

MINUTES
ZONING BOARD OF APPEALS
August 24, 2021

The meeting was called to order by ZBA Chairperson Gregory Constantino at 7:02 p.m. Zoning Board of Appeals Members Michelle Covington, Matt Jones, Chip Miller and Tom Whalls were present. ZBA Member Katie Crudele and ZBA Member Reed Panther were excused. Also present were Planner Atrian Fard, Planning Manager Kelly Purvis, Trustee Liaison Anne Gould and Recording Secretary Lindsey Kaminsky.

Chairperson Constantino explained the procedures of the Zoning Board of Appeals (ZBA) and stated tonight's meeting is called pursuant to notice by statute that was published in the Daily Herald on August 6, 2021 (480 Cottage Avenue) and August 10, 2021 (333 Indian Drive), and all property owners affected by the variations being requested were notified by mail.

MINUTES

ZBA Member Whalls moved, seconded by ZBA Member Covington, to approve the minutes of the June 22, 2021 meeting. The motion was carried with a voice vote.

On the agenda were public hearings regarding the properties located at 480 Cottage Avenue and 333 Indian Drive.

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

A motion was made by ZBA Member Miller and seconded by ZBA Member Whalls to open the public hearing for 480 Cottage Avenue at 7:06 p.m. The motion was carried with a voice vote.

PUBLIC HEARING – 480 COTTAGE AVENUE

PETITIONER PETER A. HOLLOWED IS REQUESTING A RECOMMENDATION OF APPROVAL OF THE FOLLOWING VARIATION FROM THE GLEN ELLYN ZONING CODE: 1. SECTION 10/5/5(C)(1) OF THE ZONING CODE TO REDUCE THE PERMITTED IMPERVIOUS SETBACK FROM THE EAST INTERIOR SIDE LOT LINE OF 0.91 FEET TO ZERO (0) FEET ALONG MORE THAN HALF OF THE EXISTING DRIVEWAY OF THE PROPERTY; 2. ANY OTHER ZONING RELIEF NECESSARY TO ALLOW THE DRIVEWAY TO REMAIN AS DEPICTED ON THE PLANS PRESENTED AT THE PUBLIC HEARING OR AT A PUBLIC MEETING OF THE VILLAGE BOARD.

(Peter A. Hollowed, owner of the property located at 480 Cottage Avenue).

Staff Presentation

Planner Fard and Planning Manager Purvis were present to speak regarding the proposed variation request and were sworn in.

Planner Fard stated the petitioner, Peter A. Hollowed, owner of the subject property, is requesting a public hearing for a construction necessitated zoning variation for the property located at 480 Cottage Avenue. The subject property, 480 Cottage Avenue, is an interior lot on the north side of Cottage Avenue and is located between North Main Street and Pleasant Avenue. The subject property and all surrounding properties are zoned R2 – Single Family Residential District and are all improved with single family homes.

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

1. Variation from Section 10-5-5(C)(1) of the Zoning Code to reduce the permitted impervious setback from the east interior side lot line of 0.91 feet to zero (0) feet along more than half of the existing driveway on the property; and
2. Any other zoning relief necessary to allow the driveway to remain as depicted on the plans presented at the public hearing or at a public meeting of the Village Board.

Planner Fard stated the Village has no record of any prior variations being granted for the subject property.

Planner Fard stated for many years, the homeowners at 480 Cottage Avenue (subject property) and the adjacent property to the east, 482 Cottage Avenue, have had a connected driveway, as both lots are very narrow and would not be able to provide the 9 foot required driveways and the approximately 1 foot required impervious surface setbacks between the two homes. Despite the driveways being connected, the surface on the west portion of the shared driveway (480 Cottage) was finished with concrete, with the east side was originally surfaced with gravel and then replaced with asphalt.

Planner Fard stated the property owners hired a contractor to replace both driveways. On June 15, 2020, the contractor submitted applications for building permits on behalf of the homeowners. Although both proposals called for the replacement of the connected driveways in the exact location, it came to staff's attention that the asphalt portion of the shared driveway which had been predominantly utilized and maintained by the adjacent property owner (482 Cottage Avenue) was encroaching onto the subject property as much as 2.2 feet in some locations. It should be noted that the Village has no record of a permit being issued for the asphalt driveway for the property located at 482 Cottage Avenue, so that portion of the driveway was illegal and non-conforming. In an attempt to remove the non-conforming encroachment, staff advised the construction company to build the new driveway on 482 Cottage Avenue up to the common property line (not to the full

extend that the prior asphalt driveway had been constructed). This action led to a narrow triangular gap along the east side of the 480 Cottage Avenue property.

