

ZONING BOARD OF APPEALS
MINUTES
JULY 12, 2016

The meeting was called to order by Chairperson Rick Garrity at 7:00 p.m. ZBA Members Matthew Jones, John Micheli, Chip Miller and Thomas Whalls were present. ZBA Members Gregory Constantino and Adam Miller were excused. Also present were Trustee Liaison Peter Ladesic, Building and Zoning Official Steve Witt and Recording Secretary Barbara Utterback.

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

ZBA Member Chip Miller moved, seconded by ZBA Member Jones, to approve the minutes of the June 24, 2016 Zoning Board of Appeals meeting. The motion carried unanimously by voice vote.

On the agenda was a public hearing regarding the property at 390 Elm Street.

PUBLIC HEARING - 390 ELM STREET

A REQUEST FOR APPROVAL OF VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-5-5(B)4 TO ALLOW THE INSTALLATION OF A BASKETBALL HOOP IN THE FRONT YARD WITH A SETBACK FROM THE NORTH PROPERTY LINE OF APPROXIMATELY 2.0 FEET IN LIEU OF THE REQUIRED SETBACK OF 7.32 FEET. 2. ANY OTHER ZONING RELIEF NECESSARY TO CONSTRUCT THE PROJECT AS DEPICTED ON THE PLANS PRESENTED OR REVISED AT A PUBLIC HEARING OR AT A PUBLIC MEETING OF THE VILLAGE BOARD.

(Ted and Tara Sheeley, owners)

Staff Presentation

Building and Zoning Official Steve Witt stated that the owners of the property at 390 Elm Street are Ted and Tara Sheeley and they are requesting approval of variations from the Glen Ellyn Zoning Code to allow an existing basketball hoop to remain in its current location. Mr. Witt displayed an outdoor area of the petitioners' home and indicated the location of a basketball hoop at the edge of the pavement area for the driveway that was installed without the benefit of a building permit. Mr. Witt stated that the Zoning Code requires a basketball hoop to be installed at a minimum distance of 10 percent of the lot width from any property line, however, the petitioners are requesting a variation to allow the basketball hoop to remain in its current location. Mr. Witt stated that the neighbors to the north have suffered damage to their landscaping due to stray basketballs and would like to have the petitioners move the basketball hoop to a location where balls will not damage their property.

Mr. Witt stated that the variations being requested are from Section 10-5-5(B)4 and Table 10-5-5(B)4 of the Zoning Code to allow the installation of a basketball hoop in the front yard with a setback from the north property line of approximately 2 feet in lieu of what would normally be

required as 10 percent of the lot width or 7.32 feet. Mr. Witt stated that the subject property is a corner lot located in the R2 Zoning District at the northwest corner of Elm Street and Western Avenue. He added that the surrounding property is single-family residential. He added that the notice of public hearing was published in the May 28, 2016 edition of the Daily Herald and was mailed to surrounding property owners and a placard was placed on the property to notice the meeting. He stated that an existing house was demolished on the subject site in 2007 and a new house was constructed on the subject site in 2014. He added that there are no permits related to this property since the new house was built in 2014. Mr. Witt also stated there is no record of any zoning variations granted for this property and it is not in an historic area or depression zone.

Mr. Witt displayed a photograph submitted by the neighbors which indicates the location of the property line, the neighbors' floral garden and property, the basketball hoop and the Sheeleys' property.

Responses to Questions from the ZBA

Mr. Witt responded to ZBA Member Whalls that a basketball pole must be a minimum of 10 percent of the lot width away from any property line. He added that with a corner lot, the width of the lot is taken as the shorter dimension of the two dimensions of the property; therefore, the requirement in this case would be 7.32 feet. Mr. Witt responded to ZBA Member Jones that the petitioners could put the basketball hoop on the south side of their driveway with no problem and as north as the north edge of the garage. Mr. Witt responded to ZBA Member Micheli that a zoning variation goes with the land and would not be able to be removed by the Village. Mr. Witt also responded to ZBA Member Micheli that a moveable basketball hoop does not appear to be prohibited, however, would most likely need to be removed to the rear of the house when not in use.

Petitioners' Presentation

Tara and Ted Sheeley of 390 Elm Street, Glen Ellyn, Illinois spoke on behalf of their variation request to allow the installation of a basketball hoop in their front yard with a setback from the north property line of approximately 2.0 feet in lieu of the required setback of 732 feet. Mr. Sheeley apologized for not getting a permit for their basketball hoop and stated they did not realize a permit was necessary. He stated that they put the basketball hoop where it currently exists for safety reasons. He stated that 90 percent of missed balls are currently caught in patches of grass between the driveway, sidewalk and parkway before they go into Western Avenue. He added that if the basketball hoop was moved to the south side of the driveway, there is only cement at a slant between the basketball hoop and Western Avenue. Mr. Sheeley added that they are prepared to have plans in place to put a 4-foot high fence between the basketball hoop and the neighbors' yard to keep the balls from rolling into the neighbors' yard.

