

MINUTES
Glen Ellyn Zoning Board of Appeals Meeting
Tuesday, May 9, 2023 at 7:00 p.m.
Glen Ellyn Civic Center
Galligan Board Room
535 Duane Street

A. Call to Order and Roll Call

Chairperson Constantino called the meeting to order at 7:05 P.M., and roll was called. Present: Chairperson Constantino and Board Members Katie Crudele, Matthew Jones, Christiane McKnight, Reed Panther, and Thomas Whalls; Absent: Board Member Chip Miller.

Chairperson Greg Constantino explained the advisory nature of the Zoning Board of Appeals (ZBA) and its process for deliberation and recommendation. He described the Public Hearing protocols and announced that the meeting was being recorded.

B. Approval of Meeting Minutes

Member Whalls made a motion to approve the draft minutes of the March 14, 2023 meeting. Member McKnight seconded the motion, and the motion passed by voice vote.

C1. Public Hearing for 612 Riford Road

Member Crudele made a motion to open the Public Meeting for 612 Riford Road. Member Whalls seconded the motion, and the motion passed by voice vote.

Staff Presentation

Sworn in, Brad Iwicki, Planning Intern, introduced the request. He presented information from the Staff Report dated March 27, 2023, included in the agenda packet. Mr. Iwicki said that the Petitioners, Bill and Donna Neil, owners of the property at 612 Riford Road, request approval of variations to allow an addition to their existing single-family home to encroach into the required rear yard and to exceed the permitted lot coverage ratio.

Mr. Iwicki described the property as part of the H.B. Barnes Subdivision, constructed in 1953, and its zoning as R-2 Single Family Residential District. He described the zoning history, including no records of prior variations granted, and the permit history, including a 2019 second floor addition and first floor remodel, a driveway improvement, and the construction of a deck with a pergola. Mr. Iwicki said the Petitioners propose removing the existing deck and pergola at the rear of the home and replacing it with a sunroom addition within the same footprint and atop the existing deck foundation.

Mr. Iwicki described the lot area, including that it is irregular-shaped, and the skew of the structure. He said the property is legal-nonconforming. Mr. Iwicki said that the requested variation would be less

significant if the home was constructed parallel to the front lot line. Mr. Iwicki said the proposal was reviewed by the Village Stormwater Engineer who does not anticipate water drainage problems; however, if variations are granted, the plans would be further reviewed by the Village's Stormwater Engineer as part of the permitting phase.

Mr. Iwicki said that staff received two letters from adjacent neighbors in support of granting the variations, as well as one letter of opposition and concern from a group of five neighbors.

Mr. Iwicki said that in order to construct the project as proposed, the Petitioner will need to be granted variations from the Zoning Code to allow a rear yard setback of 28.5 feet in lieu of 40 feet rear yard setback and a lot coverage ratio of 24.2% in lieu of the maximum permitted lot coverage ratio of 20%.

Board Member Questions

Member Panther asked for additional information regarding the nature of the concern of opposing neighbors. Mr. Iwicki read aloud the letter of opposition, which concerned ongoing drainage issues from other Riford Street homes. The letter referenced prior complaints to the Village, expressed concern that this project would lead to more draining issues, and requested that Village requirements for draining be followed. Mr. Iwicki said there is a letter on file from the Stormwater Engineer that addressed the Riford Street property with the drainage issue.

Member Whalls asked for confirmation that the subject property, 612 Riford Street, was not specifically mentioned in the letter as the cause of the drainage issues. Mr. Iwicki confirmed. Member Whalls asked whether the subject property would meet the impervious surface requirements. Mr. Iwicki confirmed and said that the footprint of the proposed project would be the same as the existing deck.

Chairperson Constantino said that since there were no specific references to the property at 612 Riford Road in the letter of opposition, the issues of concern could be reviewed by the Planning Department separately.

Petitioner's Presentation

Sworn in, Bill Neil clarified that while the proposed sunroom addition would replace an existing deck, the deck is not on a concrete slab; a concrete foundation would be added. Mr. Neil said he had approached several surrounding neighbors and that he didn't receive any negative comments from his immediate neighbors. Mr. Neil said he received support when his previous renovation was done, and that there is ample room with regard to the backyard neighbors.

Board Member Questions

Member Panther asked for clarification about whether the sunroom would be air-conditioned. Mr. Neil confirmed and said that it would be a year-round room.

