

MINUTES
ZONING BOARD OF APPEALS MEETING
March 8, 2022

Call to Order and Roll Call

The meeting commenced at 7:06 p.m., with Chairperson Greg Constantino announcing that the proceedings would be conducted remotely, in accordance with a disaster declaration associated with Covid-19 and public health concerns. Mr. Constantino described the Zoning Board of Appeals (ZBA), describing the process for making determinations about matters brought before it and outlined public notice.

Roll was called. Present: Chairperson Constantino and Board Members Matthew Jones, Katie Crudele, Michelle Covington, Chip Miller, Reed Panther and Thomas Whalls. Absent: Maggie Wachter.

Chairperson Constantino went over public hearing protocol, announcing the meeting would be recorded, and introduced the following individuals also participating in tonight's meeting: Associate Planner Taylor Gendel, Planner Atrian Fard, Recording Secretary Barb Dutton, and Board of Trustees Liaison Kelli Christiansen. Planning Manager Kelly Purvis was also present.

Motion to Allow Remote Participation

A motion to allow remote participation in the meeting by the ZBA made by Board Member Miller was seconded by Member Whalls and passed unanimously upon roll call vote.

Approval of Meeting Minutes

Following a motion by Board Member Covington, seconded by Member Crudele, to approve the draft minutes of the February 1, 2022 meeting, the motion passed unanimously by roll call vote.

Public Hearing for 333 Merton Avenue

A motion by Board Member Crudele to open the Public Hearing concerning consideration of a construction necessitated zoning variation for 333 Merton Avenue, seconded by Member Covington, passed unanimously by roll call vote.

Staff Presentation

Sworn in, Associate Planner Taylor Gendel, 535 Duane, stated that the petitioners, Elizabeth and Thomas Berdelle, owners of the property at 333 Merton Avenue, are requesting a public hearing to amend the conditions of approval of Ordinance No. 5315 of the Glen Ellyn Zoning Code, she stated. The property is an interior lot located in the R2 Residential Zoning District on the east side of Merton Avenue just south of Turner Avenue, continued Ms. Gendel, who said the zoning and land use immediately surrounding the subject property is R2 single-family residential. The Petitioners, explained Ms. Gendel, request a public hearing to amend the conditions of approval of the ordinance which granted approval of a variation from the lot coverage ratio (LCR) limitation, to allow the construction of a screen patio room addition on the subject property. The residence was granted a variation on November 22, 2004 to allow the construction of a screened patio room addition that increased the LCR to 23.8 percent in lieu of the 20 percent, with the condition that the room not be enclosed with solid windows or converted to a four-season room, or to add insulation or heating without appearing for another variation.

The current property owners purchased the home in February of 2020 and were not told about the previously granted variation or conditions of approval by the seller, stated Ms. Gendel. In the summer of 2021, the petitioners contacted Ultimate Home Solutions to contract a window installation. The Petitioner's contactor, Dennis Bales of Ultimate Home Solutions, reached out to Village staff to request a permit to install "same for same" windows and was told that a permit was not needed. The window order was placed in July, and installation was completed in October 2021. The petitioners have spent about \$16,000 on their window replacement, she added.

Prior to installation, continued Associate Planner Gendel, the screened porch had sustained damage due to exposure to the elements which caused wood to rot in the window casings, sub floor and exterior wall. Additionally, the Petitioners have indicated that the hardwood floors were damaged, bowed and chipped. GFCI (Ground fault circuit interrupter) outlets were not installed, and water entry was causing a safety hazard. The porch structure was not and will not be altered in any way other than replacing the screens with premium vinyl windows and adding siding to protect the structure from further damage, she continued. Village staff was notified of the window replacement in January of 2022 and subsequently notified the homeowner of the original variance and need for an amendment to it. The homeowners have complied with the Village's request and submitted an application for this amendment in a timely manner. The Petitioners mention in their application that they have recently remodeled their kitchen in compliance with Village codes and have had every intention of following building regulations for all improvements accordingly. They explain that the purpose of adding windows was not to improve the property value nor make it a true addition to their home, as the space remains uninsulated and will not be usable in the winter. Rather, the windows ensure that the existing structure will remain in good standing and prevent further structural issues. Ms. Gendel outlined ZBA action and listed the conditions to be amended.

