

DRAFT MINUTES
ZONING BOARD OF APPEALS
NOVEMBER 10, 2020

The meeting was called to order by ZBA Chairperson Gregory Constantino at 7:07 p.m. Zoning Board of Appeals Members Katie Crudele, Matt Jones, Reed Panther and Thomas Whalls were present. ZBA Member Michelle Covington joined the meeting at 7:37 p.m. ZBA Member Chip Miller was excused. Also present were Planning Manager Kelly Purvis, Planner Katie Ashbaugh, Senior Civil Engineer Amy McKenna, Trustee Liaison Kelli Christiansen and Recording Secretary Lindsey Kaminsky.

Chairperson Constantino stated tonight's meeting is called pursuant to notice by statute that was published in the Daily Herald on October 26, 2020 and all property owners affected by the variations being requested were notified by mail.

Chairperson Constantino stated this meeting will be conducted by audio or video conference without a physically present quorum of the Glen Ellyn Zoning Board of Appeals (ZBA) because of a disaster declaration related to COVID-19 and public health concerns affecting the Village of Glen Ellyn. The Chairperson of the Zoning Board of Appeals has determined that an in-person meeting at the Civic Center is not practical or prudent because of the disaster. The Chairperson, members of the Zoning Board of Appeals, Village Manager, and Village Attorney will not be physically present at the Civic Center because their attendance is unfeasible due to the disaster. Physical attendance at the Civic Center by the public is also not feasible because of the disaster.

Chairperson Constantino stated it is important that the cases scheduled tonight be heard to continue critical Village business which will enable ongoing construction, development, protection of property values, and the promotion of the Village's economic vitality.

Chairperson Constantino stated the Glen Ellyn Zoning Board of Appeals is advisory in nature and the actual variances that are being requested can only be granted by the Village of Glen Ellyn Board of Trustees. The ZBA's function is to listen to whatever testimony is offered by the petitioner and others. We take significant evidence, agree on the facts which we have found from the evidence, consider and deliberate among ourselves and then we make a recommendation to the Village Board.

Chairperson Constantino stated if the ZBA makes a recommendation favorable to the granting of the variation(s) requested, then the Village Board requires a majority vote for the final approval of the ordinance to grant the variation(s). If the ZBA makes a recommendation to deny the requested variation(s), it would then require a two-thirds vote of the Trustees of the Glen Ellyn Village Board to pass an ordinance approving the variation(s) requested.

MOTION TO ALLOW REMOTE PARTICIPATION

ZBA Member Crudele moved, seconded by ZBA Member Whalls, to allow the members of the ZBA to participate remotely. The motion was carried by roll call vote with 5 "yes" votes and 0 "no" vote. The "yes" votes are as follow: ZBA Chairperson Constantino, ZBA Member Crudele, ZBA Member Jones, ZBA Member Panther and ZBA Member Whalls.

MINUTES

ZBA Member Whalls moved, seconded by ZBA Member Crudele, to approve the minutes of the October 27, 2020 meeting. The motion was carried by roll call vote with 5 “yes” votes and 0 “no” vote. The “yes” votes are as follow: ZBA Chairperson Constantino, ZBA Member Crudele, ZBA Member Jones, ZBA Member Panther and ZBA Member Whalls.

On the agenda was a public hearing regarding the property located at 717 Amber Ridge Avenue and a public hearing regarding the property located at 410 Spring Avenue.

ZBA Chairperson Constantino stated all members of the Zoning Board of Appeals have visited both properties and are familiar with the plans that were submitted.

A motion was made by ZBA Member Jones and seconded by ZBA Member Crudele to open the public hearing for 717 Amber Ridge Avenue at 7:16 p.m. The motion was carried by roll call vote with 5 “yes” votes and 0 “no” vote. The “yes” votes are as follow: ZBA Chairperson Constantino, ZBA Member Crudele, ZBA Member Jones, ZBA Member Panther and ZBA Member Whalls.

PUBLIC HEARING – 717 AMBER RIDGE AVENUE

PETITIONER MICHAEL SULLIVAN IS REQUESTING APPROVAL FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-5-4(A)(4)(B) TO ALLOW AN EXISTING SHED CLOSER THAN (TEN) 10 FEET TO THE PRINCIPAL STRUCTURE TO ENCROACH INTO THE REQUIRED INTERIOR SIDE YARD IN THE R2 RESIDENTIAL DISTRICT. 2. SECTION 10-4-8(D)(3) TO ALLOW AN EXISTING SHED TO BE APPROXIMATELY SEVEN (7) INCHES FROM THE EAST INTERIOR SIDE LOT LINE WHERE AN INTERIOR SIDE YARD SETBACK OF APPROXIMATELY SEVEN (7) FEET THREE (3) INCHES IS REQUIRED WHEN THE ACCESSORY STRUCTURE IS LOCATED CLOSER THAN 10 FEET FROM THE PRINCIPAL STRUCTURE IN THE R2 RESIDENTIAL DISTRICT. 3. ANY OTHER ZONING RELIEF NECESSARY TO CONSTRUCT THE PROJECT AS DEPICTED ON THE PLAN PRESENTED OR REVISED AT THE PUBLIC HEARING OR AT A PUBLIC MEETING OF THE VILLAGE BOARD.

(Michael Sullivan, owner of the property located at 717 Amber Ridge Avenue.)

Staff Presentation

Planner Katie Ashbaugh was present to speak regarding the proposed variation request and was sworn in.

