

**MINUTES
ZONING BOARD OF APPEALS
MAY 12, 2020**

The meeting was called to order by ZBA Chairperson Gregory Constantino at 7:20 p.m. ZBA Members Michelle Covington, Katie Crudele, Matt Jones, Chip Miller, Reed Panther, and Thomas Whalls were present. Student Intern Maddie Greenleaf was excused. Also present were Community Development Director Staci Springer, Planner Katie Ashbaugh, Senior Civil Engineer Amy McKenna, and Recording Secretary Lindsey Kaminsky.

Chairperson Constantino stated tonight's meeting is called pursuant to notice required by state statute that was published in the Daily Herald on April 27, 2020, and all property owners affected by the variation being requested were notified by mail.

Chairperson Constantino stated that due to the ongoing Coronavirus (COVID-19) pandemic and, the Governor's statewide stay-at-home order and order suspending certain Open Meetings Act requirements, this meeting will be conducted remotely. Chairperson Constantino stated the commissioners and staff participating in tonight's meeting are in different locations in accordance with social distancing guidelines.

Chairperson Constantino stated that it is important that the case 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 Community Development Director Staci Springer would be administering the remote meeting platform, Zoom. Chairperson Constantino explained the remote procedures of the Zoning Board of Appeals (ZBA) and asked for a motion to approve the Emergency Rules of Procedure.

EMERGENCY RULES OF PROCEDURE

ZBA Member Miller moved, seconded by ZBA Member Panther, to approve the emergency rules of procedure. The motion was carried with 7 "yes" votes and 0 "no" vote. The "yes" votes are as follows: ZBA Chairperson Constantino, ZBA Member Covington, ZBA Member Crudele, ZBA Member Jones, ZBA Member Miller, ZBA Member Panther, and ZBA Member Whalls.

ZBA Member Crudele moved, seconded by ZBA Member Miller, to allow remote participation by the Zoning Board of Appeals. The motion was carried with 7 "yes" votes and 0 "no" vote. The "yes" votes are as follows: ZBA Chairperson Constantino, ZBA Member Covington, ZBA Member Crudele, ZBA Member Jones, ZBA Member Miller, ZBA Member Panther, and ZBA Member Whalls.

MINUTES

ZBA Member Covington moved, seconded by ZBA Member Whalls, to approve the minutes of the January 14, 2020 meeting. The motion carried unanimously with a voice vote.

On the agenda was a public hearing regarding the property located at 685 N. Park Boulevard.

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

A motion was made by ZBA Member Covington and seconded by ZBA Member Panther to open the public hearing for 685 N. Park Boulevard at 7:30 p.m. The motion carried unanimously with a voice vote.

PUBLIC HEARING – 685 N. PARK BOULEVARD

PETITIONER STEVEN NORGAARD IS REQUESTING APPROVAL OF A CONSTRUCTION NECESSITATED ZONING VARIATION FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. TO ALLOW A LOT COVERAGE OF APPROXIMATELY 25.5 PERCENT ON THE SUBJECT PROPERTY FOR WHICH THE MAXIMUM PERMITTED LOT COVERAGE IS 20 PERCENT. 2. TO ALLOW THE SUNROOM ADDITION TO REMAIN, AS DEPICTED ON THE PLANS PRESENTED OR REVISED AT THE PUBLIC HEARING OR AT A PUBLIC MEETING OF THE VILLAGE BOARD.

(Steven Norgaard, attorney on behalf of Christopher and Sheila Faber, owners of the property at 685 N. Park Boulevard)

Staff Presentation

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

Planner Ashbaugh stated 685 N. Park Boulevard is an interior lot, located on the east side of Park Boulevard, just south of the intersection with Maple Street. Planner Ashbaugh stated the property and the properties to the north, east, west, and south are all zoned R2 – Residential District and are all improved with single-family homes.

Planner Ashbaugh stated on February 27, 2002, a building permit for the original single-family home on 685 N. Park was filed, with a lot coverage of 23.7 percent. She continued that in January, 2002, the Village adopted Ordinance 5035-Z which changed the maximum lot coverage permitted for structures greater than one-story from 25 percent to 20 percent, with an effective date of March 1, 2002. She continued that in July 2003, the original home at 685 N. Park passed final inspections. She continued that this rendered the approved lot coverage for the single-family home at 685 N. Park legal nonconforming.