Chairman Garrity asked if the petitioners had room to put a fence in. Mr. Witt responded that fences of a 4-foot maximum are permitted in a front yard and the petitioners have room to put a maximum 4-foot high fence in the front yard. Mr. Sheeley added that they could put a net on the back of the pole that stretches 3 or 4 feet on each side. Mr. Witt responded that would not be permissible because it is considered to be recreational equipment and is limited to the same 10% of the lot width to the property line. Ms. Sheeley added that her family is trying to be as respectful to the neighbors as possible in preventing balls from going into their property line. She added that they believe a fence will do a good job of stopping balls and that they want to do whatever they can to keep the basketball hoop in its current location for safety reasons regarding cars driving by. Mr. Sheeley added that he had spoken to his neighbors, George and Karen Dailey, regarding their plans to add landscaping and trees to keep the balls from rolling into their yard, however, the neighbors told them not to spend any money on landscaping because they were in violation of a Village ordinance.

Additional Responses to Questions from the ZBA

ZBA Member Whalls asked for verification that the Sheeleys do not want to move the basketball hoop 5 feet to the south or move a temporary basketball structure when necessary. ZBA Member Whalls asked if any petitions from neighbors were available, and Ms. Sheeley responded that their neighbors have come to this meeting instead of signing petitions. Mr. Witt added that negative comments were received from the petitioners' neighbors to the north. ZBA Member Jones added that the basketball hoop is not to code and the petitioners are using their neighbors' yard. He added that St. Petronille has a portable gate that stretches out and keeps anyone or anything from going out onto Prospect Avenue and suggested that the petitioners consider such a gate to the south. Ms. Sheeley expressed concern that her children would have to be relied upon to set up the gate which she did not feel would always happen. ZBA Member Whalls asked if the petitioners would be willing to locate the hoop on their garage, and Mr. Sheeley responded it would be difficult to put up because of the overhang and gutters and that the two garage doors have windows. Mr. Witt responded to ZBA Member Whalls that fences are permitted in front, side and rear yards and that a fence can be 6 feet tall as long as it is no closer to the street than a principal structure on a lot which in this case would be the front of the house. He added that, in this case, that means the maximum height one could put a fence in the front yard would be 4 feet. ZBA Member Chip Miller stated that the petitioners' circumstance is not unique although he appreciated that the petitioners have a safety concern. He suggested locating the basketball hoop in the same spot in the middle of the driveway but moved up. Mr. Sheeley responded that they use that area as a turnaround for their cars in the driveway, however, Ms. Sheeley felt that would work.

Persons in Favor of or in Opposition to the Proposed Request

Michele Seagraves, 346 Marion, Glen Ellyn, Illinois displayed their basketball hoop which she stated is very similar to the Sheeleys' basketball hoop. She stated she received a permit from

the Village for the hoop and installed it along the property line. She added that their basketball never goes into the neighbors' yard because it is stopped by a net.

Dana Rice, 351 Elm Street, Glen Ellyn, Illinois stated he has children who play basketball with the Sheeleys and appreciates the safeness of the play area. He stated that if the concern is to prevent basketballs from going into the neighbors' yards, putting up a net and/or fence would be a good solution to this problem.

George and Karen Dailey, 798 Western Avenue, Glen Ellyn, Illinois stated they are 20-year residents of Glen Ellyn. Mr. Dailey stated that this installation is not allowed by the Village and they have asked that it not occur. He stated that the variation process states that the power of variances is to be used sparingly and exercised only in rare instances under exceptional circumstances peculiar in their nature and that the main purpose of the zoning ordinance is to preserve the property rights of others. Mr. Dailey then requested the denial of the requested variation. He stated that the setback is being violated and he and his wife originally objected to the location of the mobile hoop that was installed 3 feet off the property line, requesting that it be moved due to property damage occurring at that time to have a permanent hoop 7.32 feet from the property line only to have it re-installed 23 inches from the property line. He stated that his garden is located behind the backboard and is trampled by children retrieving balls from his property. He stated they installed a fence approximately 2-1/2 feet tall on their property to try to slow down damage from those playing basketball and stated that a 4-foot tall fence will not eliminate damage to his yard from basketballs. He added that installing tall vegetation would destroy his garden. Mr. Dailey added that the basketball hoop is approximately 10 yards from their first floor bedroom window and they did not appreciate noise from children playing basketball and walking by the Dailey's bedroom window to retrieve basketballs. He added that a hardship does not exist in this case because the situation is self-created by the Sheeleys'. He also stated that there is no hardship because there are other locations on the Sheeleys' property that can be used for the basketball hoop such as on the garage or on the opposite side of the driveway. He added that there are no unique circumstances that would require the basketball hoop to be located in a nonconforming location. ZBA Member Jones asked if the former temporary basketball hoop on the north side of the driveway on the Sheeleys' property was moved to the south side of the driveway because of balls going onto the Daileys' property, and Mr. Sheeley replied no, adding that they had requested it to be moved to the south side of the driveway. ZBA Member Micheli suggested that this meeting be continued until the end of the summer to see if this situation can be worked out. Ms. Dailey responded to ZBA Member Whalls that the hours the children are playing basketball are not late in the day as they are young.

