

ZONING BOARD OF APPEALS  
MINUTES  
DECEMBER 10, 2013

The meeting was called to order by Acting Chairperson Gregory Constantino at 7:05 p.m. ZBA Members James Bourke, Larry LaVanway, Meg Maloney and John Micheli were present. ZBA Members Edward Kolar, Chip Miller and Chairperson Rick Garrity were excused. Also present were Trustee Liaison Tim Elliott, Building and Zoning Official Joe Kvapil and Recording Secretary Barbara Utterback.

Acting Chairperson Constantino explained the procedures of the Zoning Board of Appeals.

ZBA Member Bourke moved, seconded by ZBA Member LaVanway, to approve the minutes of the November 26, 2013 ZBA meeting. The motion carried unanimously by voice vote.

CONTINUED PUBLIC HEARING – 475 HILLSIDE AVENUE

THIS PUBLIC HEARING WAS CONDUCTED ON OCTOBER 8 2013 FOR TWO VARIATIONS FROM THE GLEN ELLYN ZONING CODE. THE PUBLIC HEARING WAS CONTINUED TO THE NOVEMBER 12, 2013 ZONING BOARD OF APPEALS MEETING AT WHICH TIME IT WAS FURTHER CONTINUED TO THE NOVEMBER 26, 2013 ZONING BOARD OF APPEALS MEETING. HOWEVER, BASED ON THE APPLICANT'S REQUEST, THE DATE OF THE CONTINUED PUBLIC HEARING HAS BEEN RESCHEDULED TO THIS ZONING BOARD OF APPEALS MEETING ON DECEMBER 10, 2013. (Matt and Susan Johanson, owners, and Jamie Simoneit, petitioners' architect)

Staff Presentation

Joe Kvapil, Building and Zoning Official, stated that on this agenda was a continuation of a request for two zoning variations for the property at 475 Hillside Avenue, Glen Ellyn, Illinois. He distributed to the ZBA members at the meeting the ZBA minutes from the November 12, 2013 meeting and two e-mails from Georgia Dudley and another neighbor of the Johansons'. The zoning variation requests are for a 3-foot side yard setback in lieu of the required 6.5-foot side yard setback and a lot coverage ratio of 23% in lieu of the required 20% lot coverage ratio. (Mr. Kvapil pointed out that the memorandum submitted to the ZBA Members stated that the resulting lot coverage ratio would remain at 25%, however, that was incorrect). Mr. Kvapil displayed the original proposal and the area of the proposed addition and added that a significant amount of area has been eliminated. He stated that a letter and an e-mail from a neighbor in opposition to the variation requests have been submitted to the ZBA. He also stated that at the conclusion of the November 12, 2013 ZBA meeting, the petitioners testified that they would resubmit the variation packet for the next ZBA meeting and would reconsider an alternative design for a tandem garage that would be set back 6-1/2 feet from the side yard setback and would reduce the lot coverage area to 22-1/2%. Mr. Kvapil stated that the variation packet that was submitted for this meeting did not meet that criteria and that

variations are being requested for a 3-foot side yard setback variation and a 23% lot coverage ratio variation.

### Petitioners' Presentation

Jamie Simoneit, architect with Z + O, spoke on behalf of the petitioners. He displayed and described graphics regarding the subject project and stated that the building mass will be moved back 5 feet. He added that they are still 10 feet further ahead of the existing building and that the intent is to avoid a third variation by bringing the building forward to keep it out of the rear yard. He stated that the original structure is currently in violation of the Zoning Code.

Mr. Simoneit stated that although the next-door neighbor has two corner windows at either end, the two windows to the north are larger and have a view to the street. He also stated that two windows at the corner are small service windows. He stated that when the subject addition is moved back 10 feet, the concerns from the previous meeting will be alleviated. He added that that amount is as far back as he can go and still be able to connect for a bedroom upstairs because of the reduced roof lines. Mr. Simoneit added that if he was requesting a full 2-story structure, that concern would be alleviated. He also stated that the proposed structure will be approximately a foot-and-a-half in off of the rear yard setback and that by adding a 1-1/2-story structure, the second floor will be approximately one-third of the size of the footprint. He added that a one-story shed structure will be attached to the rear of the garage.

