

ZONING BOARD OF APPEALS
MINUTES
DECEMBER 23, 2014

The meeting was called to order by Chairperson Rick Garrity at 7:00 p.m. ZBA Members James Bourke, Greg Constantino, Edward Kolar, Larry LaVanway, John Micheli and Chip Miller were present. ZBA Member Sean Gardner was excused. Also present were Trustee Liaison Peter 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 LaVanway, to recommend approval of the Zoning Board of Appeals minutes from November 25, 2014. The motion carried unanimously by voice vote.

On the agenda was a public hearing regarding the property at 656 Wingate Road.

PUBLIC HEARING – 656 WINGATE ROAD

A REQUEST FOR APPROVAL TO CONSTRUCT AN EXTENSION TO AN EXISTING PATIO WITH A 2.2-FOOT INTERIOR SIDE YARD SETBACK IN LIEU OF THE MINIMUM REQUIRED 9.0-FOOT INTERIOR SIDE YARD SETBACK. ZONING CODE SECTION 10-5-4(A)4b DOES NOT ALLOW A PATIO ACCESSORY STRUCTURE TO BE CLOSER THAN 10% OF THE LOT WIDTH TO A SIDE YARD LOT LINE.

(Brian and Tiffany Magnan, owners)

Staff Presentation

Building and Zoning Official Joe Kvapil stated that Brian and Tiffany Magnan, owners of the property at 656 Wingate Road, Glen Ellyn, Illinois are requesting approval of one variation from the Glen Ellyn Zoning Code. Mr. Kvapil displayed a photo of the subject property and stated that the petitioners are requesting a variation to Section 10-5-4(A)4b of the Zoning Code to allow an addition to an existing patio with a 2.2-foot interior side yard setback in lieu of the minimum required 9.0-foot interior side yard setback. Mr. Kvapil stated that the subject property is in the R2 Zoning District and is defined as a corner lot on the northwest corner of Wingate Road and Exmoor Avenue. He added that the zoning and land use surrounding the subject property is single-family residential. Mr. Kvapil stated that Village records indicate that there was one significant addition to the subject property for a detached garage and several minor improvements.

Mr. Kvapil displayed a site plan of the subject property provided by the petitioners combined with a site plan for the adjacent property at 244 Exmoor found in the Village records. He indicated that he marked on the site plan the area of the expanded patio and the proposed patio retaining wall. Mr. Kvapil stated that the patio and retaining wall are currently in poor

condition and allow the accumulation of stormwater runoff in the patio area. He added that the existing patio is approximately 3.2 feet from the side yard lot line and is nonconforming as it does not meet the minimum required patio side yard setback of 9 feet. He added that the owners propose to replace the existing patio and the existing retaining wall and increase the width of the patio so that it will be only 2.2 feet from the lot line and a variation is required. Mr. Kvpil stated that the petitioners also propose to extend the retaining wall farther towards the west behind the garage, and they propose to have a walkway which will comply with the setback requirements. Mr. Kvpil stated that the Zoning Code allows the retaining wall to be constructed as proposed along the property line provided it does not exceed a height of 3 feet and is deemed necessary and approved by the Village stormwater engineers and has no adverse impact on the adjacent properties. Mr. Kvpil added that Ray Ulreich, a Village stormwater engineer, reviewed the subject proposal and indicated that he would approve the proposed retaining wall provided positive draining around the wall is provided. Mr. Kvpil stated that Mr. Ulreich also provided a topographical diagram of the lot and adjacent properties which indicates that the stormwater runoff direction is from the adjacent property at 244 Exmoor or towards the subject property at 656 Wingate Road and then towards either Exmoor or Wingate Road.

Mr. Kvpil stated that the subject property is not located in a designated flood area or a depressional area. He also stated that the new impervious surface and the disturbed area will not exceed 300 square feet; therefore, compensatory onsite storage is not required, however, the patio and retaining wall will be reviewed for stormwater compliance by the Village Engineer. He added that a tree preservation plan will not be required as the disturbed area does not exceed 300 square feet. Mr. Kvpil also stated that the subject property is not located within an historic district and neither is landmarked nor a significant home designated by the Historic Preservation Commission or plaqued by the Historical Society.

