

MINUTES
ZONING BOARD OF APPEALS MEETING
April 12, 2022

Call to Order and Roll Call

The meeting commenced at 7:02 p.m., with Acting Chairperson Matthew Jones describing the Zoning Board of Appeals (ZBA) purpose and the process for making determinations about matters brought before it. He reported public notice efforts made and announced the evening's business.

Roll was called. Present: Board Members Matthew Jones, Katie Crudele, Michelle Covington, Reed Panther and Thomas Whalls. Absent: Greg Consentino and Chip Miller

Mr. Jones outlined the public input process and introduced Planning Manager Kelly Purvis, Planner Atrian Fard, Associate Planner Taylor Gendel, Secretary Barbara Dutton, and Board of Trustees Liaison Anne Gould.

Approval of Meeting Minutes

Following a motion by Member Crudele, seconded by Member Panther, to approve the draft minutes of the March 8, 2022 meeting, the motion passed unanimously by voice vote.

Public Hearing for 265 Bryant Avenue

A motion by Member Crudele to open the Public Hearing concerning consideration of a zoning variation for 265 Bryant 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, Chris and Morgan Sweet, owners of the property at 265 Bryant Ave., an interior lot located in the R2 Residential Zoning District on the east side of Bryant Avenue just south of Highview Avenue, seek a variation to construct a new single-family home. The zoning and land use immediately surrounding the subject property is R2 single-family residential, she said, adding that a single-family home that had been on the subject lot was demolished in 2019. The property owners, explained Associate Planner Gendel, are requesting approval of variations from the Zoning Code to allow new construction of a two-story single-family home with a building ridge height of 35ft. 6-in where the maximum building height allowed 55-ft.-wide lot in the District is 32 ft. to the top of the ridge; and a proposed eave height of 26 ft. 6 in., where the maximum permitted height is 22 ft. to the bottom of the eave. This variation request to exceed the maximum ridge and eave height requirements, stated Ms. Gendel, is due to the fact that the slope from the sidewalk to the rear property line (a distance of 167 ft.) is approximately 14 ft. The Petitioner's architect, she related, determined in reviewing options for the new home that a detached garage would pose safety issues due to how the steep the slope of the driveway would be. The extreme slope of the property creates a hardship for the Petitioner as the best option is to provide a front-load attached garage, stated Ms. Gendel. This home, she continued, would have an average existing grade that is 5.65 ft. below the grade at the garage doors. The Petitioners, she related, note in their application that most homes in the zoning district may have an average existing grade about 2 ft. below the front grade.

The garage doors for the new home would be set at the minimum slope up from the sidewalk level so that positive drainage can be achieved away from the garage, stated Ms. Gendel, reducing the risk of flooding during heavy rains. The previous home on the property did not have a garage, only a parking pad, she related, adding that she spoke about the drainage on the property with the Village's Consulting Engineer, who let her know that the Village doesn't have a complete engineering plan for 265 Bryant at this point, but that she expects that the front yard and the front portion of the house will drain towards Bryant, and the rear yard and back portion of the house will drain towards May, similar to how the previous home drained.

Citing Illinois drainage law, Ms. Gendel said that at the time of permit, if the Consulting Engineer and the plan reviewers determine that there has been an increase of 300SF or more of impervious surface that drains to the rear yard, the applicant will be required to install a drywell or rain garden. Ms. Gendel added that the engineer might choose to direct downspouts from the house toward Bryant.

The home is designed so that the back portion of the house does not utilize the top story for living space in order to step down the volume, and to have it not appear to be three stories from the rear of the home, explained Associate Planner Gendel. The three-bedroom home will be approximately 2,250 SF, which the Petitioners note in their application as "rather modest," she said, adding that the home, as designed, will have a lot coverage of about 20 percent.

The Petitioners, stated Ms. Gendel, have indicated that the proposed home would meet all other requirements of the Zoning Code and that the variation is not requested to maximize the buildable area on the lot, but rather to establish positive drainage away from the garage doors. Ms. Gendel listed ZBA action and options.