Board Questions

Member Miller asked if a variance is attached to a deed at the County. Chairperson Constantino said a variance is recorded appears when a title prepared will include terms of a variation. Planning Manager Purvis said that the ordinance was recorded, but she doesn't know if it showed up in a title search. Member Covington asked who told the construction company a permit wasn't required, to which Ms. Gendel replied that it was a permit technician. Ms. Purvis said a permit wasn't required since the window hole wasn't being expanded, and so notice of the violation "slipped through the cracks." She added that "it's difficult to track these types of things," but that it wouldn't change the requirement. Chairperson Constantino asked for confirmation that the replacement by solid material is to correct issues such as the rotting wood, and conditions, such as adding heating or insulation, and conversion to an all-season room won't be changed. Ms. Gendel answered affirmatively, saying the amendment is only for the windows.

Petitioner's Presentation

Sworn in, Betsy and Thomas Berdelle, 333 Merton Avenue. Mr. Berdelle stated that the intention is not to amend any other stipulations of the original ordinance, but to put in windows to protect the porch from the elements, but not make it a four-seasons room. He said the Petitioners were not aware of the ordinance when they purchased the home, and are interested in adhering to Village requirements. Margaret King, 323 Merton, was sworn in. She stated that living next door she can see the porch and thinks "the windows would be great," and indicated she has no issues with the Petitioner's plan to install them.

Board Member Panther reviewed the findings of fact. Board Member Covington made a motion to accept these findings; seconded by Board Member Crudele the motion passed unanimously by roll call vote.

Deliberation

Board Member Covington said that while she doesn't really know the purpose of the room in that it has hardwood floors, she approves of the amendment to the variance requested as the Petitioners, as they inherited "kind of a mess," and that the builder made an attempt to get a permit. Member Crudele believed the homeowners did due diligence, and so she is in favor, and considers improvements made to be a hardship. Member Jones indicated he'd vote in favor. Mr. Miller also said he'd vote, "Yes." Mr. Panther said he's "in the same boat," Mr. Whalls expressed that he's a "definite yes." Chairperson Constantino said he's in favor of recommending that the Board grant the variation for the reasons that have been put forward.

Member Panther, seconded by Member Whalls, moved to close the public hearing; the motion passed unanimously by roll call vote.

Board Member moved Miller moved for the following:

Having considered the application of Elizabeth and Thomas Berdelle, owners of the property located at 333 Merton Avenue, Glen Ellyn, to amend the conditions of approval of Ordinance No. 5315, which granted approval of a Variation from Section 10-4-5(E)1 of the Glen Ellyn Zoning Code, a variation from the lot coverage ratio limitation, to allow the construction of a screen patio room addition on the subject property, 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 March 8, 2022, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends APPROVAL based upon the following hardship and unique circumstance: Rotting wood and sills caused the need to replace existing screens, the owners were not notified at the time of purchase there was a variation restricting windows and it was not made clear when the contractor called the Village, because replacement windows do not necessitate a permit. This is subject to the following conditions:

1. The project shall remain in substantial conformance with the plans submitted and the testimony presented at the March 8, 2022 public hearing of the Zoning Board of Appeals.
2. The room shall not be further enclosed or converted to a four-season room, no insulation or heating shall be added to the space without appearing for another variation.

Seconded by Board Member Covington, the motion passed unanimously by roll call vote.

Public Hearing for 791 Willis Street

A motion made by Board Member Crudele, seconded by Member Miller, to open the Public Hearing concerning consideration of a zoning variation for 791 Willis Street passed unanimously by roll call vote.

Staff Presentation

Sworn in, Village Planner Adrian Fard, 535 Duane, Glen Ellyn stated that the Petitioners are David and Christina Morrison, owners of the property located at 791 Willis Street, are requesting a recommendation of approval of a variation from the Glen Ellyn Zoning Code to allow a front yard setback of 17.1 feet

where a front yard setback of 30 feet is required for the construction of a one-story addition to an existing principal structure in the R2 Residential District.

