

ZONING BOARD OF APPEALS
MINUTES
SEPTEMBER 27, 2016

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

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

ZBA Member Micheli moved, seconded by ZBA Member Whalls, to approve the minutes of the July 12, 2016, July 26, 2016, August 9, 2016 and August 23, 2016 Zoning Board of Appeals meetings. The motion carried unanimously by voice vote.

On the agenda was a public hearing regarding the property at 237 Van Damin.

PUBLIC HEARING – 237 VAN DAMIN

A REQUEST FOR APPROVAL OF VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-5-5(B)4 TO ALLOW THE CONSTRUCTION OF A WOOD DECK WITH A HEIGHT ABOVE SURROUNDING GRADE OF APPROXIMATELY 9' 11" IN LIEU OF THE MAXIMUM ALLOWABLE HEIGHT OF 3'0" ABOVE SURROUNDING GRADE. 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.

(Addlawn Landscaping, Inc., acting on behalf of Eric Wince, owner)

Staff Presentation

Building and Zoning Official Steve Witt stated that the petitioner for the subject property is Addlawn Landscaping, Inc., acting on behalf of Eric Wince of 237 Van Damin Avenue. Mr. Witt displayed a map of the subject property which indicated that the subject property is a corner lot located in the R2 Residential Zoning District at the northeast corner of Van Damin Avenue and Wingate Road. He added that the zoning and land use immediately surrounding the subject property is single-family residential. Mr. Witt displayed some photographs of the subject property and stated that there is an existing balcony at the back of the house which looks like a second floor level but is actually a first floor level because of the slope of the grade. He stated that the petitioner would like to replace the balcony at the rear of the house with a new deck with the finished floor at the same elevation above grade as the existing balcony. He added that the Zoning Code allows decks to be constructed within the rear yard, however, the height is restricted to not more than 3 feet above the average level of the adjoining ground. He stated that the topographic map indicates the existing issue which is substantially higher

ground at the front of the property that drops down approximately 9-10 feet going front to back. He added that the total level change would be approximately 9'11" above finished grade at the rear of the house. Mr. Witt displayed a copy of the site plan at the rear of the house.

Mr. Witt stated that the property owner is requesting approval of a variation from Section 10-5-5(B)4 of the Glen Ellyn Zoning Code to allow the construction of a wood deck with a height above surrounding grade of approximately 9' 11" in lieu of the maximum allowable height of 3'0" above the surrounding grade. Mr. Witt stated that Village records indicate that several permits have been issued for the subject property, however, none of the permits have a direct relation to the requested variation or the balcony. He added that no zoning variations have been issued for this property. He also stated that the subject property is not located within an historic district nor is it landmarked nor is it a home designated significant by the Historic Preservation Commission nor a home plaqued by the Historical Society. He also stated that the Notice of Public Hearing was published in the Daily Herald on September 2, 2016, notice was mailed to property owners within 250 feet of the subject property and a placard was placed at the property.

Questions from the Zoning Board of Appeals

ZBA Member Micheli asked what the purpose is for the deck limitation of 3 feet above the ground per code. Mr. Witt responded that he was not certain, however, added that the higher the deck, the more voluminous it becomes and adds to the volume of the construction at the property. He also stated that a limitation of deck height also has to do with the potential creation of habitable space depending upon how much of the deck is preventing rain from filtering through to the space below. ZBA Member Micheli also asked what are the limitations with changing the grade of this back yard. Mr. Witt responded that if the grade is changed on more than 300 square feet of the disturbed soil, a stormwater review must be done. He also stated that his understanding is that the petitioner will be working with the existing topography. When ZBA Member Micheli expressed safety concerns because the size of the proposed deck could hold a large amount of people, Mr. Witt responded that the building code deals with the structure and capacity of each of the members supporting the anticipated loads. ZBA Member Micheli stated that the Village's rules apply to a deck 3 feet off the ground and added that the proposed deck could be located 9 feet off the ground and consist of 450 square feet which could accommodate a large party. Mr. Witt agreed with that comment and stated that any concerns would be looked at during the deck permit review in the building department. ZBA Member Constantino asked what the maximum area would be that might be allowed for a deck and Mr. Witt responded that an accessory use can be 660 square feet.

Petitioners' Presentation

Kevin Wallace, owner and President of Addlawn Landscaping, Inc., 1550 W. Fullerton Avenue, Unit I, Addison, IL and Eric Wince, 237 Van Damin Avenue, Glen Ellyn, IL were present to speak

on behalf of the subject request. Mr. Wallace stated that with regard to putting the deck on the lower floor, issues with the current deck would not be alleviated so if they brought it down to the basement level instead of being at the main floor level, it would be 3 feet above the existing grade and would not alleviate the issues that they have with the reason for building it. Mr. Wallace added that the deck is 21' x 10' which is 210 square feet. Mr. Wallace stated that they are asking for the subject variance for three reasons: 1. There is currently not a fire exit off of the east side of this property from the main floor; the existing door is directly off the kitchen. 2. The existing space is just not usable. 3. The topography of the land does not allow the deck to be installed while conforming to the code.

