

MINUTES

BOARD OR COMMISSION: Glen Ellyn Zoning Board of Appeals DATE: May 24, 2016

MEETING: Regular X Special _____ CALLED TO ORDER: 7:00 PM

QUORUM: Yes X No _____ ADJOURNED: 9:41 PM

MEMBER ATTENDANCE: PRESENT: Chairman Garrity, Board Members Constantino, Jones, Micheli, C. Miller, Whalls, and Student Member A. Miller

OTHERS: Building & Zoning Official Witt, Trustee Ladesic, Recording Secretary Karen Blake

ABSENT: None

AUDIENCE: None other than for Petitioners

CALL TO ORDER:

The May 24, 2016 regular meeting of the Glen Ellyn Zoning Board of Appeals was called to order by Chairman Garrity at 7:00 PM at the Glen Ellyn Civic Center. A quorum was present.

Chairman Garrity reviewed the procedure for the meeting. All speakers will be required to be sworn in and to give their names and addresses. The public hearing will be closed prior to the vote. He noted that all Board Members have visited the properties in question.

APPROVAL OF MINUTES:

Board Member Miller moved, and Board Member Micheli seconded, to approve the March 22, 2016 and April 12, 2016 Zoning Board of Appeals Meeting Minutes. The motion was approved unanimously.

PUBLIC HEARING – 716 PRAIRIE AVENUE: Continuing case from ZBA meetings held on March 8, 2016 and March 22, 2016

A request for approval of a variation from the Glen Ellyn Village Zoning Code as follows: (1) Section 10-4-8(D)3 to allow the construction of a new 1-story addition to an existing 1-story house on a zoning lot with a side yard setback of 5.93 feet in lieu of the required 6.5 feet; and

(2) any other zoning relief necessary to construct the project as depicted on the plans presented or revised at the public hearing or as a public meeting of the Village Board.

Staff Presentation

Building & Zoning Official Steve Witt stated that this case has been continued from the ZBA meetings held on March 8, 2016 and March 22, 2016. At the first meeting, there was not an available quorum to review the case. At the second meeting, there were not enough favorable votes to move the case to the Village Board with a recommendation to approve. The Petitioners, Nina and Mahesh Hira, would like to remodel and enlarge their existing 1-story home to provide a bathroom and closet within the existing master bedroom area. The existing side yard setback is 11.70 feet. After construction, the setback would be 5.93 feet, which is approximately 6 inches narrower than allowed by Code. The requested variation is smaller than originally requested at the previous meetings.

Questions from Board Members

Chairman Garrity asked the Petitioners to identify the practical difficulties that would allow approval of the requested variations. Mr. Hira stated that the encroachment will now only be 4 to 6 inches, and it is the least encroachment possible and still have the addition built. Putting the addition on the back of the house would be too burdensome because of having to deal with the existing structures there, including a patio.

ZBA Member C. Miller stated that the Petitioners need to show the Board a practical difficulty or hardship, for example if the back yard sloped precipitously. Mr. Hira stated that it is a financial difficulty, but Board Members are looking for a practical difficulty as opposed to a financial issue.

ZBA Member Constantino had no objections to the location of the addition, but there is nothing unique about the property allowing the granting of a variance.

Mr. David Dial of 1201 Norwood Avenue, Itasca, Illinois, the project's architect, stated that the way the house sits on the property, it favors the side they want to build on, as the other side provides even less space with the driveway.

Mr. Micheli was sworn in as a member of the audience. He said that the petitioner has done everything possible to put the bathroom addition where it should be, and is only encroaching inches – just the depth of the siding.

ZBA Member Jones asked if there is a way to construct the addition to reduce the stud cavity. It could be a reasonable solution even if the full "R" rating is not achieved. After discussion with Mr. Dial and Mr. Witt concerning a change from 2 x 6 studs to 2 x 4 studs the consensus was that it might meet Code standards on one corner but not the other.

