

ZONING BOARD OF APPEALS  
MINUTES  
MAY 13, 2014

The meeting was called to order by Chairperson Rick Garrity at 7:05 p.m. ZBA Members James Bourke, Greg Constantino, Edward Kolar, Larry LaVanway, John Micheli and Chip Miller were present. Also present were Trustee Liaison Pete Ladesic, Building and Zoning Official Joe Kvapil and Recording Secretary Barbara Utterback. Chairperson Garrity stated that student ZBA Member Meg Maloney has resigned from the ZBA as she will be attending college in the fall. Although ZBA Member Maloney was not present, Chairman Garrity thanked her for her service. He also congratulated her on receiving the prestigious Livingston Award at her high school.

Chairperson Garrity explained the procedures of the Zoning Board of Appeals.

ZBA Member Kolar moved, seconded by ZBA Member Miller, to approve the minutes of the April 8, 2014 Zoning Board of Appeals meeting. The motion carried unanimously by voice vote.

On the agenda was a public hearing regarding the property at 795 Hill Avenue.

PUBLIC HEARING – 795 HILL AVENUE

A REQUEST FOR APPROVAL OF TWO VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-4-1(K)1 TO ALLOW CONSTRUCTION OF A SINGLE-FAMILY DWELLING ON LOT 4 AND THE SALE OR SEPARATION OF LOT 4 FROM LOT 3 ALTHOUGH THESE LOTS CAME UNDER THE COMMON OWNERSHIP OF RICHARD AND JENNIFER ROLINSKI ON JUNE 28, 2003 IN LIEU OF THE REQUIRED DATE OF JUNE 1, 1989. 2. SECTIONS 10-4-1(K)2 AND SECTION 10-4-1(J)4b TO ALLOW CONSTRUCTION OF A SINGLE-FAMILY DWELLING ON LOT 4 AND THE SALE OR SEPARATION OF LOT 4 FROM LOT 3 ALTHOUGH 33% OF THE IMPROVED LOTS ON THE BLOCK FRONTING ON HILL AVENUE ARE THE SAME OR LESS LOT WIDTH THAN LOT 4 IN LIEU OF THE MINIMUM REQUIRED 75%.

(Richard and Jennifer Rolinski, owners)

Staff Presentation

Joe Kvapil, Building and Zoning Official, stated that Richard and Jennifer Rolinski, the petitioners and owners of the property at 795 Hill Avenue, are requesting two variations from the Zoning Code as follows: 1. Section 10-4-1(K)1 to allow construction of a single-family dwelling on Lot 4 and the sale or separation of Lot 4 from Lot 3 although the lots came under the common ownership of Richard and Jennifer Rolinski on June 28, 2003 in lieu of the required date of June 1, 1989. 2. Sections 10-4-1(K)2 and Section 10-4-1(J)4b to allow construction of a single-family dwelling on Lot 4 and the sale or separation of Lot 4 from Lot 3 although 33% of the improved lots on the block fronting on Hill Avenue are the same or less lot width than Lot 4 in lieu of the minimum required 75%. Mr. Kvapil displayed a map and stated that the subject property is two lots on the corner of Bryant Avenue and Hill Avenue. He stated that the petitioners would like

to separate Lot 4 from Lot 3 and sell Lot 4 for the purpose of constructing a new single-family home on that lot and that the two lots came under common ownership of the petitioners on June 28, 2003. Mr. Kvpil stated that the subject property is located in the R2 Zoning District and is defined as a corner lot on the southwest corner of the intersection of Hill Avenue and Bryant Avenue. He added that the zoning and land use surrounding the property is R2 Single Family Residential. He also stated that there have been a number of alterations and remodelings of the subject property since the year 2000, however, no zoning variations have been approved for this property. Mr. Kvpil stated that neither lot conforms to the code as the width of Lot 3 which is an interior lot is not the minimum 66 feet wide and Lot 4 which is the corner lot is not the minimum corner lot width of 80 feet. He added that prior to 1989, the Zoning Code stated that any lot that was a minimum of 50 feet wide and 6,534 square feet (corner or interior lot) was buildable. He added that both of the subject lots meet this requirement. Mr. Kvpil stated that in 1989 the code was revised to add more restrictive limitations on building on two nonconforming adjacent lots under common ownership. Mr. Kvpil stated that the code changed in 1989, one could still divide one's property into two separate lots and build on them provided that 15 different criteria in Zoning Code Section 10-4-1(K) were met. He stated that two variations are being required regarding the subject property because the petitioners meet only 13 of those 15 requirements. The first requirement that was not met is that the petitioners did not own the property on June 1, 1989. The second requirement was that lots with narrow widths could be separated, divided and built upon, however, 75% of the lots on the block had to be the same or less lot width. He added that this requirement is not met because only 33% of lots with improved homes are less than 55 feet wide. He added that Lot 4 fronts on Hill Avenue so the code applies to homes on Hill Avenue between Taylor Avenue and Bryant Avenue. He also stated there are, however, many homes in the area on Bryant Avenue that are less than 55 feet wide.