Additional Questions from the Zoning Board of Appeals

ZBA Member Jones asked what the distance is from the ground to the north side of the deck. Mr. Wallace responded approximately 6 to 7 feet and agreed with ZBA Member Jones that the topography of the back yard cannot be changed by raising it up unless there are grading issues at the back of the house. Mr. Wince responded to ZBA Member Jones that in the event of a fire in the kitchen, the quickest way out of the house would be from the back. ZBA Member Micheli asked how far the existing deck would be from the property line and Mr. Wallace responded approximately 60 feet. Mr. Wallace responded to ZBA Member Micheli that if the house next door was torn down and a new one built on the same scale as the subject home, the deck would be positioned at the second floor bedroom window height due to the topography of the land. Mr. Wallace responded to ZBA Member Micheli that they will build the deck per Village Code to ensure safety. Mr. Wallace verified for ZBA Member Constantino that there will be only two entries/exits on the first floor. ZBA Member Constantino also felt that the existing balcony is more decoration than use and Mr. Wallace agreed, adding that it is too small for usable space such as for a table and chairs. Mr. Wallace agreed with ZBA Member Constantino that the main characteristic of this property is the topography which if one is building a deck within code, it would be off the basement which does not get as much use as the kitchen does and is why the unique topography of this property requires the variance to be allowed to build the deck at a higher level. Mr. Witt responded to ZBA Member Adam Miller that the code for pounds per square foot is 40 and added that the code for single-family homes is less than multi-family structures.

Persons in Favor of or in Opposition to the Variation Request

Dan Leman, 794 Wingate Road, Glen Ellyn, Illinois expressed concern regarding aesthetics and the value of his property but stated he is primarily concerned regarding the slope of the land which is significant. He stated they have a significant investment in landscaping to mitigate water running on their property. Mr. Leman expressed concern regarding more green space that will be taken up by the deck that will be built and that there will be less area for water to be absorbed and more money will be required to mitigate the water. He stated if the water issue can be addressed either by a stormwater review or by the Village ascertaining that

there is not going to be any increase in water coming on his land, he is fine with it but if water increases, he will lodge a protest. Mr. Witt stated that in response to neighbors' concerns, the staff engineer will look at the project and render an opinion. He added that this is not a solid surface deck so there will be openings between the boards which will allow water to flow through. He also stated that according to the drawings, there will be no change to the landscape or pervious surfaces under the deck so that water will hit those surfaces and the ground below and, therefore, the net effect in this area will be as close to zero as possible. Mr. Witt responded to Mr. Leman that water will flow off of the steps and drip down to a point where it goes underneath. Mr. Leman added that there would be brick pavers underneath, however, there is no provision for any concrete. ZBA Member Micheli asked if Mr. Leman would be opposed to having a provisional variation prior to a stormwater review. Mr. Witt stated they will look at the potential for more rainfall in the subject area and whether or not the slope of the ground will actually maintain the water discharge. He added that per State law, one is required to accept water that flows off of property. Mr. Witt stated that more information will be required regarding the existing conditions and the proposed conditions to determine what type of change occurs or does not occur to the hardscape versus the impervious surface. ZBA Member Whalls asked how pavers would be put underneath the slope, and Mr. Wallace responded that one would go up to where it slopes downward and there is a substantial level of area underneath. Mr. Wallace responded to ZBA Member Jones that the petitioners' downspouts currently go out to the yard and will continue to go in that direction.

Ernest Wright, 221 Bryant Avenue, Glen Ellyn, Illinois asked what the precedent is for the subject variation request in Glen Ellyn and how many decks of this height currently exist in Glen Ellyn. Chairperson Garrity responded not very many and Mr. Wright responded that was an issue. Mr. Wright also stated that a second issue is that the method of egress from the kitchen does not need to be a deck as a fire escape could be used. Chairperson Garrity stated it was difficult to be concerned with aesthetics and then build a fire escape at the same time. Mr. Witt responded to Mr. Wright that the balcony will be cantilevered and will extend 12 feet to the east to make it a column support. Chairperson Garrity also responded to ZBA Member Whalls that there are not very many fire escapes on homes in town which is why the subject request is unique, and Mr. Witt responded that he is not aware of any fire escapes on homes in town.