ZBA Member Constantino stated the Findings of Fact. The Board continued consideration of a variance to construct a bathroom off the master bedroom. The Board heard from Steve Witt, who said that the plans have been reworked to require a smaller encroachment on the side yard. The setback was increased from 3.8 feet to 5.3 feet, mere inches from the required 6 foot side yard setback. The plan did not immediately show a practical hardship; however, any attempt to put the addition in the rear yard would increase the expense and lose use of a portion of the back yard. Mr. Dial explained that there is more side yard space on this side as the other side has the driveway. Mr. Micheli felt that the design firm should have been more aware of the requirements and the position of the house on the lot; however, the proposed location of the bathroom is the logical place for it. Mr. Witt and others suggested construction techniques that might reduce further or eliminate the encroachment.

ZBA Member Miller moved approving the Findings of Fact. Another ZBA member seconded the motion and it was approved unanimously.

Comments from the Zoning Board of Appeals

ZBA Member Whalls stated that he is in favor of the variation.

ZBA Member A. Miller felt the Petitioners should be given their variation.

ZBA Member Jones noted that the plan had been worked down pretty close to being Code compliant.

ZBA Member C. Miller was in favor of the plan, but was struggling with how to word a recommendation. The lot is slightly narrow and the house is slightly off being square on the lot. An additional condition would have to be included that the plan be reworked to use 2 x 4 studs, and the insulation value has to be Code compliant and compliant with the International Energy Conservation Code.

ZBA Member Constantino said that the Petitioners have made a good faith effort to comply with the Village Code. The location of the house on the lot makes it difficult, and the location of the new bath near the master bedroom is the best location. If approval is recommended, he requests a stipulation that the Building Code be strictly followed.

ZBA Member Whalls moved closing the public hearing. ZBA Member Jones seconded the motion, and it was approved unanimously.

ZBA Member Chip Miller moved, seconded by ZBA Member Whalls, that after considering the petition of residents Nina and Mahesh Hira and architect David Dial and the testimony and evidence presented at the public hearings, the Zoning Board of Appeals recommends approval of the variation requested after deliberations brought to light that the plight of the owner is due to the unique circumstances and practical difficulties of the narrowness of the lot and the position of the house on the lot. However, the Zoning Board of Appeals places two conditions on the recommendation: that 2 x 4 studs be used in the construction of the addition, but that it also meet requirements of the International Energy Conservation Code, and that plans and the construction thereof adhere strictly to the variance discussed at this May 24, 2016 meeting.

The motion carried with five (5) yes votes and zero (0) no votes as follows: ZBA Members Constantino, Jones, C. Miller, Whalls and Chairman Garrity voted yes. ZBA Member Micheli recused himself.

PUBLIC HEARING – 265 S. OTT AVENUE

A request for approval of a variation from the Glen Ellyn Village Zoning Code as follows: (1) Section 10-4-8(D)1 to allow a front yard setback of 40 feet in lieu of the required minimum 50 feet for a front yard setback for the construction of a 1-story single-family residence and (2) any other zoning relief necessary to construct the project as depicted on the plans presented or revised at the public hearing or at a public meeting of the Village Board.

Staff Presentation

Building & Zoning Official Steve Witt stated that the Petitioner is Gerald Stewart on behalf of the owner, Ott Ranch LLC. The property is an interior lot located in the R0 Residential Zoning District. The surrounding properties are all single family residential. Notice of this public hearing was placed in the newspaper, sent to neighbors and a placard was placed on the property. The existing house and garage are to be demolished. The Petitioner would like the new home to have a front yard setback of 40 feet, which is similar to the neighbors. One letter in support of the variation has been received. The same owner requested a variance in 2015 to attach the garage to the house, and a variance for a 40 foot setback was requested at that time. Those variations were approved by a vote of six yes and zero no votes.

Gerald Stewart, the Petitioner, spoke on behalf of the owners, and said that the main reason for the variation request is to maintain the character of the neighborhood. Houses on this

block and across the street all have front setbacks of approximately 40 feet. It would be out of character for the neighborhood to have one house with a 50 foot setback.

There were no comments from the audience.

Questions from the Zoning Board of Appeals

ZBA Member Micheli asked what has changed on the property requiring new construction. Mr. Stewart said that the existing garage does not meet Code and thus cannot be attached to the house. Supports for the existing house would have to be removed and replaced, and the exterior drain tiles may be nonfunctional.