The subject property and all surrounding properties are zoned R2 – Single Family Residential District and are all improved with single family homes, stated Ms. Fard, who added that the irregular-shaped lot located on the southeast side of Willis Street with partial frontage along Riford Road. The subject property is a cone-shaped lot that was platted years ago. The property was improved with a one-story frame single-family home and an attached two-car garage in 1961. Given the unorthodox configuration of the lot, almost 47 percent of the total lot area is subject to the required front yard setback regulations where no building or structure may be allowed unless a variation from Zoning Code is granted. As such, the bulk of the house is currently situated within the required front yard setback of 30 feet, with the northeastern corner extending beyond the property line for approximately 23 feet, resulting in a front yard setback of 0 feet. Therefore, the existing residence is considered legal nonconforming. It would seem that the unusual lot configuration coupled with the nonconforming placement of the existing house make it challenging to construct any type of improvement on the lot without granting a variation from the Zoning Code. The Petitioners recently purchased the property and wish to invest in and improve the house with thoughtfully placed additions while preserving the home's ranch style, continued Ms. Fard.

The Petitioners are proposing to expand the building's footprint by adding two one-story additions; one to the west and one to southeast side of the existing residence. The proposed addition on the west side of the home will expand the attached two-car garage for approximately 284SF to accommodate a third garage space. The addition will encroach 12.9 feet into the required 30-foot front yard setback, which will add 147.33SF to the existing impervious surface coverage in the required front yard. As part of the garage expansion project, the existing concrete driveway will be widened for approximately 8 feet at the building line to allow direct access from the third garage bay to the street. There will be no changes to the driveway width at the property line, noted Ms. Fard. The proposed site plan also shows a 3-foot-wide walkway that connects the driveway to the new side door on the western elevation, she observed.

The proposed addition to the southeast of the house will add approximately 344SF of bathroom and closet space to the existing bedroom. At its nearest point, the proposed addition will be 21.66 feet from the front property line, which will add 80.33 SF to the impervious surface coverage in the required front yard. While the proposed additions will be further away from the front lot line than the northeast corner of the home that already exists (with a 0-foot setback), the placement of the additions do not meet the full requirement for front setback. Therefore, she explained, a variation is needed to allow encroachment of approximately 12.9 feet into the required front yard. The impervious surface additions are compliant with the Zoning Code requirements, she added, before going on to relate ZBA action expected.

Board Questions

Board Member Jones asked whether, if the lot was vacant, a home could be built on it without any variance. Ms. Fard replied that it would be difficult to build a completely compliant building, given the difficulty of the lot, the required front yard setback covers approximately 47 percent of the lot. Mr. Miller asked if the Village Engineer looked at the water flow, citing a drop in terrain to neighbors' yards. Ms. Fard responded that the Engineer had not because the LCR and impervious surfaces are compliant, though this will be reviewed as part of the building permit process. Reed Panther asked for clarification of lot boundaries. Ms. Fard reviewed the map, noting an encroachment onto the Village ROW, and explaining that the Petitioner is not proposing any changes and that the current setup is legal non-conforming. Mr.

Whalls asked the current square footage of the house. Planner Fard stated she didn't have the figure at hand, but could assure Mr. Whalls it meets code and would continue to do so with the proposed addition.

Mr. Whalls asked what the hardship pretense is for a three-car garage. Ms. Fard replied that the lot shape and required large front yard, which yields no room for an addition at front, is the hardship in the case, but would ask the Petitioners why they need a three-car garage. Chairperson Constantino asked if the proposed construction in all other respects compliant with the zoning provisions. Ms. Fard replied affirmatively.

Petitioner's Presentation

Sworn in Christina Morrison, 791 Willis Street, Glen Ellyn, related that she and her husband had been looking for a Mid-Century ranch home, and found the Willis property. Fan of vintage architecture, she said, the Petitioners wish to have the house remain looking like a Mid-Century ranch, but want the modern conveniences of an en suite bathroom and walk-in closet for the primary bedroom, and a garage to accommodate the family's three cars. She cited a slope in the driveway on which she'd rather not park in the winter and said that the lot's slope makes building a build tandem garage a challenge. She added that their architect advocates squared-off corners to make the additions look original to the home and retain the vintage look of the house. Ms. Morrison stated that she'd worked as a zoning attorney so is familiar with stormwater regulations, and said the Petitioners intend to abide by Village requirements.

Mr. Whalls asked what hardship prompts the request to construct a three-car garage. Ms. Morrison said the existing placement of the house, which is already non-compliant. Ms. Fard said that the driveway is now considered short, so it's difficult to fit the length of a big car. Chairperson Constantino noted that three letters of support had been received, and Ms. Fard said another had come in.

