

ZONING BOARD OF APPEALS
MINUTES
NOVEMBER 25, 2014

The meeting was called to order by Chairperson Rick Garrity at 7:00 p.m. ZBA Members Greg Constantino, Sean Gardner, Larry LaVanway, John Micheli and Chip Miller were present. ZBA Members James Bourke and Edward Kolar were excused. Also present were Trustee Liaison Jim Burket substituting for Trustee Liaison Pete Ladesic, Building and Zoning Official Joe Kvapil and Recording Secretary Barbara Utterback.

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

ZBA Member Miller moved, seconded by ZBA Member Constantino, to recommend approval of the Zoning Board of Appeals minutes from October 14, 2014 and October 28, 2014. The motion carried unanimously by voice vote.

On the agenda was a public hearing regarding the property at 450 Phillips Avenue.

PUBLIC HEARING – 450 PHILLIPS AVENUE

A REQUEST FOR APPROVAL OF FIVE VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-4-1(N)3 TO ALLOW THE CONSTRUCTION OF A SECOND FLOOR AND TWO-STORY ADDITION WITH A FRONT YARD SETBACK OF 23.5 FEET IN LIEU OF THE MINIMUM REQUIRED FRONT YARD SETBACK OF 25 FEET. 2. SECTION 10-4-8(E)4 TO ALLOW THE CONSTRUCTION OF A SECOND FLOOR AND TWO-STORY ADDITION WITH A CORNER SIDE YARD SETBACK OF 13.5 FEET IN LIEU OF THE MINIMUM REQUIRED CORNER SIDE YARD SETBACK OF 14.6 FEET. 3. SECTION 10-5-5(B)4 TO ALLOW THE CONSTRUCTION OF A SECOND FLOOR AND TWO-STORY ADDITION WITH A CHIMNEY CORNER SIDE YARD SETBACK OF 11.9 FEET IN LIEU OF THE MINIMUM REQUIRED CHIMNEY CORNER SIDE YARD SETBACK OF 12.6 FEET. 4. SECTION 10-8-6(B)3 TO ALLOW THE CONSTRUCTION OF A SECOND FLOOR AND TWO-STORY ADDITION THAT ALTERS THE EXISTING EXTERIOR WALL AND ROOF AREA BY OVER 50%. 5. SECTION 10-8-6(B)3 TO ALLOW THE CONSTRUCTION OF A SECOND FLOOR AND TWO-STORY ADDITION THAT INCREASES THE EXISTING FLOOR AREA BY OVER 75%.

(Dan and Kathy Melady, owners)

Staff Presentation

Building and Zoning Official Joe Kvapil stated that Dan and Kathy Melady, the petitioners and owners of 450 Phillips Avenue, are requesting approval of five variations from the Glen Ellyn Zoning Code. Mr. Kvapil displayed a photo of the subject property which he felt accurately represents the conditions on the existing site. He stated that the petitioners are requesting variations to allow the construction of a second floor and two-story addition with a front yard setback of 23.5 feet in lieu of the minimum required front yard setback of 25 feet, the construction of a second floor and two-story addition with a corner side yard setback of 13.5

feet in lieu of the minimum required corner side yard setback of 14.6 feet; the construction of a second floor and a two-story addition with a chimney corner side yard setback of 11.9 feet in lieu of the minimum required chimney corner side yard setback of 12.6 feet, the construction of a second floor and 2-story addition that alters the existing exterior wall roof area by over 50% and the construction of a second floor and two-story addition that increases the floor area by over 75%. Mr. Kvapil stated that the property is in the R2 Residential Zoning District and is identified as a corner lot on the northeast corner of the intersection of Phillips Avenue and Prospect Avenue. He added that the land use surrounding the subject property is single-family residential.

Mr. Kvapil stated that Village records indicate that a zoning variation was granted in 2009 for this property and, although extended, expired in 2011. He displayed a copy of that original ordinance which granted the same five zoning variations currently being requested by the petitioners plus two additional zoning variations. He stated that these requests are a reduction in scope from the ordinance that was approved in 2009. Mr. Kvapil stated that Village records also indicate that some building permits were issued for this property in the past.

Mr. Kvapil stated that the site plan for this property indicates the required setbacks of the nonconforming locations and that the lot is a nonconforming lot in width and area. He stated that the house is positioned on the lot with a nonconforming front yard and a nonconforming corner side yard. He stated that the owners propose to construct a second floor addition directly over the first floor, not including the porch, and a two-story addition to the rear of the home.

