

MINUTES
ZONING BOARD OF APPEALS SPECIAL MEETING
August 30, 2022

Call to Order and Roll Call

The meeting was called to order at 7:02 p.m., by Chairperson Greg Constantino, who explained the function of the Zoning Board of Appeals (ZBA) and the determination process it undertakes. He reviewed the notice made for the evening's agenda items. Roll was called. Present: Chairperson Constantino and Board Members Matthew Jones, Chip Miller, Katie Crudele and Reed Panther. Absent: Thomas Whalls. The Chairperson described the process for the evening's proceedings, announced that the meeting would be recorded, and introduced Planning Intern Brad Iwicki Senior Planner Atrian Fard, and Recording Secretary Barb Dutton. Also in attendance were Assistant Village Manager Emily Rodman and Village Community Development Director Marty Scott

Approval of Meeting Minutes

Following a motion by Board Member Miller, seconded by Member Jones, to approve the draft minutes of the June 14, 2022 meeting, the motion passed unanimously via roll call vote by all Board Members present.

Public Hearing for 103 Grove Avenue

A motion by Board Member Jones to open the Public Hearing concerning for 103 Grove Avenue, and seconded by Member Crudele, passed unanimously via roll call vote by all Board Members present.

Staff Presentation

Sworn in, Planning Intern Bradley Iwicki, 535 Duane, stated that Petitioners are requesting a recommendation of approval of zoning variations to allow a rear yard setback of 32.8 ft. in lieu of the required rear yard setback of 40 ft. in the R2 Residential District; to allow a lot coverage ratio (LCR) of 24.77 percent, in lieu of the maximum LCR of 20 percent in the R2 District; and any other zoning relief necessary to construct an addition to their house as presented at the Public Hearing or meeting of the Village Board. The subject property is part of the Roosevelt Garden Homesites Subdivision and was constructed in 1964. The lot is rectangular-shaped and improved with a split-level frame single-family home with an attached garage. Currently, the property has a lot coverage ratio of 22.58 percent, which exceeds the maximum allowable lot coverage ratio of 20 percent in the R2 District.

The current residents, related Mr. Iwicki, first occupied this home in March of 2018 and would like to improve the home with an addition to suit their family needs and to enjoy their yard and view, continued Mr. Iwicki. According to the Petitioner, he said, the residence adjacency to the river, a breeding site for mosquitos, has increased health and safety risks for homeowners using the backyard during warm seasons; therefore, an enclosed area at the rear would enhance the functionality of the backyard. He stated that the subject property is an interior lot on the east side of Grove, that the properties to the north, west and south are all zoned R2 – Single Family Residential District and are improved with single family homes, stated Mr. Iwicki. The property to the east is also zoned R2 and is owned by the Forest Preserve District of DuPage County.

Due to the proximity to the river, continued Mr. Iwicki, the property slopes down at a grade of about 11 percent (approximately 5-foot-decline across 45 feet from the principal structure to the rear lot line), where stormwater runoff flows toward the river. The Village Stormwater Engineer, stated, Mr. Iwicki, does not anticipate that the proposed addition would negatively impact the natural flow of water drainage due to the 15- to 17-foot drop in elevation between the principal structure and the floodway that exists. If variations are granted, however, the plans will be further reviewed and evaluated by Village's Stormwater Engineer for conformance as part of the permitting phase, he said. The Petitioner proposes demolishing the existing dilapidated deck at the rear and replace it with a two-story building addition measuring 16 ft. wide by 12 ft. deep, totaling 192SF, Mr. Iwicki explained. The proposed upper level, with direct access to the existing kitchen area, would be used as a sunroom, to feature tempered glass windows on all sides and a door on the south elevation providing access to a stairwell and the existing patio to the south, he added, and said that the lower-level portion of the addition would be used for storage and have access doors on the north elevation. Staff received two letters from adjacent neighbors to the north and south in support of granting the variations, related Mr. Iwicki, who concluded his presentation by outlining Board action.

Board Member Jones asked what additional secondary structures would be allowed if a 25 Percent LCR was in place. Planning Intern Iwicki replied that he didn't believe Staff did these calculations. Sworn in, Atrian Fard, Sr. Planner, 535 Duane, elaborated that the LCR governing accessory structures is 30 percent of the required rear yard or 1,000SF, whichever is less. Member Miller asked if the area marked as lots behind the property on the river side is considered flood plain and not buildable. Mr. Iwicki said that while it was originally part of the subdivision, it is part of the floodplain. Chairperson Constantino asked if easterly property is deemed wetlands. Ms. Fard responded affirmatively, stating that it serves as buffer to the river, and is not buildable, despite the zoning map erroneously showing it as R2. Mr. Miller observed that the river was moved when the floodplain was created.