Public Comment

Ms. Fard read into the record the fourth letter received:

Megan Greenfield & Brian Rueffer, 575 Riford: Hi Christina and David,

My name is Megan Greenfield and we'll be your new neighbors in Glen Ellyn. We're at 575 Riford. We received your letter in the mail and wanted to let you know that we support your plan of your proposed additions to your new home.

We look forward to seeing what you do with the home as it is in definite need of some updating! Good luck with your hearing.

When do you anticipate moving in? Do you have any kids? We have several new families in the neighborhood and I'm sure you'll love living here! We look forward to meeting you soon!

Board Member Panther reviewed the findings of fact. Board Member Whalls made a motion to accept these findings; seconded by Board Member Covington the motion carried unanimously by roll call vote.

Deliberations

Board Member Covington conveyed that she is "on the fence" in her opinion, and that despite the lot shape and house placement – which the Petitioners "knew going in – she doesn't see a hardship. She acknowledged the Petitioners' mindfulness in their approach to the additions.

Board Member Crudele said that the hardship lies in the land, noting the property is already not in compliance, noting that the house was built against the property lines. She expressed that the Petitioners inherited the hardship and are trying to do the right thing to try to keep the character of the home, and said that she is in favor of granting the variance.

Member Jones commented that the house is under the LCR, and expressed concern about losing Mid-Century Modern houses to teardown. He cited the difficulty of parking a car in front of the garage and said that a three-car garage would benefit neighbors. He said he is in favor of granting the variance.

Board Member Miller said he doesn't see a hardship, but acknowledged unique circumstances, citing limitations of the "highly irregular lot." Noting the loss of Mid-Century ranches and applauding the Petitioner's plan, he said the request is valid. Expressing agreement with the opinions voiced, Member Panther said he is in favor.

Board Member Whalls said he doesn't see a hardship with the garage, and since the Petitioner works with municipalities she is familiar with zoning issues. He said he is okay with the bedroom addition, but that he's "kind of up in the air" on the request.

Chairperson Constantino said he would recommend the variation as requested as the lot configuration and location of the existing house create a unique circumstance (which, he said, would pose challenges to rebuilding on the lot).

Mr. Miller opined that the proposed garage won't look out of place, observing that the front yard is by legal definition "massive."

Board Member Whalls moved to close the Public Hearing; seconded by Member Covington, the motion carried unanimously.

Board Member Miller moved for the following:

Having considered the application of David and Christina Morrison, owners of the property located at 791 Willis Street, Glen Ellyn, for a zoning variation from Section 10-4-8(D)(1) to allow a front yard setback of 17.1 feet where a front yard setback of 30 feet is required for the construction of a one-story addition to an existing principal structure in the R2 Residential District, the Zoning Board of Appeals hereby adopts the findings of fact in the petitioners' application packet and presented by the petitioners at the Zoning Board of Appeals public hearing conducted on March 8, 2022, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends APPROVAL based upon the following unique circumstances:

1. The house is legal non-conforming which sits on a lot with a highly irregular shape;
2. 47 percent of the property is subject to the required front yard setback;
3. The home cannot be updated to modern standards and keep the Mid-Century ranch style without a variation.

It is also subject to the following condition:

1. The project shall be constructed in substantial conformance with the plans as submitted and the testimony presented at the March 8, 2022 public hearing of the Zoning Board of Appeals.

Seconded by Board Member Panther, the motion carried by roll call vote with five (5) YES votes, and two (2) NO votes by Members Covington and Whalls.

Public Hearing for 249 Kenilworth Court

A motion made to open the Public Hearing to consider construction necessitated zoning variations for 249 Kenilworth Court by Board Member Covington, was seconded by Member Crudele and passed unanimously by roll call vote.

Staff Presentation

After being sworn in, Planner Atrian Fard, 535 Duane Street, stated that Richard and SuzAnne Cholewinski, owners of the subject property at 249 Kenilworth Court, are seeking construction necessitated zoning variations. The Petitioners, she continued, are requesting recommendation of approval for these variations from the Zoning Code: for maximum impervious surface coverage in the required front, a rear yard setback requirement for the building/kitchen; required rear yard setback for a deck, for a water garden/pond, and required impervious surface setback for the existing walkway.