Petitioners' Presentation

Tiffany Magnan, the petitioner, of 656 Wingate Road, Glen Ellyn, Illinois stated that their property is very muddy when it rains in the area of the existing patio, the retaining walls and patio floor are cracked, and brick and mortar are loose and occasionally fall. She added that drainage is a problem, water pools on the patio and adjoining area and they would like to correct this unsafe structure. She stated that it is not fun to be in that location due to these issues. Ms. Magnan stated that they considered installing a new patio in the exact same location, however, felt the proposed patio would be more conducive to their use. She also stated they had considered installing a patio along the westerly side of the house, however, felt that would not be a good traffic pattern to and from the garage and to and from the kitchen.

Questions from the Zoning Board of Appeals

ZBA Member Constantino stated that the neighbor to the north who lives on Exmoor is in agreement with the proposed plans and asked if any other comments were received regarding the proposed project. Mr. Kvpil replied that no other comments were received in favor of or in opposition to the subject request. Mr. Kvpil also responded to ZBA Member Constantino that the Village Engineer has suggested that drain tile be installed around the perimeter of the patio. ZBA Member Kolar asked if roots of trees in the area will be cut when the patio is installed, and Mr. Kvpil responded yes and added that a homeowner is entitled to remove trees and tree roots on their property that are from trees on their neighbors' property. Mr. Kvpil added that there is nothing in the tree preservation ordinance that addresses damage to trees from construction on adjacent properties when work is being performed in conformance with all codes or variations granted. He added that that type of damage is a matter between the property owners involved and not the Village of Glen Ellyn. Mr. Kvpil responded to ZBA Member Kolar that the drain tiles will be located right up against the base of the retaining wall and that the edge of the drain tile would be approximately 1-1/2 feet from the property line. ZBA Member Kolar also asked if the existing cracked patio could be repaired without a zoning variation. Mr. Kvpil responded that the patio could be repaired (patch cracks, lift it, top it, etc.) but cannot be structurally reconstructed without a zoning variation as it is nonconforming.

ZBA Member Constantino asked Ms. Magnan to describe the conditions in the subject area after a moderate to heavy rain, and she responded that the area is very muddy and that water pools on the patio. She also responded that the grassy area is mossy. Ms. Magnan responded to ZBA Member LaVanway that she has children who are in the patio area which must be crossed to get into the side yard. She also agreed with ZBA Member LaVanway that the concrete is uneven because of cracking of the patio and that concrete will fall off of the retaining wall as it deteriorates. Chairperson Garrity asked if the patio could be rebuilt in its current location, and Ms. Magnan replied that is what they will do if the subject request is not approved, however, they would like an extra foot added onto the patio. Ms. Magnan responded to ZBA Member Kolar that the entrance to the patio is from the kitchen area at the back door. ZBA Member Kolar asked if the petitioner had considered building a new patio on the western end of their home instead of in its current location, and Ms. Magnan responded they would have to walk behind their garage to reach the patio at that location. Mr. Kvpil responded to ZBA Member Kolar that a walkway could be constructed behind the garage to the west provided it is closer than 3 feet to the side yard lot line. ZBA Member Kolar asked if a patio could be built at that location without a variation being required. Mr. Kvpil responded a patio could be built as long as it is set back 9 feet from the side yard lot line and added that a sidewalk can be as close as 3 feet to the lot line while a patio has more restrictive requirements and must be 10% of the width of the lot from the lot line. Ms. Magnan agreed with ZBA Member Bourke that if a patio was built to the west, all convenience into the kitchen would be gone which is not practical and results in a hardship. Mr. Kvpil responded to ZBA Member Micheli that there is an exception in the Zoning Code that allows existing impervious surfaces to

remain in place if they were in their location prior to 1999. He also responded to ZBA Member Micheli that the petitioners could withdraw their request in that case before appearing in front of the Village Board and also responded that the project will be reviewed by the Village stormwater engineer. ZBA Member Miller stated that the patio was probably added in 1979 when other alterations were made to the home. Mr. Kvapil stated that, per an exception in the code, if records are not found for the patio in the building department, the patio would be allowed to be reconstructed in place. ZBA Member Micheli asked what type of fencing or green screening they intend to use, and Ms. Magnan responded that they currently have wooden fencing that will be replaced after construction of the patio.

Persons in Favor of or in Opposition to the Proposed Request

No persons spoke in favor of or in opposition to the zoning variation request.