Planner Ashbaugh stated the petitioner is Michael Sullivan, owner of the property at 717 Amber Ridge Avenue. She described the subject property, 717 Amber Ridge Avenue, as an interior lot located on the south side of Amber Ridge Avenue, mid-block between the intersection of S. Montclair Avenue to the west and the north-south segment of Amber Ridge Avenue. She continued that the subject property, the properties to the north, east and west are all zoned R2 – Residential District and are all

improved with single family homes. She said the property to the south across Sheehan Avenue is also zoned R2-Residential District and is occupied by Glen Crest Middle School.

Planner Ashbaugh stated the petitioner is requesting a recommendation of approval of the following variations from the Glen Ellyn Zoning Code:

1. Section 10-5-4(A)(4)(b) to allow an existing shed closer than (ten) 10 feet to the principal structure to encroach into the required interior side yard in the R2 Residential District;
2. Section 10-4-8(D)(3) to allow an existing shed to be approximately seven (7) inches from the east interior side lot line where an interior side yard setback of approximately seven (7) feet three (3) inches is required when the accessory structure is located closer than 10 feet from the principal structure in the R2 Residential District; and
3. 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.

Planner Ashbaugh stated the Village does not have records of any prior variations being granted for the subject property.

Planner Ashbaugh stated the existing single-family home was constructed in 2015. She said that a fence, patio, shed, and lawn sprinklers were installed in between 2016 and 2018 per permit records. She said that in October 2019, the petitioner and current homeowner filed a building permit application for the installation of a six (6) by eight (8) foot shed to replace an existing shed on the property. She stated that sheds are issued as over the counter permits. She said that Section 10-5-5(B)(4) #29, allows sheds to encroach in the required interior side yard, however, Section 10-5-4(A)(4)(b), states that accessory structures closer than ten (10) feet to the principal structure must comply with required interior side yard setback in the district (in this case 7 feet 2 inches).

Planner Ashbaugh stated as an over the counter permit involving a lesser scope of work, such as when no foundation being poured, this plan for the subject shed at the time was not reviewed as closely as other accessory structure permit applications. She stated that staff did not note the additional setback requirement for accessory structures closer to the principal structure than 10 feet. She said the petitioner had intended the location of the new shed to be the same as the previously installed shed. She also said that the previous shed was actually much closer to the east property line than was indicated on the plat proposing the location of the new shed. She continued that the previous permit application filed for a shed in 2017 expired and was never picked up, so the previously existing shed was likely installed without a permit in the non-compliant and unapproved location. She said that the October 2019 permit application was erroneously issued and the shed subsequently installed a second time in approximately the same non-compliant location. Upon final inspection in January 2020, staff discovered the non-compliant location. The petitioner was informed that a construction necessitated zoning variation would be required to allow the shed to remain in its current location, or they could relocate the shed to a compliant location.

Planner Ashbaugh stated the existing shed is proposed to remain approximately seven (7) inches from the east interior side lot line where a distance of seven (7) feet two (2) inches is required. Staff notes that 717 Amber Ridge is a through-lot with two front yards. She said that the shed could not be located in what is functionally the rear yard of the home without the granting of a variation.

Questions from the Zoning Board of Appeals

ZBA Member Crudele asked if a permit was issued for the previous shed's location. Planner Ashbaugh stated the previous owner applied for a permit, but it was never finalized. Planner Ashbaugh stated the previous shed was most likely built without an approved permit.

ZBA Chairperson Constantino asked if the current shed was built to match the plans that were provided to the Community Development Department when the permit was issued. Planner Ashbaugh stated it was not, and there is a difference between the approved plans. Planner Ashbaugh also noted the permit should have not been issued regardless.

Petitioners' Presentation

Sworn in for the Petitioner's Presentation was Michael Sullivan, owner of the property located at 717 Amber Ridge Avenue.

Mr. Sullivan stated he bought the property 1.5 years ago, and was happy to have a pre-framed area of where the previous shed was. Mr. Sullivan stated he went to the Village of Glen Ellyn to get the required permit, and did not purchase the shed until the permit was issued by the Village. Mr. Sullivan stated he found out about two months later from the Village that the shed was not allowed to remain in that location. Mr. Sullivan stated he then worked with Planner Ashbaugh to see what can be done to keep the shed at its current location. Mr. Sullivan stated the shed is necessary for storage.

Additional Questions from the Zoning Board of Appeals

ZBA Member Panther asked if the shed could be taken apart and reassembled somewhere else on the property. Mr. Sullivan stated he could hire a professional for that, but there is no other location for the shed to be placed.

ZBA Member Whalls asked why the shed was not built at the location marked on the plans when the permit was issued. Mr. Sullivan stated he did not mark the location of the shed correctly on the plans, which was a misunderstanding and miscommunication.

ZBA Chairperson Constantino asked if there is anywhere else on the property where the shed could be located. Mr. Sullivan stated there is not.

Persons in Favor of or in Opposition to the Variation Requests

Keith Warner, who resides at 710 Amber Ridge Avenue, was sworn in. Mr. Warner stated the shed located in the backyard is not very egregious in terms of the Village's Zoning Code. Mr. Warner also stated he fully supports keeping the shed where it is currently located.

ZBA Chairperson Constantino asked if Mr. Warner would agree that you can see very little of the shed as it is hidden by the fence. Mr. Warner stated this is correct.

Carolina Mahrle, who resides at 725 Amber Ridge Avenue, was sworn in. Ms. Mahrle stated she is the immediate neighbor to the petitioner. Ms. Mahrle stated the shed is very nice, and is painted to match the home on the property. Ms. Mahrle stated she fully supports keeping the shed where it is currently located.