Public Comment

Chairperson Constantino invited public comment. There was no public comment.

Board Member Deliberation

Member Panther summarized the findings of fact drafted by the Village staff and included in the agenda packet. Member Crudele made a motion to adopt the findings of fact in their entirety. Member Jones seconded the motion, and the motion passed unanimously by a role call vote. Voting YES: Chairperson Constantino and Board Members Katie Crudele, Matthew Jones, Christiane McKnight, Reed Panther, and Thomas Whalls.

Member Whalls indicated he was in favor of the request for reasons including the irregularly shaped lot, the position of the home on the lot, and the consistent impervious surface area. Member Crudele said she was also in favor. Member McKnight said she was in favor, noting the addition was designed to complement the character of the home and the surrounding neighborhood. She said that the plans would be further reviewed by the Stormwater Engineer during the permitting process, which would address neighbors' drainage concerns. Member Jones said he was in favor of the request. He said he appreciated the practice of taking an older home and making small improvements over the years to make it last. Member Panther said he was also in favor of the request, given the lot shape, the position of the home on the lot, and the lack of change in impervious surface area. Chairperson Constantino said he was in favor, noting that the architect for a prior addition was same architect for the proposed sunroom, so it should be a compatible project.

Member Whalls made a motion to close the Public Meeting for 612 Riford Road. Member Panther seconded the motion, and the motion passed by voice vote.

Member Whalls moved for the following:

Having considered the application of Bill and Donna Niell, owners of the property at 612 Riford Road, Glen Ellyn, for zoning variations from Section 10-4-8(D)2 to allow a rear yard setback of approximately 28.5 feet where the required rear yard setback is 40 feet in the R2 Residential District, and Section 10-4-8(E)1 to allow a lot coverage ratio of 24.2 percent where a 20 percent maximum lot coverage ratio for two story single-family dwellings is allowed 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 April 11, 2023, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends APPROVAL subject to the following conditions:

- 1. The project shall be constructed in substantial conformance with the plans as submitted and the testimony presented at the May 9, 2023, public hearing of the Zoning Board of Appeals.**

Member Panther seconded the motion, and the motion passed unanimously by a role call vote. Voting YES: Chairperson Constantino and Board Members Katie Crudele, Matthew Jones, Christiane McKnight, Reed Panther, and Thomas Whalls.

Chairperson Constantino said the request will proceed to a future Village Board meeting for further consideration.

C2. Public Hearing for Orchard Place Townhomes

Member Crudele made a motion to open the Public Meeting for Orchard Place Townhomes. Member Panther seconded the motion, and the motion passed by voice vote.

Staff Presentation

Sworn in, Scott Viger, Planning Consultant, introduced the request. He presented information from the Staff Report dated May 3, 2023, included in the agenda packet. He said that the Petitioner, Mr. Jim Bell, on behalf of the Orchard Place Townhomes Association, requests approval of variations to allow construction of a fence on a lot where no principal building is present, encumbering an easement, and exceeding height and openness limitations as outlined in the Zoning Code.

Mr. Viger described the property, a 49-unit townhome development; its zoning, R-3 Multi-Family Residential PUD; and the subject site, a stormwater detention area. He said the Petitioner desires to inhibit trespassing by erecting a fence across a portion of the property line fronting Lorraine Road. Mr. Viger said the applicant requests a 24-foot length fence; a distance short of the lot's 68-foot frontage. Mr. Viger described the proposed fence as similar in construction to an existing fence on the property. He said the existing fence dates back to the time of construction of the development in the mid-1990s and is non-conforming with regard to height and openness. Mr. Viger said the proposed fence would be on a lot encumbered by a public utility and drainage easement.

Board Member Questions

Member McKnight asked if any comments from the public were received relative to the request. Mr. Viger said that there were no comments, just general inquiries from neighbors about the nature of the public notice.

Member Jones asked for more information about the nature of the site as a water detention area, including whether it would pose a safety concern if a fence limited visibility.

Chairperson Constantino said that it appears there were several issues that would need to be overcome by the Petitioner, including the height of the fence, restrictions due to it being a water detention area, the fact that there is no principal structure, and inadequate openness. He invited the Petitioner's testimony, including any hardships or unique circumstances for the Board Members to consider.