Planner Fard stated on June 29, 2021, staff notified the contractor that the driveway at 480 Cottage Avenue may be replaced in the location of the existing concrete driveway, and noted that no expansion of the concrete driveway is allowed due to the required impervious surface setback. After the work was completed, on September 24, 2020, the Village performed a final inspection and recognized that the new concrete driveway for 480 Cottage Avenue was expanded and now extends up to the property line, where an impervious surface setback of 0.91 feet is required.

Planner Fard stated when staff inquired, the homeowner indicated that he was not informed about the permit conditions by the contractor until after the project was complete. Per the homeowner's narrative, a narrow, unpaved gap between the driveways that was previously filled with asphalt could cause a tripping hazard for pedestrians who walk on the driveway, and this risk increases during the winter when water freezes between the driveways. Furthermore, ice formation in the gap could lead to damage to both concrete driveways. The petitioner also states that maintaining the driveways as they are currently improved would be more esthetically pleasing and would provide greater utility to both homeowners given their narrow lots.

Planner Fard stated with the impervious surface coverage remaining unchanged, staff believes that maintaining the existing improvements will not negatively impact the drainage of the property when compared with what existed before the improvements. However, any additional pavement in areas that would otherwise be unpaved, will increase runoff, albeit very minor in this case.

Planner Fard stated on April 8, 2021, the petitioner provided a letter from the immediately adjacent property owner to the east (482 Cottage Avenue) supporting the requested construction necessitated variation.

Planner Fard stated the petitioner is proposing to maintain the concrete driveway in its existing location, up to the property line. If the request is denied, the petitioner has provided a cost estimate of \$2,950 to remove the non-conforming concrete and restore the area with topsoil and planting seeds.

Questions from the Zoning Board of Appeals

ZBA Chairperson Constantino asked if there are any drainage concerns. Planner Fard stated there are no negative impacts on the drainage compared with what existed before the improvements and noted there are no significant changes to the drainage on the property.

Petitioners' Presentation

Sworn in for the Petitioner's Presentation was Peter A. Hollowed, owner of the property located at 480 Cottage Avenue. Mr. Hollowed stated their neighbor stated they had plans to replace their driveway, which is why they also decided to replace their driveway at the same time. Mr. Hollowed stated the concrete on the driveway was original to the house, and noted it was broken and caused drainage and safety issues. Mr. Hollowed stated they hired a contractor to obtain the required Village permits. Mr. Hollowed stated months after the project was complete, the contractor informed him the project failed the final inspection due to the gap/wedge shaped piece being filled in. Mr. Hollowed noted the Village did not notify him of the zoning issue and the issue was only communicated with the contractor. Mr. Hollowed stated he believes the variation should be granted because the driveway is visually pleasing as-is, there is improved drainage for both neighbors, the size of the driveways are very narrow and taking out the gap/wedge would lead to dangerous conditions including a tripping hazard.

Additional Questions from the Zoning Board of Appeals

ZBA Member Miller asked if the blacktop (neighbor's driveway) reached their driveway. Mr. Hollowed confirmed this. ZBA Member Miller stated the neighbor's driveway was encroaching on the Hollowed's property.

ZBA Member Miller asked if Mr. Hollowed works in the construction field. Mr. Hollowed stated he does not.

ZBA Member Miller asked why the cost estimate to resolve the zoning issue is not from the original contractor. Mr. Hollowed stated he reached out to the original contractor, but they did not respond.

ZBA Member Covington asked if the contractor did not share the information regarding the zoning issue with Mr. Hollowed. Mr. Hollowed stated he did not get any communication regarding the zoning issue until he was told the driveway failed the final inspection. Mr. Hollowed stated he had hired the contractor to replace the driveway, and did not think to ask about the plans/permit conditions. Mr. Hollowed stated if he was notified prior to completing the work, he would have requested a zoning variation rather than a construction necessitated zoning variation.

ZBA Chairperson Constantino asked if the new driveways fix the previous encroachment issue. Mr. Hollowed stated this issue is fixed and the driveways are connected at the property line.

ZBA Chairperson Constantino asked if the neighbor is content with the current driveways. Mr. Hollowed stated their neighbors are happy with the driveway and they do not want to change them.