Pointing out the variations on a diagram, Mr. Kvapil stated that the first variation is to construct a second floor addition with a front yard setback of 23.5 feet in lieu of the minimum required front yard setback of 25 feet. He stated that the first floor is currently 23.5 feet from the front yard setback line so when the second floor is constructed above the first floor, it will encroach into the front yard setback; therefore, the only nonconforming area is the second floor area. Mr. Kvapil added that the first floor of the house is existing nonconforming and when a second floor is constructed above that floor, a nonconforming strip that encroaches into the front yard setback will be built. Mr. Kvapil added that a similar situation occurs in the corner side yard setback. He stated that the required setback is 14-1/2 feet and the existing first floor is only 13.5 feet so when the second floor is constructed over the existing first floor, it then encroaches into that required 14.6 feet by 1.1 feet. He added that the 1.1-foot wide and 27 feet long strip is not the conforming area only on the second floor. He also stated that the first floor is existing nonconforming. Mr. Kvapil added that the chimney is a special case because the Zoning Code has a special exception that allows chimneys to encroach into side and corner yards beyond the principal structure. He added, however, that it still exceeds the allowance for the encroachment so it is allowed to encroach and be as close as 12.6 feet to the corner side yard. He added that it is actually 11.9 feet so in order to allow this chimney to remain and to be

constructed above the first floor and the roof, a variation is required. Mr. Kvapil stated that the last two variations have to do with the magnitude of the impact on the existing surface area and the floor area of the existing house. He also stated that the alteration limit for a nonconforming house on a nonconforming lot is 50% and the proposed additions will alter the existing wall and roof area by more than 50%; therefore, a variation is required. Mr. Kvapil stated that the floor area of the existing house cannot be increased more than 75% of the existing floor area and the second floor and addition will result in an increase larger than 75% which requires a zoning variation. Mr. Kvapil added that the subject home meets all other zoning code requirements including lot coverage area, building height and rear and interior side yard setbacks.

Mr. Kvapil stated that the property is not located in any designated flood area or depressional area. He stated that the topographical map indicates that the home at 450 Phillips is at the same elevation as the adjacent home at 456 Phillips and both homes have lots that slope to the north and 450 Phillips also slopes to the west and into Prospect Avenue and also to the south into Phillips Avenue. Mr. Kvapil also stated that the addition does not exceed 300 square feet, therefore, a tree preservation permit and plan is not required and a stormwater drainage plan is not required for review. He also stated that the subject property is not located in an historic district and is not landmarked nor designated as a significant home designated by the Historic Preservation Commission. Mr. Kvapil also stated that the location map of the subject site was somewhat misleading regarding the location of some homes.

Petitioners' Presentation

Daniel Melady, the petitioner, stated that the practical difficulties in this case are that they have an existing nonconforming structure and an existing nonconforming lot so essentially any building upward of their perimeter walls to the west and south would require a variance. He added that they are not adding anything beyond the second story and not going beyond the exterior walls of the current structure. He also stated that as they went through the planning process with their architect, they learned there is no way in which they could get beneath the allowed 50% alteration percentage. He added that the practical hardship in their case is that they have existing nonconformities. Mr. Melady added that while they did not submit anything formal, they have had discussions with neighbors and all have been in support of their plan.

Questions from the Zoning Board of Appeals

Mr. Kvapil responded to ZBA Member Constantino that the altered area is 62% of the existing home. He added that if the two-story addition was not included in this proposal, all they would have for an altered surface area is the roof. He also stated he would need to determine if the addition contributes 12% as an altered area of 50% would not require a variation.

Mr. Kvapil responded to ZBA Member LaVanway that he did not receive any communication from neighbors regarding the proposed project. ZBA Member Micheli asked if there have been any significant changes to the code that would affect this type of request as granted in 2009-2011, and Mr. Kvapil replied no and distributed a copy of those minutes to the ZBA members.

Persons in Favor of or in Opposition to the Proposed Request

Patrick Melady, 285 S. Milton Avenue, Glen Ellyn, Illinois, stated he is the father of the petitioner. He stated that he was a member of the Plan Commission when teardowns first began to occur and, at that time, the first few homes were built to the maximum size allowed by the building code. He stated that the Zoning Code has been revised many times since then and provisions were made to try to preserve the character of Glen Ellyn's housing stock while allowing the houses to be as modern as any community. He stated that what the petitioners are trying to do addresses that very well. Mr. Melady added that the petitioners are trying to update their 94-year-old home on a nonconforming lot while preserving its character.