Petitioner Presentation

Sworn in, Mr. Jim Bell, said that the retention basin in question is a grassy, inviting area which passersby think is a public area; they stop and have picnics, and, on occasion, parties. Mr. Bell said the homeowner's association wants to make it clear that it is not a public area. He said they have made multiple attempts over the years to discourage trespassing, including plantings such as evergreens and

tall grasses. He said that nothing they've planted survives. Mr. Bell said the HOA board decided to pursue a fence, and aesthetically they want it to match the existing fence on the property.

Board Member Questions

Chairperson Constantino asked whether "No Trespassing" signs have been posted. Mr. Bell said there is a sign posted but that people ignore it. Chairperson Constantino questioned whether a 24-foot-long fence would restrict access, given the remaining open space. Mr. Bell said they proposed a shorter fence to allow an egress in case the basin blocks up. Chairperson Constantino asked whether a 4-foot-high fence might be acceptable aesthetically, given that the fence wouldn't be attached to the existing fence; he noted that the other variance issues would still remain, though. Mr. Bell said a 6-foot fence was preferable for privacy and aesthetics.

Member Crudele asked whether a 6-foot fence would pose safety concerns with regard to line of sight by cars at the corner. Mr. Bell said line-of-sight issues would be comparable to a 4-foot fence.

Member Jones said that when he walked the property, he didn't see footpaths in the grass to indicate that people walked through the area consistently. He questioned the frequency of trespassing. Mr. Bell indicated trespassing wasn't daily, but it was a recurring nuisance for residents. He said the goal of the fence would be to show passersby that it is not public property.

Public Comment

Chairperson Constantino invited public comment.

Sworn in, Andrew Dorn, thanked Board Members for the hearing. He said he was a resident of Orchard Townhomes, and he respected the points made by the Board. Mr. Dorn said that his townhome is on the eastern edge of the retention pond, and while there isn't a worn path, it is disturbing when people are coming through the property. He said the signs aren't effective. Mr. Dorn said the issue is a frequent subject at HOA board meetings, and that this is the remedy the board is seeking. He said the board might consider a 4-foot fence if they could get the design to be similar to the existing fence.

Board Member Questions

Chairperson Constantino asked whether a landscaper had been engaged to recommend plantings that would survive in the location. Mr. Dorn said that landscapers have been consulted, and that a number of approaches with plantings have been attempted in the past.

Board Member Deliberation

Member Panther summarized the findings of fact from the hearing. Member Crudele made a motion to adopt the findings of fact. Member McKnight seconded the motion, and the motion passed unanimously by a roll call vote. Voting YES: Chairperson Constantino and Board Members Katie Crudele, Matthew Jones, Christiane McKnight, Reed Panther, and Thomas Whalls.

Member Whalls said that he was not in favor of the request, noting prior requests for 6-foot high fences that were denied, the fact that there's no principal structure, and the fact that it is over a drainage area. Member Crudele said that she would support the request; she said that the Petitioners have tried numerous options to address trespassing, and that this was a unique circumstance where private property was being treated as if it were public. Member McKnight said she was not in favor; she said if the proposed fence met the height and openness requirements she might feel differently. Member Jones said he was not in favor of the proposal; he said there's no principal structure and that it's difficult to find great hardship in people cutting through the property. Member Jones discussed the issue of precedent. Member Panther said he was not in favor, noting that he didn't believe the proposal would remedy the situation. Chairperson Constantino said he was not in favor. He said there were four big issues for the Petitioner to overcome, including: no principal structure, the retention area, the height of the fence, and the design openness. He said the Petitioner would need to demonstrate hardship.

Chairperson Constantino noted that the request was unlikely to pass and asked whether the Petitioner would benefit from additional time to discuss the findings from the meeting and to consider potential modifications to the request. Mr. Dorn and Board Members discussed the fact that the existing fence was non-conforming, and that if it were to need replacement in the future, it would need to conform. Chairperson Constantino proposed continuing the hearing.

Member Jones made a motion to continue the public hearing for Orchard Place Townhomes to the next Zoning Board of Appeals Meeting, scheduled for June 13, 2023, at 7:00 PM.

Member Whalls seconded the motion, and the motion passed unanimously by a roll call vote. Voting YES: Chairperson Constantino and Board Members Katie Crudele, Matthew Jones, Christiane McKnight, Reed Panther, and Thomas Whalls.