Planner Ashbaugh stated that in January, 2004, the demolition permit for the existing single-family home at 680 Lenox deposit was refunded. She continued that in December, 2007, the Faber's purchased 685 N. Park and 680 Lenox.

Planner Ashbaugh stated on May 11, 2011, a building permit application to install an enclosed sunroom addition in place of the existing deck to the rear of the home was filed. She continued that Village staff required a Land Transfer be filed to make the legal lot of record for 685 N. Park Boulevard large enough to allow the sunroom and meet the 20 percent lot coverage maximum and ensure that the 680 Lenox property could be sold in the future without creating a nonconforming condition on 685 N. Park.

Planner Ashbaugh stated on June 23, 2011, staff sent the Faber's a letter approving a land transfer and requesting a plat of resubdivision document depicting the new placement of the shared lot line be submitted. She continued that the letter stated that the Planning and Development Director would then sign the plat document and that once it was signed, the plat may be recorded. She continued that at the close of the letter, Planner Stegall stated that the recorded plat must be submitted to the Village within 30 days of recordation. She continued that on July 22, 2011, a copy of the plat is date was signed by the Director and the building permit for the sunroom was issued. She continued that the sunroom subsequently passed all inspections.

Planner Ashbaugh stated that in 2013, the Faber's filed a building permit for a patio to be constructed in the backyard. She continued that the permit deposit refund issued for 685 N. Park, indicating that the work had been concluded and has passed final inspections.

Planner Ashbaugh stated on September 25, 2019, the Faber's sold the 680 Lenox Road property, with the original lot line in place. She continued that on December 19, 2019, a building permit for the new construction of a single-family home on the 680 Lenox Road property was filed with the Community Development Department. She continued that it was during the review of this permit that staff became aware of the nonconforming condition of 685 N. Park Boulevard in regard to the lot coverage, due to the sale of the 680 Lenox property. She continued that staff then notified the new owners of 680 Lenox and the Faber's, and that staff directed the Faber's to file a request for a construction necessitated zoning variation.

Planner Ashbaugh stated the petitioner is now requesting a construction necessitated zoning variation to allow an existing sunroom of approximately 278 square-feet to remain on the rear of the existing single-family home located at 685 N. Park Boulevard. She continued that the original home, with a footprint of approximately 2,782 square-feet, was approved with a lot coverage of 23.7 percent in 2002 and is considered legal nonconforming. She continued that, with the original home's footprint and the footprint of the sunroom, the lot coverage is approximately 3,060 square feet, or 25.5 percent where a maximum of 20 percent is permitted.

Planner Ashbaugh stated as an alternative to allowing the sunroom to remain, the petitioner has provided a bid to illustrate the cost to demolish the sunroom in its entirety and to reconstruct

the deck, which was originally built concurrently with the home. She continued that the deck does not require the approval of any additional zoning relief, and that this would restore the previous lot coverage to approximately 23.2 percent, slightly under the lot coverage that was approved in 2002.

Planner Ashbaugh stated the ZBA may choose to make a recommendation to the Village Board for the approval, approval with conditions, or denial of the request.

Planner Ashbaugh and Civil Engineer McKenna showed and explained several different photos of the property to explain the construction history of the patio. Senior Civil Engineer said the patio was originally constructed in or around 2005, prior to the Faber's ownership of the property, for which the Village does not have a permit record. She continued that the Faber's then did file a permit to expand this existing patio, which was the one cited from 2013. She concluded that the patio as permitted in 2013 would have been reviewed for compliance with the building and zoning codes in effect at that time and would be considered legal nonconforming.

Questions from the Zoning Board of Appeals

Chairperson Constantino asked that if in 2013, the issue with the land transfer was not raised and the 2013 papers said prior permit files were missed. Planner Ashbaugh confirmed this.

ZBA Member Miller questioned the letter on pages 209 and 224 in the agenda packet. ZBA Member Miller stated the notes from the Village say the subdivision was "ok per Planner Stegall". He continued that the notes state the Planning and Development Director "must sign the plat, which must be recorded". ZBA Member Miller stated then in the letter, Planner Stegall said the Faber's "may file the plat".

ZBA Member Miller asked what the standard procedure for filing plats at that time. Community Development Director Springer was sworn in.

Community Development Director Springer stated at that time, the plat would be approved, and the petitioner would be required to record the plat.