Petitioner's Presentation

Sworn in, Peter Gatsch, President, National Energy Contractors, 206 W. North Ave., Lombard, representing Donald and Cheryl Wiltgen, owners of the subject property, contended that "a subjective analyzation" would suggest that the homeowners are "not getting too carried away" in their plan, and stated that an alternative one would not be practical due to hardships, including the fact that the wetland is "inundated with insects" and wildlife, and a stairwell to avoid blocking at the split-level home. He said the addition would not offend anyone due to the location, nor would it change the character of the neighborhood. He added that the addition would be replacing a "dilapidated deck," replacement of which would offer limited use. Both of the homeowners, he said, have knee issues, so wish to enjoy the yard from right off the kitchen, a logical location for the addition given the layout of the house. He claimed that that the backyard is an "intolerable area," and of the wetland/river area he said, "No one is going to build anything back there." He noted that there are no accessory structures on the property, and said a lot of homes are built in tight spaces. Mr. Gatsch said the Petitioner is "pleading for some sympathy" through what he called a "humble request."

Member Jones asked Mr. Gatsch if he could build a 100SF practically with the existing grade. Mr. Gatsch said it would be more difficult, and the siting could be dangerous for, say, maneuvering a lawnmower. He also reported that the Petitioner would be willing to waive the right to build such a structure. Sr. Planner Fard said a shed is included in the LCR, and that the Petitioner would still have to come back to the Village for approval to construct one.

Member Miller asked if the proposed allows for safe egress, to which Mr. Gatsch replied, “Yes.” Board Member Panther asked if the floor of the storage area is to be concrete, to which Mr. Gatsch replied, “Yes.” Chairperson Constantino inquired as to the condition of the existing deck, to which Mr. Gatsch responded that it is rotting and unsafe.

Public Input

Intern Iwicki read into the record the following letter received:

Kevin Stough, Land Preservation Manager, Forest Preserve District of DuPage County, 3S580 Naperville Road, P.O. Box 5000, Wheaton, IL 60189:

Dear Mr. Constantino,

The Forest Preserve District of DuPage County recently received a Notice of Public Hearing regarding National Energy Contractors, Inc. petition for zoning variations and relief as it relates to the addition of a new sunroom at the aforementioned address. We appreciate receiving timely notification of such requests that may have an impact on District property and thank you for the opportunity to comment.

District Staff has reviewed the information provided and does not have any comments. Please do not hesitate to call me at (630) 933-7235 if you have any questions.

Member Panther delivered Findings of Fact, which were accepted unanimously by all members present following a roll call vote on a motion made by Member Jones and seconded by Member Crudele.

Deliberation

Board Member Crudele observed hardships in the slope, the flood plain, the adjacency to wetlands, the need for safe egress, and homeowner mobility limitations. Further opining that the materials proposed for the addition match the house, she said she is in favor of approving the Petitioners’ request. Commissioner Jones said he agrees with Member Crudele. Member Miller commented that mosquitos present a health risk, and said that since the yard backs up to property that can’t be built on, the setback will have no impact. Further, he noted that the addition will not be visible in that it is proposed for a private area. He said he is in favor of granting approval. Member Panther said he had nothing additional to offer, but expressed support. Citing previously expressed hardships, Chairperson Constantino said he, too, is in favor of recommending the Village Board grant variation request, as the proposed project will make for acceptable use of the property. He remarked that the LCR request is modest and the situation was not created by the owner, and said the proposed doesn’t appear to be solely for monetary gain or purposes, nor would the proposed present an apparent change to character of the area.

Member Crudele, seconded by Member Jones, moved to close the Public Hearing; passed unanimously via roll call vote by all Board Members present.

Board Member Miller moved for the following:

Having considered the application of National Energy Contractors, Inc., representing Donald and Cheryl Wiltgen, owners of the property located at 103 Grove Avenue, Glen Ellyn, for a zoning variation from Section 10-4-8(E)(1) to allow a lot coverage ratio of 24.77% where a maximum lot coverage ratio of 20% is allowed for two-story single-family dwellings in the R2 Residential District, and a zoning variation from Section 10-4-8(D)(2) to allow a rear yard setback of 32.8 feet where a rear yard setback of 40 feet is required for the construction of an 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

August 30, 2022, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends APPROVAL based upon the following hardships and unique circumstances:

- Mosquitos from the river limit outdoor use due to the health risk;
- The unique topographic of the property and adjacent flood plain mean that there are not buildable lots behind them;
- The location of the addition allows for safe egress and it is replacing an existing, unsafe deck in the same location;

Seconded by Board Member Crudele, the motion passed unanimously by roll call vote with all Board members present voting YES.

Public Hearing for 645 Forest Avenue

A motion by Board Member Miller to open the Public Hearing concerning a construction-necessitated zoning variation (CNZV) request for 645 Forest Avenue was seconded by Member Jones and passed unanimously by roll call vote of all the Board Members who were present.