Mr. Simoneit displayed a plat of survey and drawings of the existing and proposed structure. He stated that the proposed addition will be moved forward in order to have the rear yard become conforming and that the intent is to open up the plane of the subject house so that the view to the Johansons' home is not altered and does not alter the view directly in the true north/true west direction. Mr. Simoneit stated that when the next door neighbor looks out at a 45-degree angle, she can't see out of the window; she is looking into a window mull. He stated that the drawing of the subject house looks similar to previous drawings shown but the ridge height is reduced approximately one foot in an effort to reduce the square footage overall. Mr. Simoneit stated that in the seating area in the neighbor's kitchen are large windows. He added that he is aligning the south face of the neighbor's house to the north face of the subject attached garage, and he displayed an actual view from the neighbor's kitchen window. He stated that the neighbor will be looking at the actual door that she is looking at currently. He displayed drawings of the view from the neighbor's home and stated that he has worked hard to compromise the design. He stated that the main goal of the Johansons is to maintain a two-car garage which has been done and that they will now need to go outside to enter the proposed garage. He stated that what the code allows does not meet the petitioners' desires or objectives and are more detrimental than what the petitioners have proposed. He added that the proposed changes will have a positive effect on the house next door as the property values will be raised.

Matt Johanson, 475 Hillside Avenue, Glen Ellyn, Illinois and his wife are the homeowners of the subject property. He stated that they purchased their home 14 years ago and that he and his wife view their situation as a hardship. Mr. Johanson stated that their current upstairs has two bedrooms and one bathroom and one must walk through a bedroom to reach the bathroom. He added that the zoning code has changed since they purchased their home which requires them to seek variations. He stated that they would like a side yard variation in order to stay on the line that they are currently on. He stated that they have had an attached garage for the last 14 years which is an investment to them and that it will be a hardship if they cannot maintain the garage. Mr. Johanson stated that there is no other available option that will allow them not to have the loss of their investment without a side yard variance. He stated that their requested proposal is the very minimum width for a 2-car garage and that they would like to keep the proposed garage on the same lines as their existing garage. He added that there is no option without a variation to keep the investment that they have made with an attached 2-car garage. He added that a detached garage in the back would require paving and space removed from the back yard and they would still have a side building so that they could have space upstairs. He added that with the detached garage, they would have the exact same structure that they are proposing on the side of the house 3 feet back plus a detached garage and extra paving. He added that their neighbor's view would be of her garage and his garage and she would have the same view 3 feet back. Mr. Johanson stated that there is no option without the variation and they hope to be able to maintain the investment they have made in their home. Mr. Johanson stated that they have tried to minimize the impact on their neighbors and appreciate how difficult it is to balance the Village's and neighbors' needs. The new proposal will bring the building back and will leave the side line for the neighbor and will be 3 feet one way or the other. He stated they have pushed the addition back as far as it can go and added that they no longer have access from the house to the garage without going outside. He added that the upstairs layout has been changed and the size of the garage has been significantly reduced in order to balance the needs of all parties involved. He added that they don't have the option of maintaining their investment without the requested variations.

#### Questions from the Zoning Board of Appeals

Mr. Kvapil responded to ZBA Member Micheli that it would not be unusual for 3-foot side yard setbacks to be granted for accessory structures, however, he is not aware of 3-foot setbacks being granted for principal structures. He also stated that a garage becomes a principal structure when it is attached to a house. ZBA Member Micheli stated that this situation will set a new precedent. Acting Chairperson Constantino asked if the new proposed structure will be any closer to the street than the current structure is, and Mr. Kvapil responded yes but that it will be within required setbacks. Mr. Simoneit responded to ZBA Member Bourke that the petitioners' outdoor lights will have shades so that the light will shine straight down. ZBA Member LaVanway stated that the minutes from the November 12, 2013 ZBA meeting state that there had been a discussion between Ms. Dudley and the petitioners about the possibility of modifying the plans with a tandem garage that Ms. Dudley would be in agreement with,