ZBA Member Miller asked if there is any record that the petitioner was explicitly directed to record the plat. Community Development Director Springer stated the letter on page 203 of the agenda packet notes that the petitioner may record the plat after her signature. She continued that then the last sentence of the letter stated, "Please note that a recorded copy of the plat must be submitted to the Village within 30 days of recordation", further affirming that it was their responsibility to record the plat.

Chairperson Constantino asked what the current plat recording process is. Community Development Director Springer stated once the plat has been signed, the Village Clerk or Deputy Clerk brings the plat to be recorded.

ZBA Member Whalls stated there were issues without the plat being recorded in the past. ZBA Member Whalls also stated the letters were not clear who was responsible for recording the plat.

ZBA Member Panther stated he does not have any questions, but stated he is glad the recording procedures have been updated.

Chairperson Constantino questions why the 40 feet in question and the land transfer were not taken care of. Chairperson Constantino asked questioned why the plat was not recorded in 2011, and why it went unnoticed in 2013.

Petitioners' Presentation

Sworn in for the Petitioner's Presentation were Christopher and Sheila Faber, owners of the property at 685 N. Park Boulevard and Steven Norgaard, the attorney and petitioner on behalf of the owners of the property located at 685 N. Park Boulevard

Mr. Norgaard stated when the Faber's got approval of the resubdivision, they thought their work was done. Mr. Norgaard stated the Faber's were unaware of any further steps that had to be taken by them, and the letter that was sent by the Village was unclear on what the next steps were.

Mr. Norgaard stated this issue was also not brought up in 2013 with the permit for the patio.

Mr. Norgaard stated this issue did not come up when the 680 Lenox property was sold because there was nothing recorded with the county. Mr. Norgaard stated that at the time of the property sale, he was not representing the Faber's. He continued that the lot was sold as it was originally recorded.

Mr. Norgaard stated this issue was not brought to the Faber's attention until the Village was made aware due to a permit filed for 680 Lenox Road.

Mr. Norgaard stated if the variations are not approved, the existing sunroom will need to be demolished and the original deck would have to be put in the same place. Mr. Norgaard stated this would be a cost to the Faber's of about \$95,500.

Mr. Norgaard also stated the Faber's neighbors do not have any objection to the variation, and the Faber's were able to get approval from all the neighbors they were able to reach.

Additional Questions from the Zoning Board of Appeals

ZBA Member Miller stated that the costs of the demolition on the sunroom and rebuilding of the deck are not considered a hardship. ZBA Member Miller questioned how the Faber's could sell the property at 680 Lenox and not realize they were selling 35 feet less than noted in the land transfer plat.

Mr. Norgaard stated there are not distinct or visible property lines, so to them (the Faber's) in 2011 the entire property was still their property and backyard. He continued that the Faber's had a surveyor complete the plat of survey for the sale 680 N. Lenox, and that he does a lot of residential real estate closings, and it is very rare for a seller to check the survey of the lot.

Mr. Faber stated they did not put the lot up for sale and that someone approached them to buy the lot. Mr. Faber told the potential buyer the lot lines were changed with the Village, and they should check with the Village. Mr. Faber stated the potential buyers confirmed the lot lines with DuPage County and the Village.

Mrs. Faber stated the land transfer was 10 years ago; they never purposely skipped the step of recording the plat.

ZBA Member Whalls asked what plat was provided to the buyers of 680 Lenox Road. Mr. Faber stated he specifically told the buyers to go to the Village to check the lot lines.

ZBA Member Covington asked if 685 N. Park Boulevard is currently on the market. Mr. Faber confirmed it is.

ZBA Member Covington stated it is hard to digest this situation because the Village did not double-check to see if the Faber's recorded the plat; however, the Faber's did have a responsibility to still follow up and make sure the plat was recorded as the property owners.

ZBA Member Crudele stated she does not have any questions, but can see how this situation is messy on both sides.

Chairperson Constantino stated he agreed with the comments previously made by ZBA Members. Chairperson Constantino also raised his concerns about the plat not being recorded, and the Faber's selling the property at 680 Lenox for 40 feet less than noted in the plat.

Mr. Norgaard stated the lot was vacant, and the Faber's did not have the intent to sell the property at that time. He continued that the Faber's were approached by a buyer.

Chairperson Constantino stated he understands the recording issue but is concerned this was not brought up in 2013 when the permit for the patio was issued.

ZBA Member Panther asked what the estimate of work would be if the Faber's had to demo the sunroom and rebuild the deck. Mr. Norgaard stated it is approximately \$58,000. Planner Ashbaugh corrected that the entire total to repair the home after the demolition was around \$95,500.00.