C3. Public Hearing for 781 Fairview Avenue

Member McKnight made a motion to open the Public Meeting for 781 Fairview Avenue. Member Whalls seconded the motion, and the motion passed by voice vote.

Staff Presentation

Sworn in, Scott Viger, Planning Consultant, introduced the request. He presented information from the Staff Report dated April 19, 2023, included in the agenda packet. He said that the Petitioners, Bader Almoshelli and Yusra Gomaa, owners of the property at 781 Fairview Avenue, are requesting Zoning Variances to allow construction of a fence that exceeds the maximum allowable height and is solid in lieu of 33 1/3 % openness requirement outlined in the Zoning Code.

Mr. Viger described the property as a corner lot at the southeast corner of Fairview and Carleton Avenues, in the R-2 Single Family Residential Zoning District. He reviewed the permit history and the variance history, indicating there are no previous variations granted for this property. Mr. Viger said the Petitioners are seeking to replace an existing conforming fence (4' tall and 33 1/3% open) with a six-foot solid PVC privacy fence around the entire rear yard, including in the homesite's corner side yard along

Carleton Avenue. He said the Zoning Code requires all fences closer to the street than the principal structure on a lot to be no taller than 4 feet and 33 1/3% open. Mr. Viger said the proposed fence meets the Code in the other areas of the lot. Mr. Viger said the Petitioners state that the presence of Newton Park and the parking lot directly to the west across Carleton Avenue creates an issue, and the six-foot solid fence is necessary for the privacy and security of the family.

Board Member Questions

Member Panther requested clarification that only a portion of the fence would require a Variance, the portion along Carlton. Mr. Viger confirmed this.

Chairperson Constantino said that the balance of the proposed fence meets Zoning requirements, but the portion of the fence proposed for Carleton Avenue would not meet the Zoning Code. He said that the Petitioner would need to demonstrate hardships or unique circumstances. He invited the Petitioner to present.

Petitioner Presentation

Sworn in, Bader Almoshelli said that his family's main concern was for security and privacy. He said he has young children who love to be in the yard, but that the existing fence is not secure or private; he said because of the slope of the yard, the existing fence feels shorter than four feet. Mr. Almoshelli said that the property is in a busy area with Newton Park, a memory care facility, and the facility's large parking lot. He said his property faces the parking lot, and that staff are often loitering. He said they find litter, including cigarettes and beer bottles. Mr. Almoshelli said his family would have peace of mind when the kids were outside playing if there was more privacy.

Board Member Questions

Member Whalls asked if the Village had received any public opposition to the request. Mr. Viger said no comments were received.

Member Jones asked whether the Petitioner would be willing to set the fence back from the current location and add plantings in front to soften its appearance. Mr. Almoshelli said he didn't know if that would be possible for structural reasons.

Chairperson Constantino said the request was significant, to move from a 4-foot fence to a 6-foot fence, and from an open fence to a solid fence. He said the Petitioner would need to demonstrate compelling hardship or unique circumstances. He said he doesn't see hardship, and that given the other homes in the area, the Petitioner doesn't appear to have a unique circumstance. Mr. Almoshelli said he doesn't believe others in the vicinity share the same problem; he said his home's yard was exposed most openly.

Member Whalls discussed precedent and the denial of prior Petitioners' requests for 6-foot-high fences. He said higher fences would change the character of the neighborhood. Mr. Almoshelli said his family has attempted landscaping solutions, and that they have been expensive and ineffective. He said they have exhausted other options.

Public Comment

Chairperson Constantino invited public comment. There was no public comment.

Board Member Deliberation

Member Panther summarized the findings of fact from the hearing. Member Jones made a motion to adopt the findings of fact. Member McKnight seconded the motion, and the motion passed by voice vote.

Member Crudele said that she was not in favor; she said she empathized fully with the Petitioner, but the request was not consistent with the character of the town in relation to fences. Member McKnight said she also empathized, but that a 4-foot fence could address the problem and would be compliant with Zoning Code; she was opposed. Member Jones said he might support the request if the fence were moved back, and plantings were added in front of the fence. Member Panther said he was opposed to the request. Chairperson Constantine said he opposed the request. He said it was a significant variation to the existing fencing code, it isn't a unique circumstance, and approval might set an unintended precedent that would change the character of the neighborhood.

