

ZONING BOARD OF APPEALS
MINUTES
OCTOBER 18, 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 (student member) and Chip Miller were present. ZBA Member Thomas Whalls was 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.

On the agenda was a public hearing regarding the property at 708 Lenox Road.

PUBLIC HEARING – 708 LENOX ROAD

A REQUEST FOR APPROVAL OF VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-4-8(D)2 TO ALLOW THE CONSTRUCTION OF A THREE-STORY ADDITION WITH A REAR YARD SETBACK OF 28 FEET IN LIEU OF THE REQUIRED MINIMUM 40-FOOT REAR YARD SETBACK

(William and Shelley Housey, owners)

Staff Presentation

Building and Zoning Official Steve Witt stated that the petitioners are William and Shelley Housey, owners of the property at 708 Lenox Road. Mr. Witt displayed a map of the subject property which he stated is an interior lot located in the R2 Zoning District on Lenox Road between Oak Street and Linden Street. He added that the zoning and land use immediately surrounding the subject property is also single-family residential. Mr. Witt stated that no records were found that relate to the granting of any previous zoning variations for this property. Mr. Witt stated that several Village permits have been issued for this property and that the last permit issued which was for a remodel/addition is for the current project that was a conditional permit. He stated that the permit was issued conditionally and because the project is large and weather is a factor, the Village is trying to assist the petitioners. He added that there may need to be modifications to the project as designed with regard to the corner of this house that is affected by the variation request for setback. Mr. Witt stated that the notice of the public hearing was published in the October 2, 2016 edition of the Daily Herald and mailed to property owners within 350 feet of the subject property. He added that a placard was placed on the subject property.

Mr. Witt stated that the property owners would like to modify the floor plan of their existing 3-story home with an addition. He added that there is a small portion approximately 25 feet by 25 feet on the northwest side of the lot that gives the lot its unusual shape. He added that due

to the unusual shape of the property, the proposed addition will require a variation to meet the minimum rear yard setback. He also stated that the property owners are requesting a variation from Section 10-4-8(D)2 of the Glen Ellyn Zoning Code to allow the construction of a 3-story addition with a rear yard setback of 28 feet in lieu of the required minimum 40-foot rear 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 at a public meeting of the Village Board.

Mr. Witt explained a prior similar zoning variation that was brought before the ZBA in the last year to show how a determination has been applied to the rear and side yard setbacks in a situation where there is a property with a corner cut-out such as the subject property. He added that when a property has a corner cut-out, the rear line is considered as the context of the rear yard setback. He stated that when Dimension A (dimension parallel to the rear lot line) exceeds Dimension B (dimension parallel to the side lot line), the rear line has the context of a rear yard setback and when Dimension B is greater than Dimension A, one looks at it in the context of the side yard setback. He added that the issue is that one must apply the setback to the property line continuous as one goes around the property and in order to do that, one must establish some methods of determining at what point the dimension stays the same or does not stay the same with regard to the rear or the side yard setback. Mr. Witt stated that in this case, the architect has determined the adequate placement of the addition within the context of the buildable area if those were the way setbacks were being taken. He added that the shaded portion in essence, however, is part of the setbacks that are not buildable areas. Mr. Witt stated that because how setbacks transition from side yard to rear yard must be considered, historically what has been done is determine which dimension is being worked with and since Dimension A is 25 feet and greater than Dimension B which is 20 feet, the dimension of the rear yard setback is being applied across the entire line. He stated that a point would be struck 40 feet away from all points along a portion of the lot and one would come to a point where an arc has to be created to make 40 foot sections. He added that a portion of the addition is then caught up in the rear yard setback because of the arc where, according to the way it has been viewed historically, becomes the rear yard setback line.

Mr. Witt displayed a plat of 175 Bryant and described a similar variation that had previously been requested.

Questions from the Zoning Board of Appeals

ZBA Member Constantino asked if a variation would be required if there was no cut-out on the subject property, and Mr. Witt responded no, adding that the cut-out is the issue. ZBA Member Constantino also asked if there have been any communications from neighbors either in favor of or in opposition to the proposed variation request, and Mr. Witt responded not that he is aware of. ZBA Member Chip Miller stated if this unique part of the code had not been published, the petitioners might not be asking for a variation, and Mr. Witt responded that is correct. Mr. Witt responded to ZBA Member Micheli that issues in the building code are

subject to interpretation by Village staff and there is no diagram in the Zoning Code that applies to the subject zoning variation. ZBA Member Micheli also asked if staff uses codes from other sources, and Mr. Witt replied not to his knowledge. Mr. Witt responded to ZBA Member Micheli that the 179.64 feet on the subject lot does not include a 10-foot piece of property sold by a previous owner. ZBA Member Jones asked about the petitioners rebuilding their garage, and Mr. Witt replied that the minimum setback for a garage in the R2 Zoning District is the greater of 3 feet or 5% of the lot width. ZBA Member Adam Miller asked how much greater the lot coverage is than specified in the code, and Mr. Witt responded the lot area coverage used to be 13.1%, is allowed to go to 20% and the proposed lot coverage is going to 19.9%.