The subject property and all surrounding properties are zoned R2 – Single Family Residential District and all the properties around the subject one are improved with single-family residences, continued Planner Fard. The subject property is an interior lot located on the southwest end of a cul-de-sac known as Kenilworth Court, on the west side of North Kenilworth Avenue between Linden Street and Hawthorne Boulevard. The property was originally improved with a two-story frame single-family home in 1971. Due to the nature of the cul-de-sac, she said, the lot has an irregular shape with approximately 160 feet of width, and an average depth of approximately 70.25 feet, explained Ms. Fard. Given the dimensions, she said, the lot is considered much wider than those typical for the R2 district, and yet too shallow, resulting in a nonconforming depth. So, she said, the bulk of the house is located within the required rear yard setback, so it is considered legal nonconforming.

In January 2006, the Petitioners purchased the property with the intention to invest in and update their house in a manner that would enhance the appearance and functionality of the residence. However, explained Ms. Fard, as a nonconforming property that is deficient in lot depth and rear yard setback, there is not ample buildable area on the lot, and almost any enlargement or structural alterations to improve the house would require variations. This hardship, she stated, led the homeowners to request zoning variations a few months after purchasing the property to allow for a second-floor expansion to encroach into the required rear yard and an open front porch to encroach into the interior side yard. In April 2006, the Village Board granted the variations due to the particular hardship created by the irregular-shaped lot and the unique relationship and orientation to the cul-de-sac. Subsequently, a building permit application was filed and approved that same year. The building permit included the construction of a new pitched roof, the second-story addition, a detached garage, a covered front porch, and a shed. The project's completion deadline was extended several times for nearly three years until the passage of the final building inspection in April 2009. Since then, the subject property was issued two additional building permits to install a fence and to replace the roof.

In June 2021, related Ms. Fard, the Building Department received a complaint regarding work done on the subject property without obtaining a building permit. To validate the complaint, Staff reviewed the permit files and found no permits for additions and alterations issued since the permit in 2006. A review of the recorded drawings approved in 2006 indicated that the house, at that time, had two stories in height, with five bedrooms and 2.5 bathrooms, whereas a 2021 real estate listing of the property featured a three-story residence with five bedrooms and 5.5 bathrooms. Consequently, on June 30, 2021, the Village Building and Zoning Official notified the homeowners of the numerous building and plumbing violations

and directed them to apply for the necessary building permits for these improvements. On July 12, 2021, the homeowners filed a building permit application and submitted as-built drawings. On August 12 and December 14, 2021, Staff sent rejection letters pertaining to zoning, building and drainage plan requirements. Specifically, elaborated Ms. Fard, the zoning review found that the renovated kitchen, driveway expansion, deck, and water garden/pond did not comply with setback and impervious surface requirements. Staff, she said, informed the homeowners of the need to either correct the improvements to comply with the Zoning Code or file a Construction Necessitated Zoning Variation (CNZV). On December 20, 2021, the homeowners notified the Village that they would like to pursue a CNZV.

Per Code, no building or addition thereof may be located within the required rear yard of 40 ft. in the R2 zoning district unless a zoning variation is granted. In August 2009, the homeowners constructed a 58.6SF addition to the back of the house to expand the kitchen space to accommodate a new island structure. Although the kitchen addition increased the building's footprint in the back, the Petitioners claim that this new cantilevered addition did not alter the building's existing foundation. The Petitioners, reported Planner Fard, have indicated that they did not realize they needed to seek a building permit or a zoning variation. The Petitioners, she added, regret their actions of not following the legal path but blame the lot's unique shape, which challenges any improvement without the approval of a variation.

The kitchen bump-out currently sets back 8.18 ft. from the southeast corner of the house and 18.14 ft. from the rear property line. While the kitchen addition is constructed further away from the rear lot line than the southeast portion of the house that existed since 1971, the addition's placement does not meet the full rear yard setback requirement of 40 ft. Thus, a zoning variation from the rear yard setback requirement will need to be granted to allow the kitchen addition to remain as constructed.

Per Code, continued Ms. Fard, decks are required to be no closer to a rear property line than 10 percent of the lot width, or in this case 16 ft. According to the original plat of survey, the old deck extended approximately 3.5 ft. into the required setback of 16 ft. and was considered nonconforming already. As part of the renovations done in 2009, the Petitioners replaced the old wood deck while changing the layout of the edges slightly. The Petitioners, related Ms. Fard, claim they did not seek a building permit for the deck as they believed the deck was preexisting and its alteration would not need a building permit or a zoning variation. According to the most recent plat of survey, the existing deck is now approximately 2.25 ft. closer to the rear property line than the old wood deck, which increased the nonconforming condition. Given that, she said, a zoning variation is required to allow the existing deck to remain as is.