Board Questions

Member Covington asked what the eave height has to do with the slope of the lot. Sworn in, Planning Manager Purvis explained that relevance of the overall height of the building to the slope has to do with how the average existing grade is measured, relating the calculation. Mr. Jones asked for confirmation that if the house was a Ranch Style it could have a lot coverage ratio (LCR) of 35 percent, but with a walkout it is considered a two-story, so is restricted to a 20 percent. Ms. Purvis confirmed this.

Petitioner's Presentation

Steve Poteracki, Studio One Architects, 1105 Burlington Ave., Western Springs, Ill., and Chris Sweet, 770 W. Gladys, Chicago, Ill., the owner of the subject property, were sworn in. Mr. Poteracki stated that due to the extreme slope of the land, the Petitioner is "kind of sandwiched in," to a grade, and that the owner and designer are trying to establish positive drainage, not increasing the runoff. He indicated that the house is not maximized to the side yard setback, and that the back of the house will be set so the eaves and the ridge don't exceed the average existing grade requirements, and called the "extreme lot" an unfortunate hardship.

Mr. Sweet said in finding a location to build a home, he looked to Glen Ellyn as he and his wife wanted to be closer to friends, and that choosing the lot was predicated on school district. He said the house layout was driven by his wife wanting the bedrooms on the second floor, and reported that he has spoken with the adjacent neighbors about the homebuilding plans. He acknowledged that drainage is a concern. Mr. Poteracki added that the Petitioner will have drywell capacity.

Public Comment

Associate Planner read into the record the follow letter received:

Tom Dohrer, 260 May Ave.: *Hello – I am the homeowner at 260 May Avenue, which is one of the homes directly behind the property at 265 Bryant. I am not able to attend the meeting tonight because of a work conflict.*

I would ask that the commission take extra care in reviewing the planed structure at this location due to the unique circumstances with the lot and the potential impact to the surrounding area.

As I am sure you are aware, this lot sits at a substantially higher elevation than the properties located on May Avenue. My main concern is the impact to the drainage problems that already exist in this area. We are constantly battling water issues that are significant and severe. Much of the water that ends up on my property is directly flowing from the 265 Bryant location. We have spent tens of thousands of dollars battling these issues, including tearing out our finished basement because of flood damage and the need to add a storm sewer and other landscaping work in our back yard (with approval from the village because of our issues). Even with the efforts, we still battle water issues and do get water in our home. I have attached some photographs to show what we deal with on a frequent basis.

I would ask the commission to please consider the unique nature of this property when assessing the height, size and drainage from this property. The fear is that is without care and consideration, adding a structure to this property will cause further hardship for us and neighboring residents. I would encourage the commission to look very closely at ways to route the water away from the hill and May avenue, and also consider other remedies such as drywell or other methods from preventing flooding of this area.

Thank you.

The following individuals were sworn in and made these respective comments:

Debbie Bray, 266 May Avenue, complimented the photos showing standing water, and stated that sump pumps are quite active during rainy periods. She related that she'd been told that a stream runs underground along May, and this needs to be considered when discussing drainage. She asked that consideration be given to drainage.

Member Whalls asked Ms. Bray if she'd talked to the Village about tying in her lot to the storm sewer system. She said the Dohrers had a sewer put in so now most of her yard has a huge pond for a half a day, but which slowly drains (an improvement), but thinks her property could perhaps be tied into the neighbors'. Member Whalls suggested the Brays contact the Village about tying into the storm sewer at the front. Member Jones asked if the water situation had changed since the house had on the lot been torn down. Ms. Bray said it's still draining but not as much. He then asked if Ms. Bray would put in an easement for a manhole. She said she thought she would, and that it might be a good remedy. He asked the Petitioner if they'd be open to this option, to which Mr. Poteracki responded affirmatively.

Dean Bladel, 271 Bryant, said he's happy to have someone move into the subject property (to which his is adjacent to the north), saying he's tired of seeing it overgrown with weeds. He added that since his house is 36 ft. tall in the back, the proposed dwelling won't be taller, and so won't bother neighbors. He said the water situation has been alleviated since the previous house on the subject property was taken down.