ZBA Member Constantino stated the Findings of Fact. The variance request is being made by Gerald Stewart on behalf of Ott Ranch LLC, the property owners. The request is to allow a front yard setback of 40 feet rather than the required 50 feet. The owners seek to demolish the existing house and construct a new single family residence. A 40 foot front yard setback would be in keeping with the neighborhood. The lot is not in a flood plain, and the existing house is not historic. One letter in support has been received by staff. The owners previously received a variance for an addition, but it was determined that the existing structure is not conducive to an addition, and that new construction would be more appropriate. If built to the setback Code provisions, it might devalue the neighbors' property, as a 40 foot setback would maintain the character of the neighborhood on both sides.

ZBA Member Whalls moved approving the Findings of Fact. ZBA member Miller seconded the motion and it was approved unanimously.

Comments from the Zoning Board of Appeals

ZBA Member Whalls noted that the Board previously approved a similar variation unanimously. It would not look right to have this house set back further from the others, and the variation will keep the character of the entire street.

ZBA Member Adam Miller echoed Mr. Whalls' comments.

ZBA Member Jones said that the hardships were encountered with the unknowns of the old house. Leaving the new house's setback at 40 feet is conducive to the neighborhood.

ZBA Member Micheli said this petition is a textbook example of a variation needed to keep the character of the neighborhood.

ZBA Member Chip Miller noted that this is why this Board is here. The Zoning rules do not make sense in this case.

ZBA Member Constantino agreed for all the stated reasons, and that the Board has approved such a variation in the past.

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

ZBA Member Chip Miller moved, seconded by ZBA Member Jones, that after considering the petition of Gerald Stewart on behalf of Ott Ranch LLC, owner of the property at 265 S. Ott Avenue, and the testimony and evidence presented at the public hearing, the Zoning Board of Appeals recommends approval of the variation requested after deliberations brought to light that the plight of the owner is due to unique circumstances and practical difficulties including the character of the neighborhood and that all homes on the block and across the street have front yard setbacks of 40 feet.

The motion carried with six (6) yes votes and zero (0) no votes as follows: ZBA Members Constantino, Jones, Micheli, C. Miller, Whalls and Chairman Garrity voted yes.

PUBLIC HEARING – 444 TURNER AVENUE

A request for approval of variations from the Glen Ellyn Village Zoning Code as follows: (1) Section 10-4-8(D)2 to allow a rear yard setback of approximately 35.29 feet in lieu of the required minimum 40 foot rear yard setback for the construction of an addition to an existing 1-story house; (2) Section 10-4-8(D)4 to allow a corner side yard setback of approximately 19.34 feet in lieu of the required minimum 30 foot corner side yard setback; and any other zoning relief necessary to construct the project as depicted on the plans presented or revised at the public hearing or as a public meeting of the Village Board.

Staff Presentation

Building & Zoning Official Steve Witt stated that the Petitioner, Ben Livermore, is the owner of the property at 444 Turner Avenue. The property is a corner lot in the R-2 Zoning District on the corner of Turner and Prospect Avenues. The zoning and land use surrounding the subject property is single-family residential. The Petitioner wishes to enlarge the home with a one story addition. Notice of this public hearing was placed in the newspaper, sent to neighbors and a placard was placed on the property. The setbacks on the house are currently non-compliant. The house is on an angle on the lot. It is not in a flood plain or historic district. The

Petitioner seeks two variations: (1) to Section 10-4-8(D)2 to allow a 35.29 foot rear setback rather than 40 feet and (2) to allow a corner yard setback of 19.4 feet rather than 30 feet. There is no record of previous variances or permits.

Questions for Staff from Board Members

None.

Petitioner's Presentation

Dave Ligman, contractor, of 269 Newton presented on behalf of the Petitioner. He said that the current garage is too close to the sidewalk and not to current standards. The plan is to remove the garage, move it back from the street and allow for two cars in the garage. If there are cars on the driveway, they will not impair the view from the street corner. The plan reduces the existing amount of non-conformance with Village Code. The lot lines are irregular, and the Petitioner wishes to maintain as much green space as possible.

Questions to the Petitioners from the Zoning Board of Appeals

ZBA Member Jones noted that the front of the garage is red with yellow cinderblock. Mr. Ligman said that the existing garage will be demolished, and a new garage constructed further inside the lot, resulting in a cleaner front yard and better sight lines to the corner.