Persons in Favor of or in Opposition to the Variation Requests

None.

Findings of Fact

ZBA Member Jones stated the following findings of fact: the petitioner, Peter A. Hollowed, owner of the subject property, is requesting a public hearing for a construction necessitated zoning variation for the property located at 480 Cottage Avenue. The subject property, 480 Cottage Avenue, is an interior lot on the north side of Cottage Avenue and is located between North Main Street and Pleasant Avenue. The subject property and all surrounding properties are zoned R2 – Single Family Residential District and are all improved with single family homes. The petitioner is requesting a recommendation of approval of the following variation from the Glen Ellyn Zoning Code: 1. Variation from Section 10-5-5(C)(1) of the Zoning Code to reduce the permitted impervious setback from the east interior side lot line of 0.91 feet to zero (0) feet along more than half of the existing driveway on the property; and 2. Any other zoning relief necessary to allow the driveway to remain as depicted on the plans presented at the public hearing or at a public meeting of the Village Board.

ZBA Member Jones continued the findings of fact: the driveway was original to the home. 2 different properties shared the driveway, with the driveway at 482 Cottage Avenue encroaching on the property located at 480 Cottage Avenue. To remove the encroachment, a nonconforming triangular piece between the driveways was removed, which was not permitted by the Village Code. The petitioner stated the old driveways were in bad conditions and did not drain properly while the new driveways have improved the drainage and reduced safety concerns. The contractor did not respond to the homeowners' concerns about fixing the driveway to meet the Village Code. As replaced, the driveway does not meet the Village Zoning Code.

Motion

ZBA Member Whalls moved, seconded by ZBA Member Covington that the Zoning Board of Appeals recommend to approve the Findings of Fact. The motion was carried with a voice vote.

Additional Comments from the Zoning Board of Appeals

ZBA Member Miller stated he struggles with this request as it is a construction necessitated zoning variation. ZBA Member Miller also stated he would have expected the homeowner to look over the permits. ZBA Member Miller stated there was a pre-existing condition with the neighbor's driveway encroaching on their property. ZBA Member Miller also noted the permit that was approved was not followed.

ZBA Member Covington stated this is a challenging request because it is a construction necessitated zoning variation. ZBA Member Covington stated this request in particular has benefits including that the impervious surface was always there, and noted it fixes the gap/wedge which could create a possible hazard. ZBA Member Covington stated she is overall in favor of this request.

ZBA Member Jones stated he is in favor of this request. ZBA Member Jones stated he looks at construction necessitated zoning variations as if they came to the ZBA prior to the work being complete. ZBA Member Jones stated the homeowner is not responsible for this error, and noted the

homeowner hired a contractor to complete the work. ZBA Member Jones noted he is not happy with the contractor. ZBA Member Jones added if the request came to the ZBA prior the work being complete, he would have been in favor of that request. ZBA Member Jones noted this project replaces the existing hard surface and filling in the gap/wedge fixes a safety issues.

ZBA Member Whalls stated he is in favor of this request. ZBA Member Whalls stated there is no stormwater issues and noted filling in the gap/wedge fixes a safety issue.

ZBA Chairperson Constantino stated the ZBA does not like to see this many construction necessitated zoning requests. ZBA Chairperson Constantino stated it appears contractors should be the ones to be forgiven, especially when it is the homeowner that needs to come before the ZBA. ZBA Chairperson Constantino stated the encroachment issue has been fixed, the neighbor is happy, a safety issue has been fixed, and that this project will protect the integrity of the driveway materials. ZBA Chairperson Constantino also noted a minimal variation is being requested and that there are no stormwater concerns. ZBA Chairperson Constantino stated the driveways look better than before and noted that he is in favor of the request.