Petitioners' Presentation

William and Shelley Housey, owners of the subject property, and their architect, Steve Poteracki, Studio One Architects, 1105 Burlington Avenue, Western Springs, Illinois were present to speak on behalf of the subject variation request.

Mr. Poteracki distributed a petition with eight signatures in favor of the subject request to the Zoning Board of Appeals. Mr. Poteracki stated that the petitioners' hardship is the shape of the lot and that the notch taken out of the back is questionable with the setbacks. He stated that the setback is unusual in the sense that there is an arc created and not something typical to be found in the code so striking the chord and arc is not something he has encountered in 14 years of being in business for himself. Mr. Poteracki stated that the homeowners had contacted him to do a renovation on their home instead of tearing it down. He stated that they wanted to keep the essential character of the neighborhood and added that the property is very prominent, therefore, the best place for this addition is to the north or to the west. He added that increasing the living space off the back gives them kind of a modern family feel. He stated that while they were developing the plan, they felt they were well within the confines of the setbacks and codes. He also stated that the size of the existing garage is 984 square feet which is nonconforming so the garage could not be rebuilt as it currently exists which is 7-1/2 feet from the existing structure. Mr. Poteracki also stated that the notch created difficulty and the property was subdivided at one point. He responded to Chairman Garrity that the original subdivision occurred in 2014, perhaps slightly earlier, and an additional 20 feet was sold off probably at the beginning of 2015. He added if they had the additional 20 feet, there would be no issue because the east-west sides would be longer than the north-south sides. Mr. Poteracki stated that a builder had purchased the 20 feet to construct a new home on Park Boulevard and added that the additional footage that would be needed would be 5.18 feet to get it to 25 feet which would have negated the variation. Mr. Poteracki stated that looking at the square footage of the encroachment as it currently stands, 144 square feet encroach, however, it is still within the lot coverage ratio. He added that 23 square feet of that amount is 2-story so the structure is not massive nor will it impede light or air.

Additional Questions from the Zoning Board of Appeals

ZBA Member Chip Miller asked Mr. Poteracki if he would have worked around the issue or applied for a variation had he been aware of the situation. Mr. Poteracki stated they would have done their best to try to create something within the confines of the setbacks, however, the variation is the best way to add onto the house due to the layout of the house as it flows with the structure. Mr. Poteracki responded to ZBA Member Chip Miller that they would probably have to shift the foundation if the variation request was denied and that an awkward roof situation with multiple gables coming in would also be created. Mr. Housey responded to ZBA Member Jones that they did not ask their neighbor if they could purchase back the 5 feet originally sold to them as they found out about this situation very recently and did not feel the neighbor would be able to sell back that property. ZBA Member Jones asked how much time it would take to re-draw the architectural drawings if the variation request was denied. Mr. Poteracki stated that the initial process took close to nine months to come to this point and responded that they would not be able to begin construction until spring.

Persons in Favor of or in Opposition to the Variation Request

Greg Klamrzynski of 735 N. Park Boulevard, Glen Ellyn, Illinois stated that he lives in the petitioners' neighborhood and can see their home from his back deck. He stated that the plan the petitioners are putting in place is a huge improvement from his vantage point as well as other neighbors who surround their back yard. He added that the garage is gigantic and very close to the property lines for the surrounding neighbors so opening up that space will make the area more pleasant for the neighbors' back yards. Mr. Klamrzynski stated that other neighbors he has spoken to are happy with the petitioners' plan. He also stated that the petitioners are a victim of circumstances as the code is not explicit regarding the cut-out on their property.

Findings of Fact

ZBA Member Constantino stated that the petitioners, William and Shelley Housey, owners of the property at 708 Lenox Road, are requesting a variation to allow the construction of an addition with a rear yard setback of 28 feet in lieu of the required minimum 40-foot setback. He stated that Building and Zoning Official Steve Witt stated that no prior variances are on record to have been granted for this property. He stated that the subject property is an interior lot located in the R2 Zoning District on Lenox between Oak and Linden in a single-family residential area. ZBA Member Constantino stated that the variance relates to the northwest corner of the subject lot and is required because of an approximately 20' by 20' portion or cut-out of the lot that was sold prior to the current owners taking title. ZBA Member Constantino stated that Building and Zoning Official Steve Witt described a prior variation request at 175 Bryant Avenue where similar issues were heard and described it as almost a subjective process in interpreting the application of the zoning ordinance. He added that when one has a cut-out