Staff Presentation

Sworn in, Senior Planner Atrian Fard, 535 Duane, stated that the Petitioner, Craig and Ann-Marie Cudzilo, owners of the subject property at 645 Forest Avenue, is requesting approval of variations from the Zoning Code for the subject property to allow a lot coverage of approximately 21 percent, in lieu of a 20 percent maximum allowed in the R2 Residential District; the placement and encroachment of a trampoline into the required corner side yard of 30 ft.; and to allow the trampoline to be approximately 3 ft. from the corner side lot line where accessory structures shall be located no less than 20 ft. from the corner side lot line. The subject property and all surrounding properties, she said, are zoned R2 and are all improved with single-family homes. The subject property, she added, is a corner lot located at the southeast corner of Forest Avenue and Linden Street, and the residence was built in 1923, according to the Zoning requirements in place at the time. Per staff findings, related Ms. Fard, 1923 setback provisions required a corner side yard to be at least 10 percent of the lot width (10 feet in this case), while a minimum corner side yard setback of 30 feet is required today. Therefore, she concluded, the house is legal nonconforming with respect to today's Code.

The Petitioners purchased the property in 2015, she stated, and since have submitted several permit applications to renovate the property. In 2018, she continued, they started their permit for demolition of the detached garage and construction of a new detached garage; in 2019 they asked for a building permit to build a new attached two-car garage and partial second-floor addition, the latter necessitating a zoning variation for alteration Class III to the nonconforming building. In 2020, she related, they requested another permit for a home remodel and for the addition of a new deck, patio and lower-level entry. For the 2020 permit, she said, the Petitioners did not request any zoning variation because their permit application was in compliance with the Village requirements. She noted there's no trampoline designated on the approved site plan, and explained that in August 2022 the Village Engineer conducted a final grading inspection and discovered that the deck extended beyond what was approved. The unapproved deck area, explained Ms. Fard, measures approximately 156.6SF and acts as a roof over the lower-level entryway, producing an increase in the LCR. According to the most recent Plat of Survey, she stated, the house and garages before the improvements encompassed an LCR of 19.97 percent, but said that alterations pushed it to 21 percent, which makes it non-conforming.

During the Final Inspection in September 2020, continued Sr. Planner Fard, the Village Engineer identified a retaining wall around a trampoline within the required corner side yard setback, neither of which appeared in the approved plan. According to the Petitioners' submitted timeline, the trampoline was installed in May 2021 during landscaping installations along the northern property line. Per Village Zoning Code, explained Ms. Fard, trampolines are regulated as recreational equipment and shall not be placed within the required corner side yards. In accordance with the plat of survey, she said, the trampoline currently encroaches into the required corner side yard setback of 30 ft. for 27 ft. She noted that the Village Engineer has approved the placement of the retaining wall, which is within their purview. She outlined ZBA action concerning the case.

Board Questions

Board Member Jones asked, if the space underneath the deck featured dirt, would it be considered part of the lot coverage. Ms. Fard explained that parts of the deck are still elevated, and that it is considered to be a roof as an entry is in place. In response to a question from Chairperson Constantino about the deck height determination, Sr. Planner Fard referenced points in the Code referring to height (7 ft.), but suggested that while not pertinent in this case, in practice the space essentially provides a roof over the dugout area, as a person can "pass" underneath. She confirmed to him that a 12 ft. by 12 ft. deck space he referenced was not in the plan. Member Jones observed that if the space was filled there would be no door (which Ms. Fard said would be fine).

Petitioner's Presentation

Sworn in, Craig Cudzilo, 645 Forest, who stated that there were challenges working on the lot, and recalled that it even though it was decided by the Village not to put a sidewalk along Linden during the Lenox street improvements, the Petitioner subsequently had to get a variance to not put one in. Mr. Cudzilo related that the deck extension – a modification made during construction – emerged from a discussion between his wife and the contractor, concluding that the Petitioner isn't adding anything that is going to drain off the property. He maintained nothing was hidden from inspectors. He stated that it wasn't until the final grading survey when he learned that he was not in compliance. He said he contacted and spoke with the Village Attorney, and subsequently was contacted by the Building Department with the documents for a variance process. Listing options – such as removing the hot tub – that he could take, Mr. Cudzilo said he merely wants convenient access to the seating area, and stressed that throughout the process he wanted to work with the Village "100 percent." He cited as a hardship the use of the property, and said neighbors – all of whom are within view of the deck – wrote a letter in his support. He said the electrical was reviewed by an inspector, and also that the retaining wall near the location of the trampoline was erected in response to a slight grade of the lot. Expressing concern about selective Code enforcement, Mr. Cudzilo said the trampoline is in the same location (which, he said, the neighbors acknowledged can't be seen from the street) in which it was placed when his family first moved into the house and it is difficult to see from the street, and he'd probably get rid of it the location is deemed to be in violation. Chairperson Constantino asked how the trampoline is treated in the winter. Mr. Cudzilo replied that the netting is removed and snow shoveled off. Board Member Jones asked when recreational equipment began to include trampolines. Sr. Planner Fard said she doesn't know. Member Jones wondered about safety issues at the house, to which the Petitioner related he'd encountered many. The Petitioner stated that there is no seating area by the deck, impervious area has been reduced from the approved plan, and he'd considered the modification minor and one that made sense.