Comments from the Zoning Board of Appeals

ZBA Member Micheli stated he was very sympathetic to the petitioners' request as he saw some evidence of practical difficulty in repairing and maintaining the leaking and muddy structure. He also stated he saw potential evidence of hardship in the elevation and the way the mud builds and pours through as well as danger with regard to the crumbling and unstable structure. He also was sympathetic to the petitioners' desire for a functional space and the necessary increased required depth. ZBA Member Micheli also stated he was somewhat concerned regarding maintaining a separation between the subject property and the property next door. He added that although the neighbors approved of the variation request, his concern was not urbanizing the two lots too much. He added that he would like to see a better fencing or screening system and perhaps some requirement to produce and maintain that fencing. Although ZBA Member Micheli stated he was open to the variation request, he stated he was not in favor or opposed but saw potential to grant the request.

ZBA Member Miller stated he was generally in favor of the requested variation as life safety and water issues are always a concern. He stated that he was supportive of this request with conditions per the stormwater engineer's recommendations and any new recommendations when the stormwater review is completed.

ZBA Member Kolar stated he had problems with the variation request because he felt the patio could be reconstructed as is without a zoning variation. He stated he has a problem with expanding a nonconforming use and bringing it as close to the property line as is proposed. He also stated that although the proposed project is not theoretically an issue for the tree preservation ordinance, he felt that trees are involved in this process.

Chairperson Garrity stated that he agreed with ZBA Member Kolar that 2 feet is too close to the property line although he would be in favor of the petitioners reconstructing the patio. He stated that a petitioner wanting something is different from a hardship.

ZBA Member Bourke stated he was in favor of the proposed request as presented. He felt that the water is taken care of by the drain tile and the screening is provided by the lattice work, the wood fence and the existing foliage. He added that a practical and functional patio on a corner lot will be fine.

ZBA Member LaVanway stated he is generally in favor of the proposed request contingent upon the drainage. He agreed with a concern regarding urbanizing of the two lots as there is no guarantee that the future owners would maintain the privacy unless required to do so. He also stated he was generally not supportive of neighbors' approval. He asked the petitioner if the closest item near their lot line was the neighbors' garage and she responded yes. He stated he then suspected the reason that the neighbors do not have strongly negative feelings is their privacy will not be compromised.

Mr. Kvapil responded to Chairperson Garrity that the ZBA could recommend a variation to allow a patio to be reconstructed in an existing location less than 9 feet from the property line.

ZBA Member Constantino stated that he did not realize until this meeting that if this patio had been in place before 1999, reconstruction on the existing footprint would not require a variation. He stated that he agreed with Chairperson Garrity and was concerned that the new side yard would be 2.2 feet which is very close to the neighbor. He stated that even though the existing neighbor has no objection, future neighbors of the Exmoor property may not appreciate the side yard. ZBA Member Constantino stated he would be in favor of reconstruction on the existing location with an approximately 3.2-3 foot side yard with all of the conditions addressed. He added that the patio would be replaced at the existing footprint and agreed per the last discussion to the reconstruction of the existing footprint, and ZBA Member Miller stated he agreed with ZBA Member Constantino's comments.

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

Motion

ZBA Member Miller moved, seconded by ZBA Member Kolar, to recommend approval of the requested zoning variation that Brian and Tiffany Magnan, the property owners, are requesting which is the approval of one variation from the Glen Ellyn Zoning Code, Section 10-5-4(A)4b, to allow the reconstruction of an existing nonconforming patio set back 3.5 feet from the side yard lot line in lieu of the minimum required side yard setback of 9.0 feet. The plight of the homeowner is unique due to the pooling of water and mud after a rain and abnormal runoff

causing life safety issues due to the cracking and deterioration of the current nonconforming retaining wall and the concrete patio. He added that the Zoning Board of Appeals would require that the work complies with all applicable stormwater regulations adopted by the Village, specifically, the stormwater engineer's report dated 10/17/14 and any additional recommendations/requirements per the upcoming stormwater compliance review.

The motion carried unanimously with seven (7) yes votes and zero (0) no votes as follows: ZBA members Miller, Kolar, Bourke, Constantino, LaVanway, Micheli and Chairperson Garrity voted yes.

Trustee Report

No Trustee Report was given.

Staff Report

Mr. Kvapil stated that the next ZBA meeting will be on January 13, 2015 for property at 600 Phillips Avenue.

ZBA Member Micheli moved, seconded by Chairperson Garrity, to adjourn the meeting at 7:55 p.m. The motion carried unanimously by voice vote.

Submitted by:

Barbara Utterback
Recording Secretary

Joe Kvapil
Building and Zoning Official