Motion

A motion was made by ZBA Member Covington and seconded by ZBA Member Whalls to close the public hearing for 480 Cottage Avenue at 7:43 p.m. The motion was carried 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 Peter Hollowed, owner of the property located at 480 Cottage Avenue, Glen Ellyn, for a construction necessitated zoning variation to allow a 0 foot impervious surface setback for a driveway, in lieu of the 1 foot setback required on the subject property, as depicted on the plans presented or revised at the public hearing, 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 August 24, 2021, 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 10-5-5(C), of the Glen Ellyn Zoning Code due to the following hardship(s) or unique circumstance(s):

- The condition was preexisting with the neighbors block top driveway encroaching on the subject properties driveway
- The neighbor had a non-conforming driveway and did not previously have a permit issued for the driveway work
- The driveway, as is, creates safer conditions

Subject to the following conditions:

- The project shall be constructed in substantial conformance with the plans as submitted and the testimony presented at the August 24, 2021 public hearing of the Zoning Board of Appeals
- No additional expansion to the driveway will be allowed

- The driveways existing conditions must be maintained

The motion was carried with 5 “yes” votes and 0 “no” vote. The “yes” votes are as follow: ZBA Chairperson Constantino, ZBA Member Covington, ZBA Member Jones, ZBA Member Miller, ZBA Member Whalls.

A motion was made by ZBA Member Covington and seconded by ZBA Member Whalls to open the public hearing for 333 Indian Drive at 7:56 p.m. The motion was carried with a voice vote.

PUBLIC HEARING – 333 INDIAN DRIVE

PETITIONER VLADIMIR GATALO IS REQUESTING A RECOMMENDATION OF APPROVAL OF THE FOLLOWING VARIATIONS FROM THE GLEN ELLYN ZONING CODE: 1. SECTION 10-4-8(D)(1)(a) TO ALLOW AN EXISTING ADDITION TO BE APPROXIMATELY 29.85’ FROM THE WEST, FRONT LOT LINE WHERE A FRONT YARD SETBACK OF 30’ IS REQUIRED IN THE R2 RESIDENTIAL DISTRICT; 2. SECTION 10-4-8(D)(1)(b) TO ALLOW AN EXISTING ADDITION TO BE APPROXIMATELY 1’ CLOSER TO THE STREET THAN THE CLOSEST PRINCIPAL STRUCTURE IMMEDIATELY TO THE SOUTH WHERE A PRINCIPAL STRUCTURE (OR ADDITION THERETO) IS REQUIRED TO BE NO CLOSER TO THE STREET THAN THE CLOSEST PRINCIPAL STRUCTURE ON EITHER ADJACENT LOT ON THE SAME BLOCK AND SAME SIDE OF THE STREET IN THE R2 RESIDENTIAL DISTRICT; 3. SECTION 10-4-8(D)(3) TO ALLOW AN EXISTING ADDITION TO BE APPROXIMATELY 6.39’ FROM THE SOUTH INTERIOR SIDE LOT LINE WHERE AN INTERIOR SIDE YARD SETBACK OF APPROXIMATELY 6.6’ IS REQUIRED IN THE RW RESIDENTIAL DISTRICT; 4. ANY OTHER ZONING RELIEF NECESSARY TO ALLOW THE HOME TO REMAIN AS CONSTRUCTED AND AS DEPICTED ON THE PLAN PRESENTED AT THE PUBLIC HEARING OR AT A PUBLIC MEETING OF THE VILLAGE BOARD

(Vladimir Gatalo, owner of the property located at 333 Indian Drive).

Staff Presentation

Planner Fard and Planning Manager Purvis were present to speak regarding the proposed variation request and were sworn in.

Planner Fard stated Vladimir Gatalo, owner of the subject property, is requesting a public hearing for a construction necessitated zoning variation for the property located at 33 Indian Drive. The subject property is an interior lot on the east side of Indian Drive, between Memory Court and Roslyn Road, on the east edge of the Village corporate limits. The subject property and the properties to the north, west and south are all zoned R2 – Single Family Residential District and are all improved with single-family homes. The property to the east across the East Branch of the DuPage River is ComEd owned right-of-way in unincorporated DuPage County and is currently vacant.

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

1. Section 10-4-8(D)(1)(a) to allow an existing addition to be approximately 29.85' from the west, front lot line where a front yard setback of 30' is required in the R2 Residential District; and
2. Section 10-4-8(D)(1)(b) to allow an existing addition to be approximately 1' closer to the street than the closet principal structure immediately to the south where a principal structure (or addition thereto) is required be no closer to the street than the closet principal structure on either adjacent lot on the same block and same side of the street in the R2 Residential District; and
3. Section 10-4-8(D)(3) to allow an existing addition to be approximately 6.39' from the south interior side lot line where an interior side yard setback of approximately 6.6' is required in the R2 Residential District; and
4. Any other zoning relief necessary to allow the home to remain as constructed and as depicted on the plan presented at the public hearing or at a public meeting of the Village Board.

