot interior lot width and would it still be a buildable lot. Mr. Kvapil responded yes.

Ms. Atkinson responded to ZBA Member Micheli that two of their oldest children are 18 and 17 and one will leave home to attend college soon. ZBA Member Kolar asked the petitioner what other possibilities have they considered regarding creating additional space, and Ms. Atkinson responded they have considered building up. She also responded to ZBA Member Kolar that they have considered building a small addition to the front of their home. She stated that their kitchen and dining room are in the rear of their home and they would prefer to have the addition possibly open up to the kitchen in order to create a family area. Mr. Kvapil displayed a street map and added that the front of the subject home is on Lee Street and the petitioners cannot build any closer to Lee Street than the home at 569 Lee Street without another variation request. Ms. Atkinson verified for ZBA Member LaVanway that the neighbor at 780 Willis provided a letter in support of the proposed variation request and added that their back yards are adjacent.

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

No persons spoke in favor or against the requested variation.

Comments from the ZBA

All but one of the ZBA Members were supportive of the subject variation request. ZBA Member Micheli stated he did not see a clear hardship and that his concern is the variation eating up the back yard. He suggested perhaps moving the addition to one side of the lot or the other in order to keep the back yard as is. He added that he feels a medical condition in the family requires a one-story home. ZBA Member Miller was in favor of approving the variation. He stated that finding a ranch home that meets one's needs is difficult and that the only direction the homeowners can build is to the back of the home. He also was supportive because the neighbors behind the subject home were in favor of the variation request. ZBA Member Miller felt that the petitioners showed a clear need for the variation being requested. ZBA Member Bourke was in favor of the variation request and stated that the lot was substantially in compliance with the zoning code. ZBA Member Kolar was not in favor of the variation request because the rear yard setback would be 14 feet in lieu of 40 feet required and added that family size is not a valid Zoning Board hardship issue. ZBA Member LaVanway was supportive of the variation request because of the shape of the lot and the medical condition of a family member. Chairman Garrity added that the Village Attorney had sent information stating that medical conditions are not valid reasons for variations and that reasons for a variation must be related to property.

A motion was made to close the public hearing and carried unanimously by voice vote.

Motion

ZBA Member Miller moved, seconded by ZBA Member Bourke, to grant a zoning variation from the Glen Ellyn Zoning Code, Section 10-4-8(D)2, for the property at 565 Lee Street to allow the construction of a one-story addition with a 14-foot rear yard setback in lieu of the minimum required 40-foot rear yard setback. The recommendation for approval was based on the hardships that the petitioners cannot build forward on their lot due to the placement of their home and the corner lot is odd in shape.

The motion carried with five (5) "yes" votes and one (1) "no" vote as follows: ZBA Members Miller, Bourke, LaVanway, Micheli and Chairperson Garrity voted yes; ZBA Member Kolar voted no.

Trustee Report

Trustee Liaison Elliott stated that the variation request for a screened-in porch on Lincoln Avenue passed at the Village Board meeting.

Staff Report

Mr. Kvapil stated that two variations will be heard at the next ZBA meeting. He also stated that a 7:00 p.m. start time for the ZBA meetings will begin on October 8, 2013.

Mr. Kvapil responded to ZBA Member Miller that he will provide the ZBA Members with information regarding hardships.

There being no further business before the Zoning Board of Appeals, the meeting was adjourned at 8:44 p.m.

Submitted by:  
Barbara Utterback  
Recording Secretary

Reviewed by:  
Joe Kvapil  
Building & Zoning Official