Member Panther read the findings of fact, which were accepted following a motion by Member Whalls that was seconded by Member Crudele, and passed unanimously upon voice vote.

Deliberation

Member Crudele said she is in favor of granting approval of the Petitioner's request, as due diligence with regard to water issues is being performed. Member Whalls said he respects the Petitioner's plan to build a relatively modest home. He said the elevation doesn't block neighbors' views or sunlight, and fits the neighborhood, and that there is opportunity to tie in to the sewer. Member Covington said she is in favor of approval, and doesn't see any additional issues with water. Member Panther said he is "in the same boat." Member Jones expressed appreciation of the stated LCR, thinking it will be a factor in controlling water.

Member Covington moved to close the Public Hearing; seconded by Member Panther, the motion passed by voice vote. Member Covington moved for the following:

Having considered the application of Chris and Morgan Sweet, owners of the property located at 265 Bryant Ave. Glen Ellyn, for a zoning variation from Section 10-4-8(F) to allow new construction of a two-story single-family home with a building ridge height of 35'6" and eave height of 26'6", where the maximum building height in the R2 district for a 55'-wide lot is 32' to the top of the ridge and 22' to the bottom of the highest eave, 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 April 12, 2022, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends APPROVAL based upon the following hardships or unique circumstances:

- The existing slope of the property impacts the average existing grade; and
- The existing slope of the property results in limitations in how to avoid increased run-off rate.

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

Public Hearing for 810 Dorchester Court

A motion made to open the Public Hearing concerning consideration of a zoning variation for 810 Dorchester Court by Member Covington and seconded by Member Crudele passed unanimously by voice vote.

Staff Presentation

Sworn in, Associate Planner Taylor Gendel, 535 Duane, introduced the subject property, for which a variation is sought to allow the replacement of a 6-ft., fully enclosed fence, on a corner lot located in the R1 Residential Zoning District on the northeast corner of Dorchester Court and Illinois Route 53 and just east of McCormick Avenue, in unincorporated Glen Ellyn. The zoning and land use immediately north of subject property is R2 single-family residential and all the remaining surrounding properties are in unincorporated Glen Ellyn, stated Ms. Gendel. The Petitioner, she elaborated, is proposing to replace the 6-ft. fence, where the maximum height for a fence closer to the street than the principal structure on a lot in the R1 District is four feet and 33.3 percent open. The previous non-conforming fence had been on the property since the home was built and before the property was annexed into the Village in 1999, continued Associate Planner Gendel, who explained that it was considered legal non-conforming, which means that it was allowed to remain in place until such time that replacement or structural alteration was required. The fence was damaged, she continued, so the property owner removed it, not realizing that the

Zoning Code does not allow it to be replaced at its previous height. The Petitioner is requesting a variation to replace the fence exactly as it was, she said.

This variation request is due to the fact that the home is located on Illinois State Route 53, a very high traffic roadway, related Ms. Gendel. The Petitioner states that a code compliant 4-ft. fence would not provide the privacy his family requires and has become accustomed to, she stated, and said he seeks to replace the fence with 200 linear feet of a 6-foot tall, 8-foot wide, dog-ear pine, pressure-treated, shadowbox-style fence with two gates. She displayed a photo of the proposed fence type. The Petitioner, continued Ms. Gendel, notes that all of the other homes along the east side of Illinois Route 53 also have 6-ft. tall, completely closed fencing, and installing a code-compliant fence would put their property's fence below the rest in the neighborhood. Replacing the fence to match the other properties along Route 53 will create uniformity with the adjoining fences, insisted the Associate Planner, noting that the Petitioner has indicated they will be spending more money to install a 6-ft. fence than they would to install a 4-foot, compliant fence. The Petitioner, she added, also notes that they have the only property on Dorchester Court that has been annexed into the Village. Staff checked the County codes, reported Ms. Gendel, and noted that if the property were still in unincorporated DuPage County, a side-yard fence abutting Route 53 would be allowed up to 8 ft. 6 in. Ms. Gendel recited ZBA action expected.