Planner Fard stated the Village has no record of any prior variations being granted for the subject property. The Village has the following permits being issued to the subject property: demolition/building a new residence (1955) and addition (2013).

Planner Fard stated per permit 5279, the subject property was improved with a one-story frame single-family home in 1955. On July 15, 2013, the property was issued a building permit to construct a one-story addition to the existing residence. The homeowners began the construction process in 2013 but slowed down the project due to financial obstacles, leading to a construction period of nearly eight years. During these years, the homeowners received multiple permit extensions and requested several inspections from the Village.

Planner Fard stated after the work was completed, on November 5, 2020, the homeowners provided the Village with an updated plat of survey (dated October 29, 2020) that reflected the new building addition. On November 6, 2020, the Village performed a foundation inspection and recognized that the home addition was expanded beyond what was permitted and did not comply with the required south interior side yard setback of 6.6 feet. Consequently, the homeowners were informed of the need to either correct the improvement to comply with this Code provision or file a construction necessitated zoning variation. On January 12, 2020, the homeowner notified to Village that they prefer to pursue a zoning variation to legalize the new building addition.

Planner Fard stated according to the petitioner's application statement, the unlawful addition expansion is as a result of mistakes made by the concrete contractor. However, the Village records list the homeowner as the concrete contractor for this project.

Planner Fard stated in August 2021, upon further review of the plat of survey submitted for the variation application staff found that the new addition is also encroaching into the required front yard of 30 feet for 1.8 inches. Moreover, the subject building is now approximately one foot closer to the street than the closest neighboring building (327 Indian Drive), where in the R2 Residential Zoning District, a principal structure is required to be no closer to the street than the closet principal structure on either adjacent lot on the same block and same side of the street. These nonconformities triggered the second and third zoning variation requests.

Planner Fard stated on August 11, 2021, Village staff received a letter from the Forest Preserve District of DuPage County, acknowledging receipt of timely notice of the requested construction necessitated variation.

Planner Fard stated the petitioner is requesting approval of a construction necessitated zoning variation to allow the building addition to remain in its existing location, encroaching into the required front and interior side yards. If the request is denied, the petitioner has provided a cost estimate of \$47,000 to \$60,000 plus 40% increase of material prices to bring the non-conforming addition into compliance.

Questions from the Zoning Board of Appeals

ZBA Member Covington stated there have been many permit extensions and asked if there were any changes in the Zoning Code since 2013. Planner Fard stated there have not been any changes regarding setbacks since 2013.

ZBA Member Covington asked why framing allowed when the concrete pour was not done correctly. Planner Fard stated there was a rough framing inspection which was approved and it was not inspected again until the final inspection.

ZBA Member Covington asked how the other two zoning issues were found. Planner Fard stated the variation on the south side of the house was originally presented to staff and noted when staff reviewed the request, they noticed the other two zoning issues. Planning Manager Purvis stated the other issues were found when staff reviewed the as built survey that was provided to the Village.

ZBA Member Covington asked if another contractor was able to provide a cost estimate to fix/resolve the zoning issue. Planner Fard stated no other estimate was received. ZBA Member Covington stated she would like to see a quote from a different contractor.

ZBA Member Whalls asked who completed the as built survey. Planner Fard stated it was completed by Lambert and Associates and noted it was completed after the work was complete in December 2020.

ZBA Member Whalls asked who the footing excavator was. Planner Fard stated staff does not have the information.

ZBA Chairperson Constantino stated the permit was approved and issued, and asked if the permit does not establish the setbacks. Planner Fard stated the petitioner did not complete the project as noted in the approved plans. Planning Manager Purvis stated the permit would not note all the required setbacks, and noted the permit was approved in conformance.

ZBA Member Miller asked if an inspection regarding the setback was complete during the building process. Planning Manager Purvis stated she has correspondence regarding this question, and could find it, if the ZBA would like.

ZBA Member Jones asked if the Village requires a survey of the buildings to be complete before construction continues. Planning Manager Purvis stated a spot survey is completed.

ZBA Member Jones stated he would like to see a change that requires a foundation/footing survey. Planning Manager Purvis stated staff will look into this idea.

ZBA Member Jones asked how accurate the survey is. Planner Fard stated the survey was completed by a licensed company, but noted it is possible errors have been made when completing the survey.

ZBA Member Jones asked if the Village completed measurements of the setbacks, or asked if staff is getting that information from the survey. Planner Fard stated staff is using the information from the survey. Planning Manager Purvis stated staff would not go measure the setbacks themselves.