Per Code, said Planner Fard, impervious surfaces may cover no more than 50 percent of the required front yard in the R2 zoning district. The maximum permitted coverage for impervious surfaces in the required front yard for the subject property is approximately 1,510.9 SF. According to the petitioners' narrative statement, in 2009, the homeowners installed a circular asphalt driveway extension to provide access to the permitted detached garage. The Petitioners claim that they forgot to include the driveway expansion in the initial drawings for zoning variation and regret their decision of not obtaining a building permit. A year later, the Petitioners installed a brick paver walkway between the attached and detached garages to provide access from the front to the rear yard. The petitioners state they were unaware that a permit was needed for the construction of the walkway.

It should be noted that pavers are regulated as impervious surfaces since at least 50 percent of the whole surface or portion thereof is incapable of allowing water to penetrate into the ground below, explained Ms. Fard. With a combined impervious surface area of approximately 1,800.1 SF, she said, the percentage

of the required front yard covered by impervious surfaces – both circular driveway and walkways – is 59.6 percent, where a maximum of 50 percent is allowed by Code. Therefore, she explained, a variation is needed to keep the nonconforming impervious surfaces at front.

Per Code, related Planner Fard, ponds must maintain a minimum setback of 10 percent of lot width, or 16 ft. in this case, from the property line. In addition, ponds must comply with all building and Zoning Code regulations for swimming pools if depth of the water is 2ft. or greater. Between 2010 and 2011, the Petitioners built a water garden at the rear of the property between the detached and attached garages. At 1.84 ft. from the rear property line, the water garden encroaches 14.16 ft. into the required setback of 16 ft. A building permit was not issued for the water garden and a zoning variation will be required to allow the water garden to remain in its current location. The Petitioner, stated Ms. Fard, has indicated that the water garden's deepest point is currently 25 in., with an average of 10 in. in most areas. She said the Petitioner has also stated that they can fill the pond to reduce the maximum depth to less than 24 in. Staff, stated Ms. Fard, suggests the ZBA consider adding a condition of approval that the water garden not exceed a maximum of 23 in. in depth, should it recommend approving that the existing water garden remain. The existing walkway, added Planner Fard, encroaches approximately 3 ft. into the required impervious surface setback of 8 ft. Therefore, she said, a zoning variation shall be granted to allow the existing walkway to remain within the impervious surface setback.

Planner Fard pointed out that both the water garden and walkway encroach into the drainage and public utility easement – the former 8.16 ft. and the latter approximately 5 ft. So, she said, Staff recommends the Petitioners sign an Easement Affidavit should the variations be approved garden for the walkway and water garden setbacks. However, she added, if the variations for walkway and water setbacks are denied and compliance with the setbacks are required, the walkway and water garden shall then be entirely moved from the easement area. Recently, continued Ms. Fard, the applicant submitted a drainage plan submittal that reflects the improvements that were built. The Village's Consulting Engineer reviewed this submittal and determined that no additional stormwater management measures are required. The plan was approved on January 13, 2022.

According to Ms. Fard, the Petitioner provided these cost estimates faced if the variations requested are denied:

- \$68,500 to bring the non-conforming kitchen addition into compliance.
- \$10,500 to remove the nonconforming portion of the existing wooden deck and add landscaping.
- \$3,450 to remove the nonconforming impervious surfaces and restore the area with sod.
- \$2,750 to remove the water garden and refill the area with sod.

Timing, she said, prevented the cost of remove the non-conforming part of the walkway to be included, but this would add a couple thousand more to the cost estimate.

Noting a boat in photography displayed, Board Member Jones wondered if such is allowed. Planner Purvis said no more than one recreational vehicle is permitted, but not in a portion of the side yard that is forward of the house setback. Mr. Miller asked if the Plat of Survey indicates buildable area. Ms. Fard said after they received, but before they built all of the improvements.

Questions

Board Member Miller asked if a photo shown of the plat of survey depicting buildable area was from the original packet the homeowners received when they received the variation last time. Planner Fard said she

believes they received it after the variations were granted for the detached garage and open front porch, but before they built the rest of the improvements.

Replying to a query from Member Jones, who'd noted a boat in one of the pictures and asked if the Village allows a boat to be stored on a residential property, Planning Manager Purvis referenced Code, saying essentially that, unless parked in an enclosed building, no more than one recreational vehicle/boat may be parked in the open, but only behind the front building line and not in the required side yard. Mr. Whalls asked if the boat's location complies. Ms. Fard indicated it doesn't, but it's an enforcement issue.