Findings of Fact

ZBA Member Panther stated the following findings of fact: the property in question is 717 Amber Ridge Avenue; the owner and petitioner is Michael Sullivan; the petitioner is requesting variations from Section 10-5-4(A)(4)(b) to allow an existing shed closer than (ten) 10 feet to the principal structure to encroach into the required interior side yard in the R2 Residential District, Section 10-4-8(D)(3) to allow an existing shed to be approximately seven (7) inches from the east interior side lot line where an interior side yard setback of approximately seven (7) feet three (3) inches is required when the accessory structure is located closer than 10 feet from the principal structure in the R2 Residential District; 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 Panther continued the findings of fact: the ZBA heard from Planner Ashbaugh, who indicated the subject property, the properties to the north, east and west are all zoned R2 – Residential District and are all improved with single family homes; the property to the south across Sheehan Avenue is also zoned R2-Residential District and is occupied by Glen Crest Middle School; there have been no prior variations approved for this property; the home was constructed in 2015; a permit was requested for a shed of approximately six feet by 8 feet to replace a prior shed on the property; the previous shed was permitted, but the permit was never closed out and was likely installed out of compliance; it was indicated this is a through lot, which limits the location on the property where the shed can be placed; the permit request was to place the shed against the home, but that would have also not been allowed based on the interpretation of the Zoning Code; it was indicated that if a shed is placed 10 feet away from the principal structure a setback of three feet is required.

ZBA Member Panther continued the findings of fact: the ZBA heard from petitioner Michael Sullivan, owner of the property, who indicated the previous owners did take the shed with them, however, the existing shed pad was left; there are no other viable locations on the property to locate the shed due to being a thru lot; and that they needed the shed on the property for storage.

ZBA Member Panther continued the findings of fact: the ZBA then heard from Keith Warner, property owner of 710 Amber Ridge Avenue, who indicated that he is in full support of the project and indicated the shed is barely visible from the front due the fence and landscaping in place.

ZBA Member Panther continued the findings of fact: the ZBA then heard from Carolina Mahrle, property owner of 725 Amber Ridge Avenue, who indicated that she is in full support of the project and indicated the shed looks great and is barely visible from her property.

Motion

ZBA Member Whalls moved, seconded by ZBA Member Covington that the Zoning Board of Appeals recommend to approve of the Findings of Fact. The motion was carried by roll call vote with 6 “yes” votes and 0 “no” vote. The “yes” votes are as follow: ZBA Chairperson Constantino, ZBA Member Covington, ZBA Member Crudele, ZBA Member Jones, ZBA Member Panther and ZBA Member Whalls.

Additional Comments from the Zoning Board of Appeals

ZBA Member Covington stated she has no issues as the shed and shed pad were previously in the same location on the property.

ZBA Member Crudele stated she does not have any issues with this request as the Village issued a permit for the shed. ZBA Member Crudele also stated it is a beautiful shed and the petitioner has the support of his neighbors.

ZBA Member Jones stated he is in support of the variation.

ZBA Member Panther stated he is in support of the variation and the thru lot creates a hardship.

ZBA Member Whalls stated he is in support of the variation as the Village issued a permit for the shed.

ZBA Chairperson Constantino stated he is in support of the variation and noted the hardship of the thru lot and the cost to relocate the structure. ZBA Chairperson Constantino also noted the shed is barely visible.

Motion

A motion was made by ZBA Member Jones and seconded by ZBA Member Covington to close the public hearing for 717 Amber Ridge Avenue at 7:48 p.m. The motion was carried by roll call vote with 6 “yes” votes and 0 “no” vote. The “yes” votes are as follow: ZBA Chairperson Constantino, ZBA Member Covington, ZBA Member Crudele, ZBA Member Jones, ZBA Member Panther and ZBA Member Whalls.

A motion was made by ZBA Member Jones and seconded by ZBA Member Panther as follows:

Having considered the application of Michael Sullivan, owner of the property located at 717 Amber Ridge Avenue, Glen Ellyn, for two construction necessitated zoning variations to allow an existing shed closer than (ten) 10 feet to the principal structure to encroach into the required interior side yard and to allow an existing shed to be approximately seven (7) inches from the east interior side lot line where an interior side yard setback of approximately seven (7) feet three (3) inches is required so that an existing shed can remain on the property located at 717 Amber Ridge Avenue, an interior lot in the R2 – Residential District, as depicted on the plans presented or revised at the public hearing or at a

public meeting of the Village Board, the Zoning Board of Appeals hereby adopts the findings of fact in the petitioner's application packet and presented by the petitioner at the Zoning Board of Appeals public hearing conducted on November 10, 2020, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends APPROVAL of the requested construction necessitated zoning variations from Sections 10-5-4(A)(4)(b) and 10-4-8(D)(3) of the Glen Ellyn Zoning Code due to the following hardship(s) or unique circumstance(s):

1. The home is built on a thru lot, which limits the ability to build a shed elsewhere on the lot.

The motion was carried by roll call vote with 6 "yes" votes and 0 "no" vote. The "yes" votes are as follow: ZBA Chairperson Constantino, ZBA Member Covington, ZBA Member Crudele, ZBA Member Jones, ZBA Member Panther and ZBA Member Whalls.