Mr. Kvpil stated that the subject property is not in a designated flood area or a local depressional area. He also stated that topographical maps indicate the property has a moderate slope to the east and accepts run-off from adjacent properties, flows across to the east and discharges onto Bryant Avenue for the most part. He added there should be no impact on any neighboring homes if Lot 4 is developed as there are no stormwater issues there. Mr. Kvpil also stated that the subject property is not located in an historic district nor has any historic designation.

Mr. Kvpil stated because Lot 4 is long and narrow, the buildable area is long and narrow. He stated that because the lot has never been built on, the setbacks are allowed to be the original setbacks without regard to homes built on either side and can, therefore, be as close to Hill Avenue as 30 feet. He also stated that the rear yard setback is 40 feet, the corner side yard setback is 17 feet and the side yard setback line is 6-1/2 feet. He added that the maximum lot coverage area includes most of the buildable area on the lot and that the lot is approximately 8,000 square feet. He added that a 2-story home with a 1,600 square foot footprint could be built on the lot.

Questions to Staff from the Zoning Board of Appeals

Mr. Kvapil responded to ZBA Member Kolar that the 55-foot lot width as stated is a rough approximation as plans have not been received. Mr. Kvapil also responded to Chairperson Garrity that changes to Lot 3 would include removing part of the driveway to lessen impervious surface. Mr. Kvapil responded to ZBA Member Constantino that one person came to the Village offices to express concern regarding the placement of a structure in the rear yard of Lot 4 that would obstruct their view, light and air. Mr. Kvapil indicated for Chairperson Garrity where a detached garage could be built in the rear yard of Lot 4. Mr. Kvapil responded to ZBA Member Bourke that there is no definition of neighborhood in the Zoning Code and that the notification diagram includes properties within 350 feet of the subject property. ZBA Member Bourke asked how far the permissible building in Lot 4 goes in front of Lot 3, and Mr. Kvapil responded approximately 17 feet. Mr. Kvapil also responded to ZBA Member Bourke that the corner side yard setback on Bryant Avenue for the buildable area for the house is 17 feet. ZBA Member Bourke said it was stated that a garage can be built at 18 feet and Mr. Kvapil agreed. Mr. Kvapil responded to ZBA Member Kolar that the subject lots are not grandfathered as they do not meet two conditions of the code. ZBA Member Kolar asked what the code currently requires for the minimum square footage of a buildable lot, and Mr. Kvapil replied 8,712 square feet. Mr. Kvapil agreed with ZBA Member Kolar that two non-buildable lots will be created. Mr. Kvapil responded to ZBA Member Kolar that the future owner of Lot 4 could return to the ZBA with requests for variations. Mr. Kvapil responded to ZBA Member Micheli that this is the first time he has received this type of variation request. ZBA Member Micheli also stated that if the two lots were split, the lots together would still be 41 feet short of two normal lots given the 55 feet across of buildable area which he felt was a large number. ZBA Member Micheli also asked if the lot would be more functional if it was subdivided east/west instead of north/south using the 167-foot long dimension to pull out to 65 which would have a 110-foot depth on one side and a 100-foot depth on the other side. Mr. Kvapil replied that another criteria is that the subject lots had to be recorded prior to 1974 and both of these lots met that criteria. He added that at one time, they were intended to be buildable lots in the Zoning Code until 1989 and then, if they were under common ownership and one of the lots was vacant, they were considered to be one lot because they are both nonconforming except if you are the original owner and the 15 criteria can be met, you can subdivide the lot and build on the vacant lot. ZBA Member Micheli stated that since the ZBA is considering creating two lots, it might be in the best interest of the Village and all parties involved if the two most functional lots as possible were created. He asked if 167-foot length east/west lots would create more functional lots. Mr. Kvapil responded that a re-subdivision review would be required and that lots cannot be re-subdivided if they do not meet all of the current zoning requirements for lot depth, lot width and lot area. Mr. Kvapil responded to ZBA Member Micheli that a variation would be required if they did not meet all of these zoning requirements. Mr. Kvapil also stated that all of the structures on the lot would need to be brought into compliance and that the entire home would be noncompliant. He added that it would require a much more substantial variation to resubdivide these two lots in the east/west direction than it would be for the requested