Persons in Favor of or in Opposition to the Variation Requests

No one spoke for or against these variation requests.

Findings of Fact

ZBA Member Panther stated the following findings of fact: the property in question is 685 N. Park Blvd.; the owners are Chris and Shelia Faber, represented by their attorney as the petitioner, Steven Norgaard; and the petitioner is requesting a variation from Section 10-4-8(E)(1) of the Glen Ellyn Zoning Code to allow a lot coverage of approximately 25.5 percent on the subject property for which the maximum permitted lot coverage is 20 percent in an R-2 Zoning District.

ZBA Member Panther continued the findings of fact: the ZBA heard from Village Planner Katie Ashbaugh, who stated the subject property is an interior R2 lot, and no prior variations have been granted for this property; the house is a legal nonconforming, allowing a lot coverage for up to 23.7 percent; a permit was issued originally in 2002 for the construction of the home and the Faber's purchased the property in 2007; a permit was issued for a small addition of an enclosed area on the rear of the existing home; and at that time the Village indicated that a land transfer would be required to bring the lot into conformance.

ZBA Member Panther continued the findings of fact: the property to the rear, 680 Lenox Road, was sold in September 2019; a permit was issued in December 2019 for 680 Lenox, which identified that the land transfer plat was not properly recorded; a variation will be needed to increase the lot coverage from 23.7 percent to 25.5 percent; the alternate plan would call for the demolition of the porch and construction of the deck in its place, bringing the lot coverage to 23.2 percent; the cost of this alternate plan is approximately \$95,500; a permit, for an addition of a patio, was issued in 2013, and it did not uncover the lack of the plat being recorded at that time; the ZBA heard from Community Development Director Staci Springer, who indicated that the procedures at that time were the Village would sign the plat and the petitioners were responsible for filing it at the County Recorder of Deeds; and the procedures have since changed, approximately three years ago, where the Village is now responsible for recording the plats now.

ZBA Member Panther continued the findings of fact: the ZBA heard from attorney and petitioner, Steve Norgaard, and the owners, Chris and Sheila Faber; the petitioner indicated the Faber's did not have representation when they had to file the land transfer; the owners did hire a land surveyor to complete the resubdivision of the plat; the owners did not understand they had the responsibility to file the plat with the County; and the owners assumed the issuance and closure of the permit finalized the issue and there was no further action necessary.

ZBA Member Panther concluded the findings of fact: Mr. Norgaard indicated the Village had the opportunity to note the issue of the lack of the land transfer plat being recorded at the time of the patio permit review in 2013; Mr. Norgaard stated no issues were noted at the time when the property at 680 Lenox was put up for sale; Mr. Norgaard also stated if the variation is not issued, there would be a substantial cost to the owners; and no public comments were received.

Motion

ZBA Member Whalls moved, seconded by ZBA Member Covington, that the Zoning Board of Appeals recommends approval of the Findings of Fact. The motion carried unanimously with a voice vote.

Additional Comments from the Zoning Board of Appeals

ZBA Member Miller stated mistakes were made on both sides. ZBA Member Miller stated the Village was unclear; the homeowner should have still recorded the plat and noticed the issue when they were selling the property at 680 Lenox. He continued that if this is approved by the ZBA, he would like it on the non-consent agenda for the Village Board.

ZBA Member Whalls stated both parties are at fault, as the owners should have noticed they were selling 40 additional feet, not just four inches or four additional feet when they sold 680 Lenox. He continued that there would be hardships in regards to sunlight, fencing, and trees.

ZBA Member Jones stated he is in favor of approving the variation. ZBA Member Jones stated the letter from the Village was unclear, and not everybody is experienced in reading blueprints. ZBA Member Jones stated to go back to the deck would cause hardships caused by the demolition and construction to the neighbors, in terms of getting construction equipment onto the property now that construction is underway at 680 Lenox.

ZBA Member Covington stated she agrees with the comments of ZBA Members Miller, Whalls, and Jones. ZBA Member Covington Stated there would be a hardship on the neighbors, as construction would need to occur to demolish the sunroom.

ZBA Member Crudele stated there would be a hardship on the neighbors if the variation was not approved.