A motion was made by ZBA Member Whalls and seconded by ZBA Member Covington to open the public hearing for 410 Spring Avenue at 7:52 p.m. The motion was by roll call vote carried with 6 "yes" votes and 0 "no" vote. The "yes" votes are as follow: ZBA Chairperson Constantino, ZBA Member Covington, ZBA Member Crudele, ZBA Member Jones, ZBA Member Panther and ZBA Member Whalls.

PUBLIC HEARING – 410 SPRING AVENUE

PETITIONER PIERRE BISET IS REQUESTING APPROVAL FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-5-5(B)(4) #18.C.1 TO ALLOW EXISTING IMPERVIOUS SURFACES TO COVER APPROXIMATELY 1,809 SQUARE FEET, OR 61 PERCENT OF THE REQUIRED REAR YARD, WHERE ONLY UP TO 50 PERCENT, OR APPROXIMATELY 1,505 SQUARE FEET, OF THE REQUIRED REAR YARD IS PERMITTED TO BE COVERED BY IMPERVIOUS SURFACES. 2. SECTION 10-5-5(B)(4) #37 TO ALLOW AN EXISTING PATIO TO BE APPROXIMATELY FIVE (5) FEET FROM THE NORTH INTERIOR SIDE LOT LINE WHERE AN INTERIOR SIDE YARD SETBACK OF SEVEN (7) FEET SIX (6) INCHES IS REQUIRED. 3. SECTION 10-5-5(B)(4) #28 TO ALLOW AN EXISTING PATIO TO BE APPROXIMATELY SEVEN (7) FEET ONE (1) INCH FROM THE WEST REAR LOT LINE WHERE A REAR YARD SETBACK OF SEVEN (7) FEET SIX (6) INCHES IS REQUIRED. 4. SECTION 10-5-5(B)4 #8 TO ALLOW AN EXISTING DECK TO BE APPROXIMATELY FIVE (5) FEET EIGHT (8) INCHES FROM THE NORTH INTERIOR SIDE LOT LINE WHERE AN INTERIOR SIDE YARD SETBACK OF SEVEN (7) FEET SIX (6) INCHES IS REQUIRED. 5. SECTION 10-5-5(B)(4) #34 TO ALLOW EXISTING STAIRS TO BE APPROXIMATELY FIVE (5) FEET THREE (3) INCHES FROM THE NORTH INTERIOR SIDE LOT LINE WHERE AN INTERIOR SIDE YARD SETBACK OF SEVEN (7) FEET SIX (6) INCHES IS REQUIRED. 6. SECTION 10-5-5(B)(4) #38 TO ALLOW AN EXISTING RETAINING WALL TO BE APPROXIMATELY TWO (2) FEET FROM THE NORTH INTERIOR SIDE LOT LIEN WHERE A SETBACK OF EITHER THREE (3) FEET NINE (9) INCHES OR SEVEN (7) FEET SIX (6) INCHES IS REQUIRED. 7. ANY OTHER ZONING RELIEF NECESSARY TO CONSTRUCT THE PROJECT AS DEPICTED ON THE PLANS PRESENTED OR REVISED AT THE PUBLIC HEARING OR PUBLIC MEETING OF THE VILLAGE BOARD.

(Pierre Biset, owner of the property located at 410 Spring Avenue)

Staff Presentation

Planner Katie Ashbaugh and Senior Civil Engineer Amy McKenna were present to speak regarding the proposed variation request and was sworn in.

Planner Ashbaugh stated the petitioner is Pierre Biset, owner of the property at 410 Spring Avenue. She described the subject property, 410 Spring Avenue, as an interior lot, located on the west side of Spring Avenue, mid-block between the Hill Avenue and Glen Oak Avenue intersections. She said the subject property and the properties to the north, west and south are all zoned R2- Residential District and are all improved with single-family homes. She said that the property to the east across Spring Avenue is unincorporated DuPage County and is the location of the Glen Oak Country Club.

Planner Ashbaugh stated the petitioner is requesting a recommendation of approval of the following variations from the Glen Ellyn Zoning Code:

1. Section 10-5-5(B)(4) #18.c.1 to allow existing impervious surfaces to cover approximately 1,809 square feet, or 61 percent of the required rear yard, where only up to 50 percent, or approximately 1,505 square feet, of the required rear yard is permitted to be covered by impervious surfaces;
2. Section 10-5-5(B)(4) #37 to allow an existing patio to be approximately five (5) feet from the north interior side lot line where an interior side yard setback of seven (7) feet six (6) inches is required;
3. Section 10-5-5(B)(4) #28 to allow an existing patio to be approximately seven (7) feet one (1) inch from the west rear lot line where a rear yard setback of seven (7) feet six (6) inches is required;
4. Section 10-5-5(B)(4) #8 to allow an existing deck to be approximately five (5) feet eight (8) inches from the north interior side lot line where an interior side yard setback of seven (7) feet six (6) inches is required;
5. Section 10-5-5(B)(4) #34 to allow existing stairs to be approximately five (5) feet three (3) inches from the north interior side lot line where an interior side yard setback of seven (7) feet six (6) inches is required;
6. Section 10-5-5(B)(4) #38 to allow an existing retaining wall to be approximately two (2) feet from the north interior side lot line where a setback of either three (3) feet nine (9) inches or seven (7) feet six (6) inches is required; and
7. Any other zoning relief necessary to construct the project as depicted on the plans presented or revised at the public hearing or a public meeting of the Village Board.

Planner Ashbaugh stated on June 14, 1993, the Village adopted Ordinance 4025-Z. This granted approval of a zoning variation to allow a second-floor addition to the existing single-family home to have a 25 foot 6 inch rear yard setback where a 40 feet rear yard setback was required.