variation. ZBA Member Miller asked what lot sizes are now in Glen Ellyn as compared to what the subject lot sizes were when originally laid out, and Mr. Kvapil responded that new lot sizes are now much larger. Mr. Kvapil responded to ZBA Member that Ordinance 19479 related to an increase in the water service size to the dwelling on Lot 3. Mr. Kvapil responded to ZBA Member LaVanway that a home built on Lot 4 could extend up to the minimum 30-foot front yard setback from Hill Avenue because it is the first structure on this lot regardless of what the homes are on either side.

### Petitioners' Presentation

Richard and Jennifer Rolinski, the petitioners and owners of 795 Hill Avenue, were present. Mr. Rolinski stated that their home on Lot 3 was built in 1927 and the intent was to also build on Lot 4. He stated that in 1989, the Village rules changed and Lot 3 became different than other lots. He stated that they feel they are adversely selected because of the Zoning Code as houses are being built on empty lots that had existing properties on them. He stated that a home was recently built at 488 Carleton Avenue which is a corner lot with the same severe setbacks as the subject lot. He added that the Carleton Avenue lot was actually 10 feet less than the width of Lot 4 with a detached rear garage. Mr. Rolinski stated they would like to sell the lot now as the tax bill for that property is \$3,400.

Mr. and Ms. Rolinski showed a photo of their home and stated that the porch was removed when their home was re-sided approximately five years ago. He stated that their property has two curb cuts—one on Bryant Avenue and one on Hill Avenue—and that one curb cut services Lot 3 and one curb cut services Lot 4. He added that the curb cuts are existing currently. He also stated that there are buffalo boxes for Lot 3 and Lot 4 and displayed photos of their locations. Mr. Rolinski added that their home is a Montgomery Ward house that was built in 1927. He felt that a home commensurate to their home on Lot 3 could be built on Lot 4 and provide tax revenue to the Village and bring another family into the Village. Ms. Rolinski stated that they have a hardship as Lot 4 was not built on previously.

### Correction

Mr. Kvapil stated that Trustee Ladesic pointed out a correction to be made. Mr. Kvapil stated that there is another exception for corner lots that are nonconforming. He stated that a corner side yard setback is 30 feet except on a parcel with a nonconforming lot width, the minimum corner side yard setback is 30% of the lot width. He added that 30% of 55 is 16-1/2 feet. He added it now looks more feasible within that area to construct a home with atypical proportions. Mr. Rolinski stated that the setback could be kept to the frontage of Hill Avenue, and ZBA Member Bourke added that also would give the architect more flexibility.