such as the petitioners have, it depends upon the dimensions of the cut-out to determine whether one takes setbacks off of the rear boundary line or the side boundary and in this case the determination was made to take off the rear lot line because of the cut-out in certain areas and instead of the 40-foot requirement there would be a necessary 13- to 14-foot encroachment onto the setback because of the unique shape. ZBA Member Constantino stated that the owners, Bill and Shelley Housey, and Architect Steve Poteracki were present. Mr. Poteracki presented a petition signed by nine (9) surrounding neighbors. He stated that Mr. Poteracki presented the hardship as being the lot shape which was not created by the present owners. He added that there is an unusual setback in the shape of an arc and if it had not been sold off, the petitioners would not be present to request a variation. ZBA Member Constantino stated that the petitioners are seeking to maintain the character of their home rather than considering a teardown or other drastic measure. He added they did not realize a variation would be required until after the permit process had begun. He added that the entire encroachment on the setback is approximately 144 square feet and is still within the lot coverage ratio per the zoning ordinance. ZBA Member Constantino stated that Mr. Housey had said they did not have time to approach neighbors to determine whether they could gain any area in the rear to assist with the proposed project.

ZBA Member Constantino stated that neighbor Greg Klamrzynski of 735 N. Park Boulevard reviewed the plans to remove the garage and add the addition and Mr. Klamrzynski stated that he and the other neighbors feel that this project will be a huge improvement to the subject space and the area. ZBA Member Constantino stated that Mr. Klamrzynski felt this was a unique situation and felt it was necessary to go through the archives and make a subjective interpretation of the code.

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

Comments from the Zoning Board of Appeals

ZBA Member Constantino felt that although not unique, the variation request is due to a hardship created by a cutout of approximately 20 feet by 25 feet. He added that the cutout was not caused by the owner nor was the situation created by the owner. He also stated that the unique shape of the lot and the interpretation of the use of the rear yard versus the side yard determined the setback and created this issue and the arc shaped setback that does almost nothing for the plans and the shape of the house. He added that this unique interpretation of the zoning lot is subjective and not easily interpreted in an objective standard. He stated that he is supportive of the variance being requested as it appears to be the minimum amount and the neighbors are supportive. ZBA Member Chip Miller agreed with ZBA Member Constantino's comments. He added that an important part of this request is that the interpretation is not published and the petitioners had no way to know until it was presented and they had done work on the project. ZBA Member Chip Miller also stated that removing the

garage opens up more space for that whole portion of the neighborhood to be able to see the lake and have more air and light coming into their homes. He added that the overall plan is nice and will help the neighborhood; therefore, he is in favor of the variation request. ZBA Member Micheli stated he was not in favor of the variation request as he does not think it is a non-published code and does not think it is subjective. He felt that if one is presented with an unusual lot, it is the architect's responsibility to contact the Village regarding how to address it. He stated that the explanation to take the greater encroachment and measure from there seems very clear and is something that could have been worked with. He added that he found that the topography will shelter it a great deal and he found that the unusual shape of the lot begins to grant a basis for it. He also felt that the petitioners' efforts to salvage and retain the unique home in keeping with the character of the neighborhood should be assisted but did not think that the Village code is unclear and is written to specifically to address these notches and it is not the ZBA's place to question how the code is written. He added that he would vote in favor of this request. ZBA Member Jones stated he was in favor of the requested variation per the other ZBA members' comments. He stated he believes a hardship was created by the previous owner. He stated that the lots in Glen Ellyn are not standard lots and stated he was willing to work with that hardship. Student ZBA Member Adam Miller stated that this lot has an odd layout and he did not feel that the petitioners have a realistic way to revise their plan, however, have done a good job with their revision. He added that the home is in a historic neighborhood of Glen Ellyn and the petitioners are providing a fresh look at it and maintaining its historic quality. He was in favor of the variation being requested.

ZBA Member Micheli moved, seconded by ZBA Member Jones, to close the public hearing. The motion carried unanimously with five (5) votes yes and zero (0) votes no.

Motion

ZBA Member Chip Miller moved, seconded by ZBA Member Micheli, that the Zoning Board of Appeals recommend approval of a variation request from Section 10-4-8(D)2 of the Zoning Code by William and Shelley Housey, owners of the property at 708 Lenox Road, to allow the construction of a three-story addition with a rear yard setback of 28 feet 5 inches in lieu of the required minimum of a 40-foot rear yard setback. The recommendation for approval is based on the hardship that the lot is a unique shape and after removing the garage, the section in question allows the house to keep in character with the zoning.

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

Trustee Report

Trustee Liaison Ladesic stated that the Village Board has recently been holding budget workshops.

Chairperson Report

Chairperson Garrity gave no report.

ZBA Report

ZBA Member Chip Miler stated that the Civic Betterment Party is looking for people who would like to run for office.

Staff Report

Building and Zoning Official Steve Witt stated that there are no upcoming zoning variations on the schedule. He added that he does not know at this time when the project at 237 Van Damin will move forward.

ZBA Member Jones moved, seconded by ZBA Member Chip Miller, to adjourn the meeting at 7:50 p.m. The motion carried unanimously by voice vote.

Submitted by:

Barbara Utterback
Recording Secretary

Steve Witt
Building and Zoning Official