Planner Ashbaugh described the permit history for the subject property, which included permit X-926, which allowed the construction of single-family home in 1927. She continued that in 1983, electrical work was completed and then 10 years later in 1993, a zoning variation to allow the

aforementioned second-floor addition was approved. She said that a plat of survey dated June 6, 1983, shows the original footprint of the home with this encroachment. She said that because this encroachment was nonconforming in 1993, the variation was required to enlarge the encroachment with the second-floor addition. She said that a subsequent building permit application was filed and approved that same year. She said that in 1998 and 2007, sewer repairs were completed. In 2012, alteration and remodeling was completed, and in November 2019, a new fence was installed.

Planner Ashbaugh stated on August 8, 2019, the petitioner filed a building permit to install a new deck, stairs leading up to the deck, a patio, and a retaining wall. She said that on August 26, 2019, staff sent rejection letters pertaining to building, zoning, and stormwater code requirements and referred to those in the meeting materials provided to the ZBA. She said that in the zoning review, the proposed deck, stairs, and patio did not comply with the required interior side and rear yard setbacks. She also said that in the stormwater review specifically, staff noted neither the net new impervious surface nor the height of the proposed retaining walls were provided. She said that the stormwater review letter also stated that if the retaining walls were 3 feet or taller in height, a structural engineer's certification would be required.

Planner Ashbaugh continued the project history and said that on October 1, 2019, the petitioner filed their second submittal in response to the review comments and that on October 9, 2019, the plans were approved. She said that on the approved plan, the retaining wall was no longer shown in the scope of work. She said that the approved size of the patio was 15 by 24 feet, or 360 square feet in area and the approved size of the deck was 18.16 by 11 feet, or approximately 200 square feet in area.

Planner Ashbaugh said that on November 6, 2019, the petitioner applied for and was issued a separate permit to install a new fence and on January 7, 2020, the new fence passed its final inspection and the permit was closed. She said that on April 14, 2020, staff conducted a final inspection for the new deck, stairs, and patio as approved on October 9, 2019, and it was during this inspection staff determined that the deck, stairs, and patio were not installed per the approved plans and the petitioner failed the inspection.

Planner Ashbaugh stated on July 28, 2020, the petitioner first initiated contact with Planner Ashbaugh to inquire about the construction necessitated zoning variation process. She said that on September 9, 2020, the petitioner requested a permit extension, which was approved and will expire on February 9, 2021.

Planner Ashbaugh provided details regarding the existing conditions on the property, including the work requiring the zoning variations in consideration.

Installed Patio

Planner Ashbaugh first described the variations required for the patio as installed. She said that to allow the patio to remain as it was installed, that an interior side yard variation, rear yard variation, and impervious surface variation is required. She said that only 50 percent of the required rear yard could be covered with impervious surface, or 1,505 square feet. She said the existing patio resulted in a total of 1,809 square feet, or 61 percent. She also said the required interior side and rear yard setbacks were

7 feet 6 inches, but the existing patio was 5 feet from the north interior side lot line and 7 feet from the west rear lot line.

Installed Deck

Planner Ashbaugh said the deck as it was installed required one variation to allow it to remain. She said that it was required to be 7 feet 6 inches from the north interior side lot line and that the approved permit plan indicated that the deck would be installed in compliance with this. She said that the petitioner instead installed the deck 5 feet 8 inches from the north interior side lot line.

Installed Stairs

Planner Ashbaugh said that stairs leading to the deck as they were installed required one required one variation to remain. She said that it they were required to be 7 feet 6 inches from the north interior side lot line and that the approved plan showed that they would be compliant. She said that the petitioner instead installed the deck 5 feet 3 inches from the north interior side lot line.

Installed Retaining Wall

Planner Ashbaugh said that retaining walls which are 36 inches or less in height must be 3 feet 9 from all adjacent lot lines on this property, and must be 7 feet 6 inches from all adjacent lot lines if taller than 36 inches. She said that in the first set of review comments for this permit that Senior Civil Engineer McKenna had asked for the height of the retaining wall to be shown. She said that on the second submittal of the permit application, that the retaining wall no longer proposed or part of the work to be installed.

Planner Ashbaugh said that on the current plat of survey submitted as part of the construction necessitates zoning variation application documented the existence of the retaining wall of which staff was not previously aware. She said that the height of the retaining wall is still not known, but that it is 2 feet from the north interior side lot line and therefore also requires a variation.

She continued that when staff made the petitioner aware of this, that the petitioner indicated in correspondence that they believed that the retaining wall could not be located closer to the existing house due to the placement of an existing sewer line. Planner Ashbaugh said that Community Development Department and Public Works staff all evaluated this presumed condition and confirmed that an existing sewer line does in fact run beneath the lot line separating 410 and 416 Spring Avenue. She said that staff also confirmed that this sewer line is not located within an existing public utility easement and that Public Works Director John Hubsy stated that if the wall is to remain, that it is in conflict with the area in which the Village would need to dig to perform maintenance. She said that Director Hubsy said that an indemnification agreement with the Village should be required should the variation be approved for the retaining wall. She said that the draft motion to recommend approval suggests this as one of the conditions. She said that if the variation for the retaining wall were denied and compliance with the setback were required, that there is a condition of denial that the wall be relocated so that it is farther from this existing sewer line and less susceptible to potential damage or required removal.