ZBA Member Chip Miller said that he can see the issues with parking and not having clear sight lines, particularly for bikes.

ZBA Member Constantino stated the Findings of Fact. The variance requests for 444 Turner Avenue are being made by Ben Livermore, the property owner. The requests are to allow a rear yard setback of 35.29 feet rather than the required 40 feet and a corner side yard setback of approximately 19.4 feet rather than the required 30 feet. The Board heard from Steve Witt, who described the location as a corner lot surrounded by single family homes. The owner seeks to add a second story to the residence and build a two car garage. The existing garage is not compliant, but the degree of non-conformity will be reduced. The house is not parallel to the lot line now. It is not located in a flood plain or historic area. The Board heard from the owner and the builder, who stated that the existing improvement blocks the sidewalk and street view. The proposed plans reduce the encroachment into the side yard.

ZBA Member Whalls moved approving the Findings of Fact. ZBA member Jones seconded the motion and it was approved unanimously.

Comments from the Zoning Board of Appeals

ZBA Member Whalls said that the variations will provide for less encroachment into the setbacks, and the garage will be removed along with the parking issues.

ZBA Member Adam Miller stated that he would be happy to not have to walk around the cars parked in the existing driveway.

ZBA Member Micheli stated his support.

ZBA Member Chip Miller noted appreciation for the safety issue, and the vision for the revisions to the house.

ZBA Member Constantino expressed support for the variations for all the previously noted reasons, and that they will reduce the encroachments and solve the parking and safety issues.

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

ZBA Member Chip Miller moved, seconded by ZBA Member Jones, that after considering the petition of Ben Livermore, owner of the property at 444 Turner Avenue, and the testimony and evidence presented at the public hearing, the Zoning Board of Appeals recommends approval of the variations requested after deliberations brought to light that the plight of the owner is due to unique circumstances and practical difficulties including relocating and rebuilding the garage will reduce the existing encroachments, enhance the look of the neighborhood, and address existing safety and sight line issues.

The motion carried with six (6) yes votes and zero (0) no votes as follows: ZBA Members Constantino, Jones, Micheli, C. Miller, Whalls and Chairman Garrity voted yes.

PUBLIC HEARING – 826 AVON COURT

A request for approval of variations from the Glen Ellyn Village Zoning Code as follows: (1) Section 10-5-5(B)4, Table 10-5-5-(B)4, Fence, (a)(1) to allow the construction of a solid fence in a front and corner side yard setback in lieu of the required 33.3 percent open area; (2) Section 10-5-5(B)4, Table 10-5-5-(B)4, Fence, (b)(2) to allow the construction of a 6 foot high fence in the visibility triangle in lieu of the maximum height of 3 feet in the visibility triangle; (3) Section 10-5-5(B)4, Table 10-5-5-(B)4, Fence, (b)(4) to allow the construction of a 6 foot high fence at the rear of the home in lieu of the maximum height of 4 feet; (4) Section 10-5-5(B)4, Table 10-5-

5-(B)4, Fence, (c)(1) to allow a 6 foot high fence to be located along the property line at Geneva Road on a lot which fronts on 2 nonintersecting streets in lieu of providing a 4 foot setback with landscaping along the outside of the fence; and (5) any other zoning relief necessary to construct the project as depicted on the plans presented or revised at the public hearing or as a public meeting of the Village Board.

Staff Presentation

Building & Zoning Official Steve Witt stated that the Petitioners, Eric and Meredith Brauer, are the owners of the property located at 826 Avon Court. The property is a through lot to Geneva. The zoning and land use surrounding the subject property is single-family residential. The Petitioners wish to construct a fence in their back yard and have presented two proposals for fences that are taller than, and less open than, allowed. The lot is currently open with no fencing. Notice of this public hearing was placed in the newspaper, sent to neighbors and a placard was placed on the property. It is not in a flood plain or historic district. Through lots pose problems for fencing. The Petitioners want a 6 foot high solid fence. A six foot fence needs to be four feet inside the property line and landscaped the length of the fence. The fence along the rear property line and across to the house can be only 4 feet and open. Other parts can only be 3 or 4 feet high under Code. Mr. Witt reiterated the variances requested and noted that under one option presented by the Petitioners, only 3 variations would be required.