Board Member Panther asked if the house has a finished attic. Ms. Fard replied that she believes the attic is considered a third story, but added that it's not a "real complete" third floor. Chairperson Constantino asked if the ZBA is to take into consideration the Building Department's as-built review and Code instructions or just concentrate on the zoning. Ms. Fard said just the zoning variations, as, if the case meets the zoning requirements, then it will move on to building code concerns.

Petitioner's Presentation

SuzAnne and Rick Cholewinski, 249 Kenilworth Court, Glen Ellyn, were sworn in. Mrs. Cholewinski stated that work since 2006 was done in phases due to finances, and that she regrets how the driveway was initially drawn. She stated that it became a hardship to access the garage (and explained that the boat belongs to her brother and was only temporary), and that the driveway appendage was difficult to get to at times. She said the Petitioners tried to improve the deck and didn't think the kitchen cantilever would be a zoning issue. She said the Petitioners did a lot of the work themselves, and, expressing regret, said they now want "to move forward and try to get this all resolved."

Chairperson Constantino wondered why, with all the work done and knowing of the unique lot configuration, and the permitting requirements in 2006, the Petitioners weren't back before the Building and Zoning Department seeking the necessary permits, or what permits were needed. He expressed concern, noting that extensive work was done without any permitting. Mr. Cholewinski answered that he didn't think he needed a permit for the walkway/bricks and the water garden. Mrs. Cholewinski acknowledged that the missteps surrounding interior work were the Petitioners' fault, but indicated that they thought they'd covered all of the zoning issues. While she said she doesn't think they are alone in doing work without permits, she thinks they should have looked more into doing so. She acknowledged that they should have looked into it for the driveway, but said that because "the variance process was so daunting the first time," they regretfully did not. She added that the deck didn't seem changed after the work, and that they tried to keep the setback the same as that of the previous deck. She reiterated that they wish to move forward, saying they want to sell the house.

Public Comment

Relating that seven letters of support that were received were included in the Board packet, Planner Fard read the following two additional letters into the record:

Mark and Sue Allgaier, 262 Hawthorne Blvd., Glen Ellyn, IL: To the Village of Glen Ellyn Planner,
We are Mark and Sue Allgaier and we reside at 262 Hawthorne Blvd, which is directly behind the Cholewinski's home.

It has come to our attention that the Cholewinskis are applying for a setback variance for their Kitchen bumpout, water garden, and deck. We do not have any issues with the setback variances.

After rainfalls, we do have standing water in our backyard which may be due to the paving coverage or the direction of their back downspout.

Dean Franson, 245 Linden Court: *My name is Dean Franson and I live at 245 Linden Court. I read over the notice of public hearing regarding the Cholewinski's property at 249 Kenilworth Court and would like to express my support for their requested variances. Due to their lot's odd shape, it would not meet the village's requirements. Yet, I find their beautiful home to have enhanced the properties in the area and increased the property values.*

Thank you.

Board Member Panther reviewed the findings of fact, which Member Miller then moved to accept. Seconded by Member Covington, the motion carried unanimously by roll call vote.

Deliberation

Board Member Covington wondered whether the variation requests can be considered individually or whether the case was an "all or nothing proposition." Chairperson Constantino suggested that if the Board prefers to handle them separately, the approach should first be run past the Petitioners, given their timetable. Planning Manager Purvis said it is acceptable for the Board to consider approval of variances separately. Ms. Covington said that some of the violations are more acceptable than others, and that, if they are considered as a group, she'd vote, "No," as she doesn't approve of the driveway variation.

Member Crudele said she is struggling with the case, since the Petitioners knew the process but avoided going through it. She said she thought the Board could approve some but not all of the requests. Member Jones said the Board should look at the case "piecemeal," and that he sees the water garden, deck and front yard variations as a "No;" he said he is okay with the pavers going to the walkway to the back and with the kitchen, but is not okay with "how we got here," and will vote with the majority.

Mr. Miller said he is "a 'No' across the board," citing "a dangerous precedent" given the volume of violations. He further said the Petitioner's ignored the Plat of Survey's depiction of non-buildable area. Board Member Panther said he feels the same as Mr. Miller, and that this case presents "too many issues." While he acknowledged the unique lot, he said the Petitioners were aware of this in 2006, so he is not supportive of advancing any of the requests before the Board.