Conditions

Planner Ashbaugh described the various conditions of approval detailed in the staff report, should the ZBA decide to recommend approval of the request. She also described the conditions of denial, should they decide to recommend denial, also in the staff report.

Questions from the Zoning Board of Appeals

ZBA Member Whalls asked if the petitioner was made aware of the sewer line under the stone wall.

Senior Civil Engineer Amy McKenna was sworn in.

Senior Civil Engineer McKenna stated the sewer line was not discussed. Senior Civil Engineer McKenna stated the original plan had the retaining wall, which staff asked for more information about. Senior Civil Engineer McKenna stated the retaining wall was dropped and not submitted with the second set of plans, so the sewer line was never discussed.

ZBA Chairperson Constantino stated it is also the responsibility of the owner to look up potential easements, but the retaining wall was not submitted with the second set of plans.

ZBA Member Jones asked if the petitioner, or future owner, could pave the driveway in its current location in the future, if desired. Senior Civil Engineer McKenna stated gravel or paving, because it was already in that location, does not impact stormwater. Planner Ashbaugh clarified that impervious surface setbacks for driveways were only “grandfathered” if the owner could prove they owned the property on or before March 1, 1999 or that the driveway existed in that location on or before March 1, 1999.

Chairperson Constantino asked if the work that was completed matches the original plan that was rejected by Village staff. Planner Ashbaugh stated that was correct. Senior Civil Engineer McKenna stated the original plan was missing a lot of information, and there were conversations with the petitioner on what could and could not be approved/built.

Chairperson Constantino asked if the increased size of the patio requires a drainage plan. Senior Civil Engineer McKenna stated it does, and that the petitioner did submit a drainage plan, and no stormwater management such as a drywell was required.

Chairperson Constantino asked if there are any additional stormwater concerns. Senior Civil Engineer McKenna stated there are not.

ZBA Member Whalls asked Engineer McKenna if the petitioner had spoken to her after the initial permit application was rejected. Engineer McKenna confirmed that she and Plans Examiner Paula Moritz (not present) had both spoken to the petitioner during the permit review phase about how to meet the code requirements.

Petitioners' Presentation

Sworn in for the Petitioner's Presentation was Pierre Biset, owner of the property located at 410 Spring Avenue.

Mr. Biset stated he never intended for any of these issues to happen or arise. Mr. Biset stated he purchased the home in 2013, and since then has been working to approve the home. Mr. Biset stated this has been the largest project that he has taken on, and that he has learned about through the process.

Mr. Biset stated his contractor had suggested the changes to the approved plan, and Mr. Biset thought they kept the character of the home and neighborhood. Mr. Biset stated there are no neighbor concerns and the backyard has been completely transformed.

Mr. Biset stated there are no drainage concerns noted by staff, and that he is willing to have staff monitor the drainage and would be willing to put in some type of stormwater management, if recommended by Village staff.

Mr. Biset stated the retaining wall was removed from the original plans due to the cost. Mr. Biset stated the retaining wall was added back to the scope of work after the permit was approved because the shrubs and plants were removed from the area, which looked bad. Mr. Biset stated he did not think the addition of the retaining wall would cause any issues.

Mr. Biset stated his driveway and apron have also been as they currently are.

Mr. Biset stated it was never his intention to submit one plan, and then make changes and not follow that plan. Mr. Biset stated he was not aware the changes would make this impact.

Additional Questions from the Zoning Board of Appeals

ZBA Member Covington stated there are six violations from the Zoning Code. ZBA Member Covington asked if at any time during the changes and construction of Mr. Biset thought to pause and speak to the Village, given the changes that were required to get the permit in the first place. Mr. Biset stated the contractor made the suggestions regarding the patio and deck size. Mr. Biset stated the relocation of the deck stairs was his idea. Mr. Biset stated he did not realize the changes would cause issues, and did not think to call the Village.

ZBA Member Covington asked if Mr. Biset could provide more information about increase in patio size. Mr. Biset stated with the change in the location of the stairs required a larger patio. Mr. Biset stated the contractor gave the suggestion of the larger patio, and the contractor noted the patio that was approved was very small. Mr. Biset stated he did not think the increase in patio size would cause any issues. Mr. Biset also noted the changes that were made were not worth these the current problems, and he thought he was doing what was best for his home.

ZBA Member Jones asked when the pavers were ordered, if the landscapers told Mr. Biset he would have extra brick due to the pavers being ordered in pallets. Mr. Biset stated he did not recall this.

ZBA Member Whalls stated Mr. Biset's name is on the permit, and not the landscapers. ZBA Member Whalls stated Mr. Biset blew off what was approved by the Village, and that Mr. Biset should have and could have picked up the phone to call the Village. ZBA Member Whalls also said that Village staff had helped him to get his permit approved and he still disregarded the approved plans.

ZBA Chairperson Constantino stated this project seems like it would cost a lot of money. ZBA Chairperson Constantino stated that based on suggestions by the contractor and landscaper, Mr. Biset made significant changes to the approved permit. ZBA Chairperson Constantino stated Mr. Biset had to go through the plan approval process with the Village twice for this project, and should have known to call the Village with any potential changes to what was approved. ZBA Chairperson Constantino stated he is not sure how the variation requests would have been viewed if the ZBA had the chance to review them before the construction was complete.

ZBA Member Whalls asked if the Village knew the height of the retaining wall. Planner Ashbaugh stated the Village has no information regarding the retaining wall other than it existed as shown on the plat of survey.

ZBA Member Jones asked if the doors from the house to the deck would be used as an escape route in the case of an emergency. Mr. Biset stated they would.