A break was taken between 8:25 p.m. and 8:31 p.m. to allow Planning Manager Purvis to find emails from Building and Zoning Official Witt regarding this request.

Planning Manager Purvis read an email from Building and Zoning Official Witt regarding this request. The email from February 16, 2021 stated the project passed the foundation inspections but the passing of these inspections do not guarantee the foundation is installed in the correct location unless a follow-up foundation survey confirms the location with respect to property lines. The email also noted the inspectors are not surveyors and would not be able to accurately check the footings/foundation location while the work is in progress.

ZBA Member Covington asked how the Village handles a project that was not built to the site plan, but is in compliance with the Zoning Code. Planning Manager Purvis stated if the project is in compliance with the Zoning Code, there is no further action taken.

ZBA Member Jones asked if the project has received a final inspection. Planning Manager Purvis stated a final inspection will be completed when the project is complete.

Petitioners' Presentation

Sworn in for the Petitioner's Presentation Vladimir Gatalo, owner of the property located at 333 Indian Drive.

Mr. Gatalo stated they had an inspection on the footing and foundation. Mr. Gatalo stated the survey was not complete when the foundation/footing was done. Mr. Gatalo stated due to financial reasons, after the foundation/footing was complete, they decided to complete the work on the garage and siding. Mr. Gatalo stated there was also an inspection prior to the drywall being installed. Mr. Gatalo stated the Village requested a plat of survey, which was provided.

Additional Questions from the Zoning Board of Appeals

ZBA Chairperson Constantino asked who prepared the building plans. Mr. Gatalo stated the plans were provided to the contractor, and noted he is currently not able to get in touch with the contractors. Mr. Gatalo stated the placement of the footings were measured from the current building location.

ZBA Chairperson Constantino asked if an architect was used. Mr. Gatalo confirmed a contractor was used.

ZBA Chairperson Constantino asked who prepared the location of the footings. Mr. Gatalo stated the contractor did.

ZBA Chairperson Constantino asked how did the contractor know where to put the foundation. Mr. Gatalo stated the plan had dimensions of the front and side yard.

ZBA Member Miller asked if the plans provided to the contractor/architect were the same ones provided to the Village. Mr. Gatalo confirmed they were.

ZBA Member Miller asked if Mr. Gatalo has the contractor's name/contact information. Mr. Gatalo stated he does not.

ZBA Member Jones asked how long until the project is complete. Mr. Gatalo stated 2-3 months.

ZBA Chairperson Constantino asked how the petitioner came up with the cost estimate to correct the non-compliance issue. Planner Fard stated the cost estimate was calculated by the petitioner.

ZBA Member Jones asked what Mr. Gatalo does for a living. Mr. Gatalo stated he works in construction.

ZBA Member Jones asked Mr. Gatalo if he feels like he has a good knowledge of what is required to complete for this project. Mr. Gatalo stated he does not have experience with concrete work.

Persons in Favor of or in Opposition to the Variation Requests

1. Planner Fard read a letter of support from the homeowners located at 343 Indian Drive.

2. Planner Fard read a letter of support from the homeowners located at 337 Indian Drive.

Findings of Fact

ZBA Member Jones stated the following findings of fact: Vladimir Gatalo, owner of the subject property, is requesting a public hearing for a construction necessitated zoning variation for the property located at 333 Indian Drive. The subject property is an interior lot on the east side of Indian Drive, between Memory Court and Roslyn Road, on the east edge of the Village corporate limits. The subject property and the properties to the north, west and south are all zoned R2 – Single Family Residential District and are all improved with single-family homes. The property to the east across the East Branch of the DuPage River is ComEd owned right-of-way in unincorporated DuPage County and is currently vacant. The petitioner is requesting a recommendation of approval of the following variations from the Glen Ellyn Zoning Code: 1. Section 10-4-8(D)(1)(a) to allow an existing addition to be approximately 29.85' from the west, front lot line where a front yard setback of 30' is required in the R2 Residential District; and 2. Section 10-4-8(D)(1)(b) to allow an existing addition to be approximately 1' closer to the street than the closet principal structure immediately to the south where a principal structure (or addition thereto) is required be no closer to the street than the closet principal structure on either adjacent lot on the same block and same side of the street in the R2 Residential District; and 3. Section 10-4-8(D)(3) to allow an existing addition to be approximately 6.39' from the south interior side lot line where an interior side yard setback of approximately 6.6' is required in the R2 Residential District; and 4. Any other zoning relief necessary to allow the home to remain as constructed and as depicted on the plan presented at the public hearing or at a public meeting of the Village Board. The Village has no record of any prior variations being granted for the subject property. The Village has the following permits being issued to the subject property: 1955, demolition/building a new residence; 2013, addition.