Questions for Staff from Board Members

ZBA Member Jones asked if fences on Stagecoach used as examples could be built today. Mr. Witt said that they are legal non-conforming.

ZBA Member Micheli asked if each variation can stand alone. Variations three and four pertain to the fence on the rear lot line to be built at the property line rather than be four feet high and landscaped. The other two variations are stand-alone and pertain to other portions of the proposed fence. The proposed fence in the visibility triangle is a safety issue. He also asked whether the Building Code addressed how to anchor a six foot fence to prevent it becoming a sail. There are no requirements for footing depths for board-on-board or plastic fencing.

ZBA Member C. Miller asked if fencing along Geneva Road has been previously considered by the Board. Mr. Witt had not researched previously approved variations in the vicinity.

ZBA Member Constantino asked whether required landscaping would pose a visibility problem as it grows. Mr. Witt stated that a six foot fence should not be closer than 30 feet from the property line in the visibility triangle.

Petitioner's Presentation

Petitioners Eric and Meredith Brauer said that the main objective of their request is safety for their 20-month old daughter. Geneva is a four lane road, and Petitioners have seen 6 foot high fences along Geneva on other lots. Their immediate neighbors approve of the fence for safety and noise reasons, and their support petition has been submitted for the record. The odd shaped lot requires the home to face Avon and the back yard facing Geneva. Other homes on Geneva have their fence right against the sidewalk. The Petitioners feel four feet from the sidewalk is sufficient space, and their neighbors plan to erect similar fences. Road visibility will not be affected as the fence will be 30 feet from Geneva Road. A fence and landscaping could stop another car from flipping into their back yard. They are also concerned that people can see into their yard. The Village Code provides for different height fences in different locations, and they want one uniform fence around their property.

Questions to the Petitioners from the Zoning Board of Appeals

ZBA Member Whalls commented that hundreds of homes face similar lot situations. It is not unique or a hardship, and the builder and architect should have known about the Code requirements.

ZBA Member Jones asked about the placement of the house on the lot. Trustee Ladesic said that the lot is part of a PUD and designed to be placed on Avon. Mr. Witt said that zoning calls for the side of the lot with the smaller width to be the front of the house and noted that a uniform three foot fence could be put around the entire lot. ZBA Member Jones said that the safety issue is for those drivers on Geneva, and that the visibility triangle is for every driver to see every other driver. There was discussion concerning encroachment into the visibility triangle.

ZBA Member Micheli discussed with the Petitioners the types of fencing materials available and possible landscaping. The Petitioners do not want a brick and wrought iron fence as it would not provide the desired privacy. ZBA Member Micheli wanted something more durable and permanent along Geneva, and he noted that existing fences in the area could be from original construction, PUD requirements, Zoning Code changes or different variances. A motion to approve the variation could contain a condition on a traffic study or statement from the Village Engineer that the visibility triangle need not be 30 feet in this instance.

ZBA Member Chip Miller stated that he would not approve a six foot fence in the visibility triangle. Chairman Garrity noted that the second option eliminates the triangle encroachment.

Chairman Garrity said that he was leaning toward not allowing a 6 foot fence in the visibility triangle, and let the Board decide. That would give Petitioners time to get a traffic study.

ZBA Member Adam Miller suggested putting the fence on an angle, thus avoiding any encroachment into the visibility triangle. The Petitioners said they would agree to that compromise if the fence is six feet. They would maintain the area outside of the fence. They felt that a three foot fence would not be safe for their child.

ZBA Members Jones and Whalls asked about landscaping. The Petitioners desire a fence to give them privacy, not landscaping. They want to install any landscaping on the inside of the fence, however, ZBA Member Whalls said he supports some type of greenery on the outside of the fence.

ZBA Member Constantino stated the Findings of Fact. The property is zoned R-2 and has single family around it. The Petitioners seek variances to allow a solid six foot fence on side and rear boundaries whereas the Code has different requirements and limitations given the location of the through lot on Avon Court and Geneva Road. The issue is the visibility triangle at Avon and Geneva Road. Petitioners also seek to eliminate the 4 foot set back requirement. They have submitted two different options. Petitioners prefer Option 1, which includes being inside the visibility triangle, as they feel it would address their concern for their child and reduce noise. Petitioners do not believe there would be a visibility issue at Avon and Geneva. The property is unique in that four different fence heights are required by Code. There was discussion over various options that the ZBA could consider and what the Board of Trustees might approve.