Persons in Favor of or in Opposition to the Variation Requests

No one spoke in favor or in opposition of the variation requests.

Findings of Fact

ZBA Member Panther stated the following findings of fact: the property in question is 410 Spring Avenue; the owner is Pierre Biset; the petitioners are requesting variations from the following sections of the Glen Ellyn Zoning Code: Section 10-5-5(B)(4) #18.c.1 to allow existing impervious surfaces to cover approximately 1,809 square feet, or 61 percent of the required rear yard, where only up to 50 percent, or approximately 1,505 square feet, of the required rear yard is permitted to be covered by impervious surfaces; Section 10-5-5(B)(4) #37 to allow an existing patio to be approximately five (5) feet from the north interior side lot line where an interior side yard setback of seven (7) feet six (6) inches is required; Section 10-5-5(B)(4) #28 to allow an existing patio to be approximately seven (7) feet one (1) inch from the west rear lot line where a rear yard setback of seven (7) feet six (6) inches is required; Section 10-5-5(B)(4) #8 to allow an existing deck to be approximately five (5) feet eight (8) inches from the north interior side lot line where an interior side yard setback of seven (7) feet six (6) inches is required; Section 10-5-5(B)(4) #34 to allow existing stairs to be approximately five (5) feet three (3) inches from the north interior side lot line where an interior side yard setback of seven (7) feet six (6) inches is required; Section 10-5-5(B)(4) #38 to allow an existing retaining wall to be approximately two (2) feet from the north interior side lot line where a setback of either three (3) feet nine (9) inches or seven (7) feet six (6) inches is required, and any other zoning relief necessary to allow the existing patio, deck, stairs, and retaining wall to remain on the property as shown on the plans at the public hearing or a public meeting of the Village Board.

ZBA Member Panther continued the findings of fact: the ZBA heard from Planner Ashbaugh, who indicated the subject property and the properties to the north, west and south are all zoned R2-Residential District and are all improved with single-family homes; the property to the east across Spring Avenue is unincorporated DuPage County and is the location of the Glen Oak Country Club; there was a prior variation issued to the property to allow a second floor addition; in 2019 a permit was requested for the construction of a deck, stairs, patio and retaining wall; initially the project was denied and there was a resubmittal where the retaining wall was removed from the plans and the impervious surface percentage was reduced; upon permit close out, the deck and patio were not built as proposed, as well as the retaining wall was installed and not indicated in the approved permit; it was indicated a sewer line runs along the north portion of the property.

ZBA Member Panther continued the findings of fact: the ZBA then heard from Senior Civil Engineer McKenna, who indicated the as built patio does not require any additional stormwater mitigation measures because of the additional net new impervious surface is under 300 square feet.

ZBA Member Panther continued the findings of fact: the ZBA then heard from petitioner Pierre Biset, owner of the property, who indicated that the changes that occurred from what was approved in the permit was due to the direction of the contractor who recommended changes to the deck and patio; the retaining wall was originally removed from the plans due to the cost of the project, but once they noticed how nice the rest of the property looked they thought it would be nice to include it to the scope of work; the expansion of the deck created an issue with the stairs which created an issue with the landing onto the patio which created the need of several additional variances.

Motion

ZBA Member Jones moved, seconded by ZBA Member Covington that the Zoning Board of Appeals recommend to approve of the Findings of Fact. The motion was carried by roll call vote with 6 “yes” votes and 0 “no” vote. The “yes” votes are as follow: ZBA Chairperson Constantino, ZBA Member Covington, ZBA Member Crudele, ZBA Member Jones, ZBA Member Panther and ZBA Member Whalls.

Additional Comments from the Zoning Board of Appeals

ZBA Member Covington stated it is tough request to review. ZBA Member Covington stated she can see where there could be a hardship. ZBA Member Covington continued that not just one mistake was made, but there were several. ZBA Member Covington stated the petitioner is in charge of the permit process. ZBA Member Covington stated the process is long, and the petitioner wanted it done so when the contractors suggest changes he went with it. ZBA Member Covington also stated there is a reason why we have Zoning Codes which need to be followed.

ZBA Member Crudele stated if she could understand if there was only one violation, but there were many. ZBA Member Crudele stated there seems to be a disregard for the Village in the process. ZBA Member Crudele stated it does look better than it did before the project, which is why the neighbors are in support of it. ZBA Member Crudele stated she is leaning towards being in favor of the deck variations, but is not sure how she feels about the patio and retaining wall. ZBA Member Crudele stated she is concerned regarding the impervious surface ratio.

ZBA Member Jones stated he is fine with the deck as it is an exit from the home in case of an emergency. ZBA Member Jones stated if he was a neighbor, he would be fine with the changes. ZBA Member Jones suggested the ZBA take a look at the variations one at a time. ZBA Member Jones stated he is fine with the project, but does not like how we got to this situation.

ZBA Member Panther stated he is struggling with the variation requests as well. ZBA Member Panther stated the end result of the project looks great, but he does not like the circumstances of why the ZBA is reviewing the request. ZBA Member Panther stated if the requests would have come before the ZBA prior to construction, he is not sure the ZBA would have approved them. ZBA Member Panther stated he is open to the deck and the landing and the retaining wall, but has an issue with the patio. ZBA Member Panther stated the percentage of impervious surface is the real issue.

ZBA Member Whalls stated there was an abuse of the permit that was approved, and that he is not in support of the variations.