ZBA Member Jones continued the findings of fact: per permit 5279, the subject property was improved with a one-story frame single-family home in 1955. On July 15, 2013, the property was issued a building permit to construct a one-story addition to the existing residence. The homeowners began the construction process in 2013 but slowed down the project due to financial obstacles, leading to a construction period of nearly eight years. During these years, the homeowners received multiple permit extensions and requested several inspections from the Village. After the work was completed, on November 5, 2020, the homeowners provided the Village with an updated plat of survey (dated October 29, 2020) that reflected the new building addition. On November 6, 2020, the Village performed a foundation inspection and recognized that the home addition was expanded beyond what was permitted and did not comply with the required south interior side yard setback of 6.6 feet. Consequently, the homeowners were informed of the need to either correct the improvement to comply with this Code provision or file a Construction necessitated Zoning Variation. On January 12, 2020, the homeowner notified to Village that they prefer to pursue a zoning variation to legalize the new building addition. According to the petitioner's application statement, the unlawful addition expansion is a result of mistakes made by the concrete contractor. However, the Village records list the homeowner as the concrete contractor for this project. In August 2021, upon further review of the plat of survey submitted for the variation application staff

found that the new addition is also encroaching into the required front yard of 30 feet for 1.8 inches. Moreover, the subject building is now approximately one foot closer to the street than the closest neighboring building (327 Indian Drive), where in the R2 Residential Zoning District, a principal structure is required to be no closer to the street than the closest principal structure on either adjacent lot on the same block and same side of the street. These nonconformities triggered the second and third zoning variation requests.

ZBA Member Jones continued the findings of fact: on August 11, 2021, Village staff received a letter from the Forest Preserve District of DuPage County, acknowledging receipt of timely notice of the requested construction necessitated variation. Two letters of support were submitted by the property owners located at 343 Indian Drive and 337 Indian Drive.

ZBA Member Jones continued the findings of fact: the petitioner is requesting approval of a construction necessitated zoning variation to allow the building addition to remain in its existing location, encroaching into the required front and interior side yards. If the request is denied, the petitioner has provided a cost estimate of \$47,000 to \$60,000 plus 40% increase of material prices to bring the non-conforming addition into compliance.

ZBA Member Jones continued the findings of fact: the home addition was enlarged compared to what was submitted to the Village. The Village completed an inspection which showed the setbacks to not meet the requirements of the Village Code. The concrete workers made a mistake on the installation of the foundation, which is why a variation is required. There have been no code changes regarding setbacks since 2013. 2 setback issues were missed by the inspectors that were later found during the final review. Village staff did not measure the property and they are using the survey submitted by Lambert and Associates. The final inspections checked for depth, not the final setbacks. The homeowner is serving as the general contractor and noted they measured the starting point of the setback from the home instead of the lot line.

Motion

ZBA Member Whalls moved, seconded by ZBA Member Jones that the Zoning Board of Appeals recommend to approve the Findings of Fact. The motion was carried with a voice vote.

Additional Comments from the Zoning Board of Appeals

ZBA Member Miller stated he can't find a way to approve this request. ZBA Member Miller stated the homeowner was the general contractor and noted the homeowner does not know who completed the concrete pour. ZBA Member Miller stated the project was not built to the approved plans and the homeowner can't explain why this issue occurred. ZBA Member Miller stated the project should not have been built this way.

ZBA Member Covington asked if the permit application requires contractor's information. Planning Manager Purvis stated it is required and the homeowner is listed as the contractor.

ZBA Member Covington stated this project is messy on both sides, and thinks the Village let this issue go too far. ZBA Member Covington stated she is not able to find any unique circumstances and stated she is not in favor of the request.

ZBA Member Jones stated this is a messy situation. ZBA Member Jones stated clearly mistakes have been made. ZBA Member Jones stated he would like to see another survey completed to confirm the information provided is correct. ZBA Member Jones stated he is not happy why they are here discussing this request and noted if it was built to plan, the ZBA would not be involved. ZBA Member Jones stated it feels as if they are not looking to grant a variation, rather it appears they are trying to help a homeowner fix a mistake. ZBA Member Jones stated this is a messy situation, and questions how to resolve this issue.