ZBA Member Micheli moved approving the Findings of Fact. ZBA member Miller seconded the motion and it was approved unanimously.

Comments from the Zoning Board of Appeals

ZBA Member Whalls said that the outside of the fence needs some greenery, and expressed concern that it ultimately could be compared to the "wall of fences" on St. Charles Road. All residents have to live with the decision of the visibility triangle. He clarified that he would support Option 2 with greenery added and the fence angled to not encroach on the visibility triangle.

ZBA Member Adam Miller said that he could see nothing other than a six foot fence achieving the purposes of the Petitioners to add safety and reduce noise. He noted that a short fence could actually amplify the street noise.

ZBA Member Jones said that Option 2 was more acceptable to him. He does not like the idea of cutting into the visibility triangle. The best solution for greenery is to have it on both sides of the fence, which if installed, would allow him to support the request.

ZBA Member Micheli said that he could not support a full 6 foot board-on-board fence without requiring a full green screen. Although allowed a three foot fence in the visibility triangle, Petitioners stated that they would prefer to angle the fence to avoid the visibility triangle and keep it a uniform six feet. Further discussion by the Board Members resulted in a consensus that the 6 foot fence should be screened on both streets pursuant to Village Code.

ZBA Member Chip Miller does not like a six foot fence; however, he will be able to vote in favor if shrubs are planted along it pursuant to current ordinances and in consultation with the Village Arborist.

ZBA Member Constantino was in favor of the variances based on Option 2 but with the change of angling the fence so that it is just outside the visibility triangle at Avon and Geneva which he described as "Option 3". He agreed that landscaping should be required on the outside of the fence along Geneva Road pursuant to Village Code and the Village Arborist.

ZBA Chairman Garrity said he would support a six foot fence on the sidewalk, angled around the visibility triangle and landscaped along the sidewalk on both streets, being Options 2 or 3. There was additional discussion concerning Option 2 or 3, with Option 3 giving the Petitioners more space in their yard.

The consensus was that the Board Members could recommend Option 2, resulting in a smaller back yard, as is with green scape, or Option 3 as drawn (the fence angled outside the visibility triangle resulting in a larger yard) with green scape. The Petitioners will need to decide which Option they prefer before the June 27 Board of Trustees meeting. Additionally, if the Village will allow such in the right-of-way, installation of green scape on both Geneva and Avon will need to be included.

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

ZBA Member Micheli moved, seconded by ZBA Member Whalls, that after considering the petition of residents Eric and Meredith Brauer and the testimony and evidence presented at the public hearing, the Zoning Board of Appeals recommends approval of the variations requested as presented after deliberations brought to light that the plight of the owner is due to unique circumstances in that the location of the lot is both along a busy street and a corner lot. The requests will not affect the nature of the area because the Village has been seeking ways to have more green space along fences. The recommendation comes with the following conditions: that for the life of the fence, residents will plant and maintain shrubs in consultation with the Village Arborist, and will be every four feet on center and to mature to a height of 4 feet or greater along both Geneva and Avon, provided that the Village Board approves the use of the public parkway. Additionally, the Petitioners need to choose between Option 2 or 3 as presented or revised.

The motion carried with six (6) yes votes and zero (0) no votes as follows: ZBA Members Constantino, Micheli, C. Miller, Jones, Whalls and Chairman Garrity voted yes.

OTHER BUSINESS:

Mr. Witt reported that there are three cases in the pipeline to be considered in June.

Trustee Ladesic reported that the two downtown developments are moving forward slowly. In response to questions, he said that the developer of the McChesney's property is seeking to acquire additional property for the project.

ADJOURNMENT:

ZBA Member Jones moved, seconded by ZBA Member Whalls, to adjourn the meeting. The motion was approved unanimously by voice vote. The May 24, 2016 meeting was adjourned at 9:41 PM.

Submitted by Karen Blake, Interim Recording Secretary
Reviewed by Building & Zoning Official Witt, Village of Glen Ellyn