Member Miller asked the Petitioner if he'd had the same general contractor throughout the process. Mr. Cudzilo replied, "No," citing building complexities. In that a local contractor was involved, Member Miller surmised that the builder should have known about the deck disposition. Member Panther asked if rainwater could get through the deck to the patio below, to which Mr. Cudzilo replied affirmatively. He said the 12 ft. x 12 ft. deck structure was in place at the time of the electrical rough-in inspection (deducing it went up between June 12 and 27). Ms. Fard noted the porch was inspected on July 29, 2020.

Member Panther reviewed the Findings of Fact, which were approved unanimously by all members present following a roll call vote on a motion made by Member Miller and seconded by Member Crudele.

Deliberation

Concluding that oversight is partially "on the Village," disallowing the Petitioner to change course, Member Miller remarked that trampolines are seen "all over," suggesting that "it doesn't seem fair" to single out the Petitioner's, and added that he's "a yes" to approving the variance requests. Board Member Crudele said she was swayed by testimony to say, "Yes," saying that the drainage set-up makes the LCR less of a concern, and deems the trampoline a "non- issue" for the neighbors. Board Member Panther said he, is a "Yes, as well," saying that the trampoline is screened from the street. He opined that the Code isn't "totally clear" on what makes a deck part of the LCR, leaving room for interpretation. Member Jones agreed with the other Board Members, and believing the Petitioner to be straightforward, he called the matter "an honest mistake." Chairperson Constantino said that, while he sees difficulty in properly making a measurement in the case, he acknowledged that the LCR ratio is minimal and noted the neighbors' support. He said he is leaning toward being okay on the deck, saying that the Village had an opportunity to intervene in the process, so perhaps shares some responsibility in the matter, and concluded that he would be in favor of recommending that the Village Board grant the variations as requested.

Member Jones, seconded by Member Panther, moved to close the Public Hearing; the motion passed unanimously by roll call vote. Board Member Miller moved for the following:

Having considered the application of Craig and Ann-Marie Cudzilo, owners of the property located at 645 Forest Avenue, Glen Ellyn, for a construction necessitated zoning variation to allow a lot coverage ratio of approximately 21 percent on the subject property for which the maximum permitted lot coverage ratio is 20 percent and for the placement and encroachment of recreational equipment (trampoline) within the required corner side yard of 30 feet, 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 30, 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 Sections 10-4-8(E)(1), 10-5-5(B)4#28, and 10-5-4(A)4(a), of the Glen Ellyn Zoning Code due to the unique circumstance that:

- There were Village inspections after the deck header and footings were installed; if caught, the homeowner could have stopped and removed the structure at that point;
- There is no sidewalk and the trampoline is not visible from the street;
- The trampoline has been in that location since 2016 and never been an issue;
- And, there are multiple homes in the Village with the same issue that have not been asked to remove the trampoline.

Seconded by Board Member Crudele, the motion passed unanimously by roll call vote with all Board Members present voting, “Yes.”

New Business

Board Member Miller requested that, in light of the late hour, the discussion CNZVs of be tabled. (Chairperson Constantino expressed the desire to set a time during which Member Whalls could participate in the discussion.) After some discussion of the problem facing the Village in the volume of CNZVs seen, and objectives for evaluating the current process associated with such permitting violations, it was decided to formally take up the issue at a later meeting. Sr. Planner Fard said she will redistribute the packet of information on the subject in the meantime. Working with contractors on the issue and updating the Zoning Code were discussed.

Trustee’s Report

On behalf of Village Board Trustee Liaison Anne Gould, Emily Rodman reported that the Board approved the purchase of the US Bank site with the intention of partnering with the Park District to create green space downtown. Ms. Rodman introduced new Community Development Director Marty Scott, who, she said, brings experience and enthusiasm, and reported that building codes have been updated.

Staff Report

Sr. Planner Fard said a case involving a sunroom is up for the September meeting, and that she expects to discuss plans to fill the ZBA vacancy.

Adjournment

Chairperson Constantino adjourned the meeting at 9:40 p.m., following a voice vote on a motion by Member Miller and seconded by Member Jones.

Respectfully submitted,

Barbara Dutton-Thomas

Recording Secretary