Thomas Knapp, the petitioners' architect, 320 N. Main Street, Lombard, Illinois stated that they did a preliminary design and a strong effort was made to fit the second floor addition into the zoning requirements without variances. He stated that the second floor addition was designed to meet all of the yard requirements and they made a very strong effort to come in under the 50%-75%. He added that they were very close which was very difficult to do but there was an additional limit in the zoning ordinance specifically about existing nonconforming uses which made it a requirement to have a variance either way no matter what they had done. After they learned that a variance was required, they enlarged the structure somewhat in order to make the rooms more generous in size. Mr. Knapp stated that the proposed addition is modest and will change the home from a 2-bedroom/1 bath home to a 3-bedroom/2-1/2 bath home. He added that the intent of the addition is to match the zoning requirements that are required. He added that the character of the addition is in keeping with the character of the structure.

Janet Foote, 392 Prospect Avenue, Glen Ellyn, Illinois asked how far into the back yard the addition will be, and Mr. Knapp responded the addition will not go into the back yard any farther than the building currently is. Ms. Foote also asked if sunlight into her yard will be affected by the proposed addition, if snow and ice will be impacted by the proposed addition and if there will be visibility issues around the corner caused by the addition. Mr. Kvapil responded that the plans indicate that the maximum roof height at the peak is 27 feet and the maximum permitted roof height at the peak is 32 feet in this zoning district so it is less than permitted and would help the situation. Mr. Kvapil added that the setback on the east side of the home to the property line is 8.8 feet which is more than the 6-1/2 feet required. He stated that the house is set back more from the property line and lower than required so both of those conditions would contribute to more light, air and visibility around the home than is actually permitted. Ms. Foote responded to ZBA Member Miller that she was satisfied with the responses to her questions.

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

Comments from the Zoning Board of Appeals

ZBA Member Micheli stated that the subject requests are fairly easy as they have gone through the Zoning Board of Appeals previously, the requests are reasonable, the construction is in keeping with the neighborhood, there is a significant hardship with the size of the lot and the existing construction, and the intent is to keep the addition within the character of the neighborhood. He added that he would support all of the requested variations. ZBA Member Miller also was in favor of the requested variations. He felt that the homeowners had done a good job in trying to maintain the character of their home and not add any additional space to the footprint. ZBA Member LaVanway stated he was in agreement with ZBA Members Micheli and Miller regarding the requested variations. ZBA Member Gardner was supportive of the proposed variation requests because he felt the variations maintain the integrity of the home and will be a plus for the neighborhood. ZBA Member Constantino also recommended approval of the variations as the owners did not cause the condition, the addition will not materially alter the characteristics of the neighborhood, the addition is straight-up, previous variations were granted but not built and the addition will be within the character of the neighborhood.

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

Motion

ZBA Member Miller moved, seconded by ZBA Member LaVanway, that after considering the application of Dan and Kathy Melady, the petitioners, and the testimony and evidence presented at this public hearing, the Zoning Board of Appeals recommended approval of the requested variations after deliberations and the following: That the variations, if granted, will not alter the essential character of the locality, that the variations will not impair adequate light and air to adjacent properties, increase fire hazard or danger to adjacent properties, or impair the public health and safety, and that the plight of the owner is due to unique circumstances, practical difficulties or particular hardships, in particular, the existing lot and structure are both legal nonconforming and except for 57 square feet, the addition does not add anything onto the footprint of the structure. The requested variances have been passed before by previous Zoning Board of Appeals and Village Board members and that there really is no way for them to get below the 50% wall/roof variation.

The motion carried unanimously with five "yes" votes and zero "no" votes as follows: ZBA members Miller, LaVanway, Constantino, Micheli and Chairperson Garrity voted yes.

Trustee Report

Trustee Liaison Burket stated the Village Board has been working on the budget.

Staff Report

Mr. Kvapil explained for ZBA Member Miller that the 690 Grand project will be on the agenda for the December 8, 2014 Village Board meeting. He added that the next regularly scheduled ZBA meeting will be on December 23, 2014.

The meeting was adjourned at 7:55 p.m.

Submitted by:

Barbara Utterback
Recording Secretary

Joe Kvapil
Building and Zoning Official