Board Member Whalls said that if the case was to be taken "all or nothing," he'd vote, "No," but thought the Board might "dissect" it. Chairperson Constantino said that if the property owners had come before the Department and Board earlier, he would be more receptive to their plight, noting the irregular lot shape. He said it's bothersome that after their 2006 participation in the process, the Petitioners went forward in a piecemeal fashion without inquiry about permits. Under the circumstances, he concluded that it would be wise to consider the requests separately. Discussion ensued as to which ones are supported.

Member Crudele moved for the following:

Having considered the application of Richard and SuzAnne Cholewinski, owners of the property located at 249 Kenilworth Court, Glen Ellyn, for the following construction necessitated zoning variations: from Section 10-4-8(D)(2) to allow an existing addition to be approximately 18.14 feet at its closest point, from the south, rear lot line where a rear yard setback of 40 feet is required in the R2 Residential District, and from Section 10-5-5(C)(1) to allow an existing walkway to be approximately 5 feet from the south rear lot line where a minimum impervious surface setback of 8 feet (or 5% of the lot width) is required for lots

more than 100 feet in width, 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 March 8, 2022, 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 unique circumstance: irregular-shaped lot and the unique relationship and orientation of the house and the lot to the cul de sac, subject to the following conditions:

The project shall be constructed in substantial conformance with the plans as submitted and the testimony presented at the March 8, 2022 public hearing of the Zoning Board of Appeals.

Chairperson Constantino moved to amend the motion to recommend the variations to Section 10-4-8(D)(2) and Section 10-5-5(C)(1) to provide that the owner/petitioner will sign a utility easement affidavit acknowledging the fact that the walkway setback is partially located within a utility easement. Seconded by Member Miller, the motion carried unanimously by roll call vote.

Seconded "as stated" by Member Jones, Member Crudele's amended motion subsequently passed by roll call vote, with Members Crudele, Jones, Covington and Whalls and Chairperson Constantino voting, "YES," and Members Miller and Panther voting, "NO."

Board Member Miller moved for the following:

Having considered the application of Richard and SuzAnne Cholewinski, owners of the property located at 249 Kenilworth Court, Glen Ellyn, for construction necessitated zoning variations from Section 10-5-5(B)(4) #18.c.1 to allow existing impervious surfaces to cover approximately 1,800.15 square feet, or 59.6 percent of the required front yard, where only up to 50 percent, or approximately 1,510 square feet, of the required front yard is permitted to be covered by impervious surfaces; Section 10-5-5(B)(4) #8 to allow an existing deck to be approximately 10.25 feet at its closest point, from the south rear lot line where a rear yard setback of 16 feet is required; from Section 10-5-5(B)(4) #22 to allow an existing water garden (pond) to be approximately 1.84 feet from the south rear lot line where a rear yard setback of 16 feet is required, as depicted on the plans presented or revised at the public hearing, the Zoning Board of Appeals hereby recommends DENIAL of the requested zoning variations from the Glen Ellyn Zoning Code based upon the following findings of fact: that the plight of the homeowners is not due to a unique circumstance or particular hardship and that the particular situation has been created by persons presently having interest in the property.

Seconded by Member Panther, the motion passed by roll call vote, with all Members Miller, Panther, Jones, Crudele, Covington and Whalls voting, "YES" and Chairperson Constantino voting "NO."

Staff Report

Planner Fard related that the next ZBA meeting might feature a construction necessitated variation case, but that a zoning variation looks to be a go.

Trustee's Report

Kelli Christiansen said about 150 people showed up at the public meeting held Monday to discuss the hotel site. She said speakers were split half and half with some wanting attainable housing (most in favor of "supportive" housing), and folks who would like the spot to remain commercial. More such events are planned, she said, adding that the consultant noted a desire for five options, and further comments are

sought. A streetscape meeting was held tonight, she said, and she announced that DEI training is to be conducted. She indicated that she advocates fines to curb constructed necessitated zoning variations.

Adjournment

Chairperson Constantino adjourned the meeting at 10:37 p.m., followed by a motion to adjourn made by Member Jones, seconded by Member Whalls and, due to the late hour, endorsed heartily by ZBA Members.

Respectfully submitted,

Barbara Dutton-Thomas

Recording Secretary