Findings of Fact

ZBA Member Constantino stated that the petitioners, Addlawn Landscaping, Inc., acting on behalf of Eric Wince, owner of the property, are requesting a variation for the property at 237 Van Damin Avenue to allow the construction of a wood deck with a height above surrounding grade of approximately 9 feet 11 inches in lieu of the maximum allowable height of 3 feet 0 inches above surrounding grade. He added that the subject property is an interior lot in the R2

Residential Zoning District at the northeast corner of Van Damin Avenue and Wingate Road and that the zoning and land use of the surrounding property is single-family residential. He also stated that the subject property is not within an historical district, is not landmarked nor a significant home designated by the Historic Preservation Commission or a home plaqued by the Historical Society. ZBA Member Constantino stated that the petitioner would like to replace the existing balcony off of the first floor at the same elevation above grade as the existing balcony. He also stated that several building permits have been issued for the subject property, none of which relate to the subject variation request, and that no zoning variations have been granted. He stated that the existing topography has created the grade change for this property. He also stated that the construction and building and zoning ordinance were discussed which led to the design of the construction. He added that the area in question is approximately 210 square feet and as there is no limitation in the code regarding the size of the deck as it would be attached, size is not an issue.

ZBA Member Constantino stated that Kevin Wallace, President of Adlawn Landscaping, Inc., and Eric Wince, owner of the subject property, were present. Mr. Wallace described the proposed deck which if placed upon the lower level would not alleviate the deck issues. He stated that the petitioner would like to alleviate a safety concern by creating an additional exit on the east side of the first floor. He added that the existing space on the balcony is too small for practical use as it is located off of the kitchen. He stated that finally the topography of the land does not allow construction per the existing code and they do not anticipate adding or increasing the grade level, adding that the topography creates a unique characteristic.

ZBA Member Constantino then stated that Dan Leman, 794 Wingate Road, Glen Ellyn, Illinois, the neighbor immediately to the east of the subject property, expressed concern regarding the aesthetics of the proposed project, privacy issues, the eventual effect on the value of his property and how the slope could create additional stormwater runoff issues on his property. ZBA Member Constantino stated that the Village stormwater engineer will review plans and address any stormwater issues. He added that brick pavers will be located below the deck structure.

ZBA Member Constantino added that Ernest Wright, 221 Bryant Avenue, Glen Ellyn, Illinois asked how many decks of similar design were located in Glen Ellyn and the response was that there are very few, if any, such decks. ZBA Members also questioned why a fire escape could not be installed instead of a deck with stairs and they also expressed concern regarding aesthetics.

Mr. Witt added that the subject lot is a corner lot rather than an interior lot as stated.

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

Comments from the Zoning Board of Appeals

ZBA Member Whalls stated that the subject variation request meets all the criteria and safety issues on the east side of the property and was supportive of the variation request based on the topography and impervious surface of the site. ZBA Member Adam Miller was supportive of the variation request as he felt it would be safer for the owners of the house to have a means of exiting the house via the deck if necessary. ZBA Member Jones stated he agreed with what the other ZBA Members said and added that the safety of an exit outweighs children jumping up and down on a deck and felt a deck was better for all owners of the property. ZBA Member Micheli stated he is comfortable supporting the subject variation. He stated he does not necessarily see the fire safety issues, however, does see the topography issues. He also stated he would like to have a stormwater review done by the Village, and other ZBA members agreed with that request. ZBA Member Constantino stated he is in favor of recommending that the Village Board grant the subject variation request as there is a unique circumstance regarding the topography of the property and being able to make the use of the space so that an exit is available in the event of an emergency. He added that Mr. Wince has consented to a recommendation to have the Village stormwater engineer review the plans and address any potential issues.

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

Motion

ZBA Member Micheli moved, seconded by ZBA Member Constantino, that the Zoning Board of Appeals recommend approval of the zoning variation request of Adlawn Landscaping, Inc., for the property at 237 Van Damin Avenue from Section 10-5-5(B)4 of the Zoning Code to allow the construction of a wood deck with a height above the surrounding grade of approximately 9' 11" in lieu of the maximum allowable height of 3' 0" above surrounding grade and 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. ZBA Member Micheli stated that the recommendation for approval is because the property cannot yield a reasonable return because of the unique topography and associated fire safety concerns due to the first floor being inaccessible and that a stormwater review will be performed by the Village.

The motion carried unanimously with five (5) yes and zero (0) no votes as follows: ZBA Members Micheli, Constantino, Jones, Whalls and Chairperson Garrity voted yes.

Trustee Report

Trustee Liaison Ladesic stated that all items on the previous Village Board meeting were on the consent agenda. He responded to Chairperson Garrity that there has been no activity on the Giesche or McChesney properties.

Chairperson Report

No Chairperson Report was given.

Staff Report

Building and Zoning Official Steve Witt stated that there are no agenda items for the next ZBA meeting.

A motion was made and seconded and the meeting was adjourned at 8:17 p.m. The motion carried unanimously by voice vote.

Submitted by:

Barbara Utterback
Recording Secretary