however, the plan proposed at this meeting did not conform to that agreed upon plan. Mr. Simoneit replied that he met with the homeowners, however, they were not interested in that plan. He also responded that he did not meet with Ms. Dudley regarding the new plan. Acting Chairperson Constantino stated that he thought that zoning variations would be eliminated with the new proposed plan. Mr. Simoneit stated that a lot coverage ratio of 22-1/2% would still be required with the new plan and that removing the shed off the back would not change the lot coverage ratio. Mr. Simoneit responded to ZBA Member Micheli that the purpose of adding to the second floor would be to add a third bedroom to the home. Mr. Simoneit responded to ZBA Member Bourke that the tool shed will be accessed through the back of the garage. Mr. Simoneit responded to ZBA Member Bourke that the shed will now be further to the west and one foot out of compliance with some overall reduction in size. Mr. Simoneit also stated that the original mass of the gable and peak are also 2 feet shorter than they were previously. Acting Chairperson Constantino asked if a side yard variation was not being requested, would there be no restriction regarding where the northerly most portion of the garage would be and Mr. Simoneit responded he could slide it all the way up to the front of the house. He added that if no improvements were made, this house could be torn down and a builder could expand the location and size of a new house. He added that the existing garage is 214 square feet and the new garage has been reduced in size and is in violation of the side yard setback by 89 square feet. Mr. Simoneit confirmed for ZBA Member Bourke that the petitioner intends to eliminate one variation totally and substantially reduce the other two variations. Mr. Kvapil added that the garage addition is being constructed 10 feet closer to the street which will cause the garage to be brought into conformance with the code and will result in a rear yard improvement in visibility, light and air for the neighbor.

#### Persons in Favor of or in Opposition to the Variation Requests

No persons spoke in favor of or in opposition to the variations requests.

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

#### Comments from the ZBA

All of the ZBA Members were in favor of approving the variations being requested. ZBA Member Maloney stated she was supportive because she felt the petitioners have an extreme hardship related to their property and they have revised their plans to conform more to the code. She added that she also did not have a problem with the revised plans because the neighbors' window would no longer be blocked. ZBA Member LaVanway was undecided and felt it was unprecedented to allow a side yard setback variation for a main structure. He stated he was also disappointed because there had been an agreement made regarding a tandem garage after the last meeting but that is no longer in effect and the requested variations do not conform with the neighbor's request. He also added that there are options that can be built

that would be worse than the requested variations. ZBA Member Bourke was supportive of the petitioners' variation requests. He appreciated the petitioners' efforts to reduce the zoning variations for the back yard and side yard and stated that the fact that the request is precedent setting does not bother him. He stated he was sympathetic to the neighbor but felt that efforts have been made to alleviate her concerns. ZBA Member Micheli then felt that the neighbor's concerns regarding the petitioners' variation requests were fair and he was not happy that her expectations were dashed last Friday afternoon. He stated he would be willing to support the project but needed more information and added that he was not certain that a pass-through bathroom was a significant hardship. He also felt that the existing garage footprint could be maintained. At ZBA Member Micheli's request, Mr. Simoneit displayed and described diagrams illustrating the proposed variation requests, and ZBA Member Micheli felt that a hardship was demonstrated and was supportive of the variation requests. Acting Chairperson Constantino expressed concern that the neighbor was not notified in a timely manner regarding the proposed changes, however, he was supportive of the reduced variation requests. (Mr. Kvapil added that there is no requirement that a petitioner must provide documents to a neighbor regarding their variation request). After listening to the other ZBA members, ZBA Member LaVanway stated he was supportive of the variation requests.

The ZBA Members voted to close the public hearing.

#### Motion

ZBA Member Micheli moved, seconded by ZBA Member Bourke, to approve two (2) variations from the Zoning Code for 475 Hillside Avenue. The variations are from Section 10-4-8(D)3 to allow construction of a 2-story attached garage addition with a 3-foot side yard setback in lieu of the minimum 6-1/2-foot side yard setback and to Section 10-8-6(B)3 to allow construction of a 2-story attached garage addition with a 23% lot coverage ratio in lieu of the maximum permitted lot coverage ratio of 20% with the restriction that the lights on the garage be limited to three footcandles along the east lot line and that the light be fully shaded on all sides except for facing down and to use cedar and/or fiber cement siding.

The motion carried unanimously with four (4) yes votes and zero (0) no votes as follows: ZBA Members Micheli, Bourke, LaVanway and Acting Chairperson Constantino voted yes.

#### Trustee Report

Trustee Elliott stated that two variation requests were approved at last night's Village Board meeting.

Staff Report

Mr. Kvapil stated that the next ZBA meeting is scheduled for the second Tuesday in January, 2014.

The meeting was adjourned at 8:26 am.

Respectfully submitted,

Barbara Utterback  
Recording Secretary

Joe Kvapil  
Building and Zoning Official