ZBA Member Whalls stated there are no stormwater issues and noted there is no opposition from neighbors. ZBA Member Whalls stated the variation being request is minimal. ZBA Member Whalls stated it appears a lot of people were involved in this issue. ZBA Member Whalls stated he is overall in favor of this request.

ZBA Chairperson Constantino stated this is another example of the increase of construction necessitation zoning variation requests. ZBA Chairperson stated the variations being requested are minimal. ZBA Chairperson Constantino stated there were issues with the inspections and timing and noted he believes the Village could have done a better job recognizing the footing issues. ZBA Chairperson Constantino stated there are no neighbor concerns. ZBA Chairperson Constantino noted the setback requests comply with the surrounding properties. ZBA Chairperson Constantino stated overall he is in favor of this request.

ZBA Member Jones stated he is in favor of this request.

Motion

A motion was made by ZBA Member Whalls and seconded by ZBA Member Covington to close the public hearing for 333 Indian Drive at 9:08 p.m. The motion was carried with a voice vote.

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

Having considered the application of Vladimir Gatalo, owner of the property located at 333 Indian Drive, Glen Ellyn, for the following construction necessitated zoning variations: from Section 10-4-8(D)(1)(a) to allow an existing addition to be approximately 29.85' from the west, front lot line where a front yard setback of 30' is required, from Section 10-4-8(D)(1)(b) to allow an existing addition to be approximately 1' closer to the street than the closest principal structure immediately to the south where a principal structure (or addition thereto) is required be no closer to the street than the closest principal structure on either adjacent lot on the same block and same side of the street, and from Section 10-4-8(D)(3) to allow an existing addition to be approximately 6.39' from the south interior side lot line where an interior side yard setback of approximately 6.6' is required, all in the R2

Residential District as depicted on the plans presented or revised at the public hearing, 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 August 24, 2021, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends APPROVAL of the requested zoning variations from the Glen Ellyn Zoning Code due to the following hardship(s) or unique circumstance(s):

- There are no stormwater concerns
- Several neighbors have voiced their support of the project
- Minimal variation is requested

The motion was carried with 3 "yes" votes and 2 "no" votes. The "yes" votes are as follow: ZBA Chairperson Constantino, ZBA Member Jones and ZBA Member Whalls. The "no" votes are as follow: ZBA Member Covington and ZBA Member Miller.

Staff Report

Planning Manager Purvis stated there are a few applications in the que, but there are currently no cases ready to be presented to the ZBA.

ZBA Chairperson Constantino stated he would like for staff to look for better guidelines regarding construction necessitated zoning variation requests and asked staff to look for other/better ways to work with these type of requests. Planning Manager Purvis stated staff is working on ways to make this process more streamlined, and noted staff is currently doing research. Planning Manager Purvis stated this will become more of a focus when the open vacancies in the planning staff are filled.

ZBA Member Whalls stated he would like to see the Village to complete a spot survey on foundation work. ZBA Member Whalls also stated he would like the Zoning Code to be reviewed regarding lot coverage ratios.

ZBA Chairperson Constantino stated he would like to see the Village complete a benchmark survey as well.

Planning Manager Purvis stated the Zoning Code needs work, and noted staff requested funds to hire a consultant to rewrite the Zoning Code for the 2022 budget. Planning Manager Purvis stated if approved, staff would invite architects and builders for input regarding Zoning Code changes. Planning Manager Purvis stated ultimately, the Plan Commission would vote on the proposed changes, but the ZBA can be involved in the process.

Trustee Liaison Report

Trustee Gould stated the latest construction necessitated zoning variations discussed by the ZBA were approved by the Village Board. Trustee Gould stated the Village Board had a long discussion regarding construction necessitated zoning variation request, and would like to complete a review of

the process. Trustee Gould stated the Village Board would like the ZBA's input on how to change the process.

Trustee Gould provided an update on the Roosevelt Road hotel purchase.

Trustee Gould provided an update on the Communication Relations Commission.

Adjournment

At 9:42 p.m. a motion was made by ZBA Member Whalls and seconded by ZBA Member Jones to adjourn the meeting. The motion was carried with a voice vote.

Lindsey Kaminsky
Recording Secretary