Findings of Fact

ZBA Member Micheli stated that Building and Zoning Official Witt said that the petitioners, Tara and Ted Sheeley of 390 Elm Street, installed a basketball hoop without a permit in a

non-compliant location in their yard. He stated they are seeking a variation from Section 10-5-5(B)4 of the Zoning Code to allow the basketball hoop to remain set back approximately 2.0 feet in lieu of the required setback of 7.32 feet. Mr. Witt stated that the petitioners' neighbors, Mr. and Ms. Dailey, objected to the location of the basketball hoop and the Zoning Board of Appeals asked various questions regarding the variation request. ZBA Member Micheli stated that the petitioners then spoke and stated that they were unaware that a permit was required for the basketball hoop, however, feel the variation should be granted as this is a safety issue. He also stated that the petitioners then planned to install a 4-foot fence which Mr. Witt stated would be permitted. He also stated that a net could be installed to stop the basketballs from going out on the street, however, Mr. Witt was not certain that a net would be permitted. ZBA Member Micheli stated that alternate locations for the basketball hoop would be on the garage and at the end of the house line. He also stated that no hardships or unique circumstance were found regarding this request. Michele Seagraves, 346 Marion, Glen Ellyn, Illinois and Dana Rice, 351 Elm Street, Glen Ellyn, Illinois both were in favor of the proposed variation request. George and Karen Dailey, 798 Western Avenue, Glen Ellyn, Illinois were in opposition to the variation request as the basketballs and children were damaging their property.

ZBA Member Whalls moved, seconded by ZBA Member Miller, to approve the findings of fact. The motion carried unanimously by voice vote.

Comments from the Zoning Board of Appeals

ZBA Member Whalls stated he would like to see a resolution between the Sheeleys and the Daileys and added that the neighbors' safety is paramount. He also felt that the two parties could return to the ZBA in the future to work out the existing problems. ZBA Member Jones stated that without knowing how many basketballs go onto Western Avenue from either side of their property, it is hard to know what the savings is. He also stated that he is currently inclined to say no to the variation request. Chairman Garrity felt that a temporary fence on the south side by the driveway would resolve a lot of issues. He stated that variations that infringe upon a neighbor's property should not be granted and that the ZBA is very cautious regarding the approval of side yard variations. He added that in the subject case, there is not only a structure but an activity taking place as well and that the hours of the use of the basketball hoop will increase into the evening as the children grow older. He stated that he was not in favor of the subject variation request. ZBA Member Micheli stated he was sympathetic to both parties, however, could find no hardships or unique circumstances regarding this variation request. ZBA Member Chip Miller felt that neighbor disputes never go away and he was in favor of the neighbors trying to resolve this issue on their own. He was not supportive of a net on the driveway which he felt would be difficult to keep in place. He also stated that he appreciated the safety concerns but could not approve this request.

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

Prior to the motion being made, Ms. Sheeley stated that they will remove the basketball hoop from its current location.

Motion

ZBA Member Miller moved, seconded by ZBA Member Micheli, that the Zoning Board of Appeals recommend denial of the variation request by Ted and Tara Sheeley of 390 Elm Street to allow the installation of a basketball hoop in the front yard with a setback from the north property line of approximately 2.0 feet in lieu of the required setback of 7.32 feet as the request does not meet a unique circumstance.

The motion to deny carried unanimously with five (5) “yes” votes as follows: ZBA Members Miller, Micheli, Jones, Whalls and Chairman Garrity voted yes.

Trustee Report

Trustee Liaison Ladesic stated that two events will take place this weekend in Glen Ellyn—the jazz fest and a bike race—and they are looking for volunteers to help with these events.

ZBA Member Micheli moved, seconded by ZBA Member Whalls, to adjourn the meeting at 8:30 p.m. The motion carried unanimously by voice vote.

Submitted by:

Barbara Utterback
Recording Secretary

Steve Witt
Building and Zoning Official