Board Questions

Member Covington asked why this is the only property in the area discussed that was annexed into Glen Ellyn. Sworn in, Planning Manager Purvis replied that the single-family homeowner had wanted to connect to Village utilities. Member Covington asked if this was made by an owner prior to the current one. It was determined that it was the prior owner.

Acting Chairperson Jones asked if the variance was approved, and the State came in and took some of the Petitioner's land, moving the property line back, would approval be in perpetuity, allowing him to rebuild without coming back to the Board. Noting that the County could grant approval for a fence to be built in the right-of-way; Ms. Purvis replied that the variance would stand, since the Petitioner is replacing the fence on his current property.

Petitioner's Presentation

Sworn in, Aly Babul, 810 Dorchester Court, Glen Ellyn, stated that the pictures that were shown speak for themselves. He related that the house previously on the property had burned down, and when it was rebuilt was annexed. He said the existing fence is the original, and is about 20 years old. He contended the replacement will look better, and that a 4-ft. fence would not provide privacy. He further stated that the visibility would be unchanged with the lower fence, as multiple evergreen trees – some as tall as 15 ft. – are in place. He lauded the uniformity that a 6-ft. fence would maintain.

Public Comment

None.

Member Panther delivered findings of fact. Member Whalls moved to accept the findings of fact; seconded by Member Covington, the motion carried by voice vote.

Deliberation

Expressing support for the variance, Member Panther said the proposed fence would provide safety and privacy benefits. Member Covington said she also supports the Petitioner's request, judging that height is

the only issue, and that there is no encroachment otherwise. Citing privacy and sound protection as benefits of erecting a 6-ft. fence, she said that a 4-ft.-high fence would be insufficient along this type of road. Noting there were no dissenters, Member Whalls said he is all for it. Member Crudele added her support, and Member Jones said he, too, is in favor, calling the fence a “first line of defense” for the Petitioner’s family.

Member Panther moved to close the Public Hearing; seconded by Member Whalls, the motion carried unanimously. Member Crudele moved for the following:

Having considered the application of Aly Babul, owner of the property located at 810 Dorchester Court, Glen Ellyn, for a zoning variation from Section 10-5-5(B)4 #11 to allow the replacement of a six-foot, fully enclosed fence where the maximum height for a fence closer to the street than the principal structure on a lot in the R1 Single Family Residential District is four feet and 33.3 percent open, 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 April 12, 2022, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends APPROVAL based upon the following hardships or unique circumstances:

- The fence provides a safety benefit on a state route for privacy and sound;
- The 4-ft. fence would take away from the uniformity of the surrounding properties; and
- If the property had remained un-annexed, then it could have an 8-ft. fence installed.

Seconded by Member Whalls, the motion carried by unanimously by roll call vote.

Staff Report

Planning Manager Purvis announced that she is leaving her post at the Village to take a community development position elsewhere. Planner Fard related that the next ZBA meeting will feature a construction-necessitated case, and also that more zoning variations could be on the agenda.

Trustee’s Report

Trustee Gould reported that a presentation was given about a new program and app for resident requests. She said the Board of Trustees approved the recent ZBA matters concerning screen replacement by windows, and proposed alterations to a Mid-Century Modern house, as well as approved the deck, kitchen and walkway variations for the recent Kenilworth Court case, but not that Petitioners’ request concerning a driveway variation. She said a workshop was held to discuss the US Bank property, and that “Tea with the Trustees” is scheduled for the coming Saturday. She reported that a second listening session for the hotel site is to be held May 4th. She said the McChesney grocery store building will be torn down soon, to which Ms. Purvis gave an update on adjustments to the plan to redevelop the site with apartments. She said a restaurant and a waxing salon have expressed interest in leasing space in the Apex complex.

Adjournment

Acting Chairperson Jones adjourned the meeting at 8:20 p.m., followed by a motion to adjourn made by Member Whalls, and seconded by Member Covington.

Respectfully submitted,

Barbara Dutton-Thomas
Recording Secretary