ZBA Chairperson Constantino asked if Mr. Biset is aware of the conditions that were suggested by the Community Development Department. Mr. Biset stated he did look over the agenda packet, but was not entirely sure what the conditions include. Mr. Biset stated he has no concern on meeting any condition outlined by the Community Development Department.

ZBA Chairperson Constantino stated he is very concerned over the process and entire scope of variations that are requested. ZBA Chairperson Constantino stated either the contractors or Mr. Biset should have known the changes required review by the Village. ZBA Chairperson Constantino stated Mr. Biset went against what was approved by the Village. ZBA Chairperson Constantino stated he is not in favor of the variations.

ZBA Chairperson Constantino stated he is not in favor of approving any of the variations.

ZBA Member Whalls stated he is not in favor of approving any of the variations.

ZBA Member Panther stated he is not in favor of approving any of the variations.

ZBA Member Covington stated she may be in favor of approving certain variations.

ZBA Member Crudele stated she is in favor of approving certain variations.

ZBA Member Jones stated he is in favor of approving certain variations.

Motion

A motion was made by ZBA Member Covington and seconded by ZBA Member Jones to close the public hearing for 410 Spring Avenue at 9:57 p.m. The motion was carried by roll call vote with 6 “yes” votes and 0 “no” vote. The “yes” votes are as follow: ZBA Chairperson Constantino, ZBA

Member Covington, ZBA Member Crudele, ZBA Member Jones, ZBA Member Panther and ZBA Member Whalls.

A motion was made by ZBA Member Jones and seconded by ZBA Member Whalls, as follows:

Having considered the application of Pierre Biset, owner of the property located at 410 Spring Avenue, Glen Ellyn, for the following construction necessitated zoning variations: to allow existing impervious surfaces to cover approximately 1,809 square feet, or 61 percent of the required rear yard, where only up to 50 percent, or approximately 1,505 square feet, of the required rear yard is permitted to be covered by impervious surfaces; to allow an existing patio to be approximately five (5) feet from the north interior side lot line where an interior side yard setback of seven (7) feet six (6) inches is required; to allow an existing patio to be approximately seven (7) feet one (1) inch from the west rear lot line where a rear yard setback of seven (7) feet six (6) inches is required; to allow an existing deck to be approximately five (5) feet eight (8) inches from the north interior side lot line where an interior side yard setback of seven (7) feet six (6) inches is required; to allow existing stairs to be approximately five (5) feet three (3) inches from the north interior side lot line where an interior side yard setback of seven (7) feet six (6) inches is required; to allow an existing retaining wall to be approximately two (2) feet from the north interior side lot line where a setback of either three (3) feet nine (9) inches or seven (7) feet six (6) inches is required, all to allow an existing deck, stairs, patio, and retaining wall to remain on the property located at 410 Spring Avenue, an interior lot in the R2 – Residential District, as depicted on the plans presented or revised at the public hearing or at a public meeting of the Village Board, the Zoning Board of Appeals hereby recommends DENIAL of the requested construction necessitated zoning variations from Sections 10-5-5(B)(4) #18.c.1, 10-5-5(B)(4) #37, 10-5-5(B)(4) #28, 10-5-5(B)(4) #8, 10-5-5(B)(4) #34, and 10-5-5(B)(4) #38 of the Glen Ellyn Zoning Code based upon the following findings of fact:

1. That the plight of the owners is not due to a unique circumstance or a particular hardship;
2. That the practical difficulty or particular hardship has been created by person presently having an interest in the property because the plans of construction were not followed as permitted.

The motion was carried by roll call vote with 4 “yes” votes and 2 “no” vote. The “yes” votes are as follow: ZBA Chairperson Constantino, ZBA Member Covington, ZBA Member Panther and ZBA Member Whalls. The “no” votes are as follow: ZBA Member Crudele and ZBA Member Jones.

Village Board Trustee Report

Trustee Christiansen stated the tent on Main Street has been removed and Main Street is open to traffic.

Trustee Christiansen stated the positivity rate of COVID-19 is growing in DuPage County and Glen Ellyn. Trustee Christiansen stated we are currently under Tier 2 restrictions in the Mitigation Plan. Trustee Christiansen reminded everyone to wear a mask, social distance and wash your hands.

Trustee Christiansen stated the Village Board had the first reading on the 2021 budget and levy and the second reading/approval will be voted on at the December 14, 2020 Village Board meeting.

Trustee Christiansen stated the precast walls are being installed at the Civic Center Parking garage and the project is expected to be complete in spring 2021.

Trustee Christiansen stated Avere is on track for a January 2021 occupancy date.

Trustee Christiansen stated Apex is on track for a summer 2021 occupancy date.

Trustee Christiansen stated the McChesney & Miller property development will be reviewed by the Plan Commission on November 12, 2020.

Trustee Christiansen stated voting for the Civic Betterment Party is taking place until November 14.

Staff Report

Planner Ashbaugh stated the Zoning Board of Appeals will meet on December 8, 2020 and there will be several variations reviewed at that meeting.

Adjournment

At 10:19 p.m. a motion was made by ZBA Member Whalls and seconded by ZBA Member Jones to adjourn the meeting. The motion was carried by roll call vote with 6 “yes” votes and 0 “no” vote. The “yes” votes are as follow: ZBA Chairperson Constantino, ZBA Member Covington, ZBA Member Crudele, ZBA Member Jones, ZBA Member Panther and ZBA Member Whalls.

Respectfully submitted,

Lindsey Kaminsky
Recording Secretary

Reviewed by,
Katie Ashbaugh, AICP
Planner