Chairperson Constantino stated he agrees with all the ZBA Members' comments, and that there were mistakes on both sides. Chairperson Constantino stated there were no neighbor objections, and the Village had a couple of chances to correct this issue and did not. Chairperson Constantino stated there would be a hardship by the demolition and cost, and the demolition would be a hardship to neighbors as well. Chairperson Constantino stated the sunroom has been in place for many years, and there have been no issues. Chairperson Constantino did state the petitioners are still partially at fault but does recommend granting the variation. Chairperson Constantino also agreed he believes this needs to go to the Village Board on a non-consent agenda.

Planner Ashbaugh stated that it should be noted the property at 685 N. Park Boulevard will be limited in terms of accessory structures permitted to be built in the future.

Community Development Director Springer stated the ZBA can add a condition to their motion stating no other roofed accessory structures, other than a shed that is permitted with the Zoning Code regulations in effect at the time.

Motion

A motion was made by ZBA Member Jones and seconded by ZBA Member Covington to close the public hearing for 685 N. Park Boulevard at 9:00 p.m. The motion carried unanimously with a voice vote.

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

Having considered the application of Steven K. Norgaard, petitioner on behalf of the owners of the property located at 685 N. Park Boulevard, Christopher and Sheila Faber, for a zoning variation to allow a lot coverage of approximately 25.5 percent on the subject property for which the maximum permitted lot coverage is 20 percent and any other zoning relief necessary to allow an existing sunroom addition to remain on the original single-family home on an interior lot located at 685 N. Park Boulevard 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 May 12, 2020, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends approval of the requested zoning variation from Section 10-4-8(E)(1) of the Glen Ellyn Zoning Code due to the following unique circumstance(s):

1. The documents from the Village of Glen Ellyn were unclear, including an internal Village document on page 209 of the Zoning Board of Appeals packet that states, "Resubdivision is ok per Michelle Stegall, but Staci must sign and plat must be recorded with the county and must be returned to us. Ok to issue permit". Also, the June 23, 2011 letter on page 203 of the Zoning Board of Appeals packet states, "Once the plat is received, it will be

reviewed by the Village staff. Provided that no changes are necessary, the plat would be signed by the Planning and Development Director Hulseberg. After Director Hulseberg has signed the plat, it may be recorded with the DuPage County Recorder of Deeds. Please note the recorded copy of the plat must be submitted to the Village within 30 days of recordation".

Subject to the following conditions:

1. No other roofed accessory structures, other than a shed that would be in compliance with the Zoning Code regulations in effect at the time, be allowed; and
2. The Zoning Board of Appeals requests this case be taken off the consent agenda because the Zoning Board Appeals feels that the fault in the case is equal by both parties.

The motion was carried with 7 "yes" votes and 0 "no" vote. The "yes" votes are as follows: ZBA Chairperson Constantino, ZBA Member Covington, ZBA Member Crudele, ZBA Member Jones, ZBA Member Miller, ZBA Member Panther, and ZBA Member Whalls.

ZBA Chairperson Constantino stated the ZBA recommended this and will now go to the Village Board for approval.

Village Board Trustee Report

Trustee Christiansen stated at the May 11, 2020, Village Board meeting, the Board approved a contract for \$400,000 for sidewalk and street repairs.

Trustee Christiansen stated the Finance Commission and Village Board have looked at financial projections in relation to COVID-19. Trustee Christiansen stated the Village Board is taking these financial projections into consideration when they are approving any contract. Trustee Christiansen stated property taxes have been delayed from July to September.

Trustee Christiansen provided an update on Governor Pritzker's Restore Illinois Plan. Trustee Christiansen stated Glen Ellyn is part of the Northeast Region, which means we are in the same region as suburban Cook County. Trustee Christiansen stated if Glen Ellyn was excluded from suburban Cook County, we could potentially be in stage three of the Governor's Plan.

Trustee Christiansen stated the Plan Commission will have a pre-application meeting for a potential redevelopment at the McChesney and Miller site. Trustee Christiansen stated if this project moves forward, it will need various zoning approvals.

Trustee Christiansen stated litigation on the Apex development continues.

Staff Report

Village Planner Ashbaugh stated two variation application have been submitted, and the ZBA should expect to see them next month.

Adjournment

At 9:15 p.m., a motion was made by ZBA Member Miller and seconded by ZBA Member Whalls adjourn the meeting. The motion carried unanimously by a voice vote.

Respectfully submitted,

Lindsey Kaminsky
Recording Secretary

Reviewed by,
Katie Ashbaugh, AICP
Village Planner