Additional Questions from the Zoning Board of Appeals

ZBA Member Constantino asked the petitioners if they checked with the Village when they purchased their home regarding whether or not the vacant lot would be buildable at that time, and Mr. Rolinski stated that their realtor felt the lot could be buildable but would have severe setbacks. He stated that they now have an excessive tax bill for the additional property and a burden to cut the lawn and do not have a need for the lot. Mr. Rolinski responded to ZBA Member Constantino that they are not currently under contract to sell the lot or under negotiations to sell the lot. Mr. Rolinski also stated that they have two P.I.N. numbers and two tax I.D. numbers regarding the lots; therefore, they cannot sell the lot free and clear. ZBA Member Kolar stated that the code changes were made in 1989 and the petitioners purchased their home in 2003—14 years after the code change. He added that whatever occurred in 1925 no longer is valid, however, Mr. Rolinski felt it is valid as a home could be built on the site that would support the tax base and community. ZBA Member Miller stated that the new owners of the subject lot could build a new home that is 17 feet in front of the petitioners' home, and Mr. Kvapil responded that a condition could be placed on approval that any new house could not be closer to Hill Avenue than the existing home. ZBA Member Kvapil stated that the buildable area then shrinks by 17 feet. ZBA Member Miller stated that one does not build small houses in Glen Ellyn and whomever purchases the lot will probably appear before the ZBA to ask for variations. Ms. Rolinski stated that it did not seem right that a house that was not monstrous could not be built in Glen Ellyn and she added that there is only one original house on their block. Chairman Garrity asked if a house that is the size of the house on Lot 3 could be built on Lot 4, and Mr. Kvapil replied yes and added that the buildable area is adequate to have the full 20% lot coverage ratio. Mr. Kvapil responded to ZBA Member Kolar that a new house would most likely face onto Bryant Avenue. ZBA Member Micheli asked if the petitioners had spoken to the Park District about purchasing the lot, and Mr. Rolinski stated that might be a fine addition to the community. Mr. Kvapil responded to ZBA Member Micheli that the maximum permitted lot coverage area of 1,600 square feet can be configured in the buildable area of the lot relatively easily. Mr. Kvapil responded to ZBA Member Miller that the petitioners' two lots are considered to be one zoning lot.

Persons in Favor of or in Opposition to the Variation Requests

Wes Lujan, 386 Bryant Avenue, Glen Ellyn, Illinois expressed support to Mr. and Ms. Rolinski and stated he has seen some nice structures on small lots. Mr. Lujan stated he would be dismayed to see someone demolish the existing home and build a larger home in its place. He added that having a home built for another family to live in would be welcome in the neighborhood.

Comments from the Zoning Board of Appeals

ZBA Member Constantino stated that there is a hardship, however, did not know if the hardship was attributable to the land. He stated that the petitioners missed the code change by 14 years and if they had investigated the issue in 2003, they would have realized it was not an automatic opportunity to build on Lot 4. He stated that one of the concerns is that the property does not yield a reasonable return, however, a variation should not be granted solely to make money. He stated he was conflicted as the request is economically driven but was not in favor of the variation. Mr. LaVanway stated he was conflicted as this case is unusual but was more in favor than against the variation request. He stated this home would be consistent with the neighborhood if it faced Bryant Avenue. He also stated that the original intent was to have two lots at the subject location because of the two buffalo boxes and two driveways. He stated that someone spoke at the meeting in favor of the request and was not aware of anyone against the request. He stated that are just a few conflicts, one of which weighs heavily and is that they did not do their due diligence ahead of time regarding the second lot. ZBA Member Bourke stated the petitioners are 87% on board with the 15 requirements and a house on that property would be in character with the neighborhood. He felt that the economic argument is a strong one on the con side but the hardship is that he is paying \$3,400 per year for a piece of property that he cannot sell in its existing condition and his family condition has changed. He added that a man should be able to sell his property. He stated he was in favor of the variation requests. ZBA Member Kolar stated that the property can be sold as one lot. He stated that economic issues are not the purview of the ZBA per the code. He stated that both curb cuts are being used by Lot 3 because the garage opens to the north and the driveway opens to Bryant Avenue. ZBA Member Miller stated there are a lot of pros but he is also torn regarding some cons. He felt that the covenants should have been looked at when the home was purchased. He also stated he was concerned regarding a home looking out of character on the lot because of the long shape of the lot. He also was conflicted regarding his vote. ZBA Member Micheli was in favor of voting to approve Section 10-4-1(J)4b to allow separation of the lot and deny the buildability of that separated lot. ZBA Member Kolar stated that the Village Attorney could advise the Village Board regarding this situation.

Mr. and Ms. Rolinski stated they would like additional time to review the presented option. ZBA Member Bourke moved, seconded by ZBA Member LaVanway, to table the motion and give the petitioners time to discuss the motion and to get an opinion from the Village Attorney regarding whether or not this plan is legal. The motion carried unanimously by voice vote.

Trustee Report

Trustee Ladesic stated that the budget was recently approved.

Staff Report

Mr. Kvapil stated that two items will be heard at the next ZBA meeting

The meeting was adjourned at 9:06 p.m.

Submitted by:

Barbara Utterback  
Recording Secretary

Joe Kvapil  
Building and Zoning Official