Chairperson Constantino noted that the request was unlikely to pass and asked whether the Petitioner would benefit from additional time to discuss the findings from the meeting and to consider potential modifications to the request. Mr. Almoshelli agreed. Chairperson Constantino proposed continuing the hearing.

Member Whalls made a motion to continue the public hearing for 781 Fairview Avenue to the next Zoning Board of Appeals Meeting, scheduled for June 13, 2023, at 7:00 PM.

Member Panther seconded the motion, and the motion passed by voice vote.

C4. Public Hearing for 384 Lorraine Road

Member Crudele made a motion to open the Public Meeting for 384 Lorraine Road. Member McKnight seconded the motion, and the motion passed by voice vote.

Staff Presentation

Sworn in, Martin Scott, Director of Community Development, introduced the request. He presented information from the Staff Report dated April 20, 2023, included in the agenda packet. He said that the Petitioner, Michelle Hollander, owner of the property at 384 Lorraine Rd., requests Zoning Variations to allow recreational equipment to be constructed on her property.

Mr. Scott described the property as an interior lot located in the R-2 Zoning District on Lorraine Road, between Hillside Avenue and Phillips Avenue. He described the zoning history, including no records of prior variations granted. He said the homeowners purchased the property in 2018, and it is currently

conforming to all regulations in the R-2 Residential District. Mr. Scott said the Petitioner is interested in constructing recreational equipment in the required front yard. He said the subject lot is characterized by its irregular shape and topography; the lot was platted in a triangle shape, especially unique for an interior lot. Mr. Scott added that the contour of the property consists of a depression in the corner of the rear yard where the stormwater from the property and adjacent properties collects. He said the homeowner observes standing water reaching 7 inches for up to 48 hours several times per year. The impact of the stormwater limits the usage of the rear yard, causing most of the useable space to consist of the front and side yard. Mr. Scott presented photos of the Petitioner's flooded rear yard.

Mr. Scott said that the Petitioner had a preliminary meeting with Community Development Planning staff, and that the Petitioner selected a narrow playset with the intention of requesting the minimum variation that would make possible the reasonable use of the land.

Mr. Scott said staff received two statements of support for the request.

Mr. Scott said that in order to construct the recreational equipment as proposed, the Petitioner would need to be granted a variation from the Zoning Code to allow recreational equipment located closer to the front property line than the principal structure on the lot, be located outside of the required rear yard, and at a distance of 6 feet away from the side property line in lieu of the required setback of 10%, or 10.03 feet, from any property line.

Board Member Questions

There were no questions for Mr. Scott.

Petitioner Presentation

Sworn in, Michelle Hollander, said that with regard to hardships and unique circumstances, her property is on a triangular lot, and that most usable space is to the front and the side. She said that ideally her family would put a playset in the backyard, but that because of the slope and drainage issues, they experience regular flooding. Ms. Hollander said her neighbors support the proposal and can't wait to see the kids playing on their new playset.

Board Member Questions

There were no questions for Ms. Hollander.

Public Comment

Chairperson Constantino invited public comment. There was no public comment.

Board Member Deliberation

Member Panther summarized the findings of fact from the hearing. Member Jones made a motion to adopt the findings of fact. Member Crudele seconded the motion, and the motion passed by voice vote.

Member Whalls said he supported the request. Member Crudele said she supported the request, given the irregular-shaped lot. Member McKnight said she supported the request given the irregular shape and the flooding. Member Jones said he supported the request, given the flooding and the minimal impact to neighbors. Member Panther said he supported the request, given the shape of the lot. Chairperson Constantino said he recommended granting the Variation. He said the Petitioner demonstrated hardships with flooding and the inability to use the rear lot for its intended purposes; he said there was a unique circumstance given the shape of the lot.

Member Jones made a motion to close the Public Hearing for 384 Lorraine Road. Member Whalls seconded the motion, and the motion passed unanimously by a roll call vote. Voting YES: Chairperson Constantino and Board Members Katie Crudele, Matthew Jones, Christiane McKnight, Reed Panther, and Thomas Whalls.

Member Whalls moved for the following:

Having considered the application of Michelle Hollander, owner(s) of the property at 384 Lorraine Road, Glen Ellyn, for zoning variations from Section 10-5-4(A)4.a to allow recreational equipment located closer to the front property line than the principal structure on the lot, and Section 10-5- 5(B)4#29 allow recreational equipment to be located outside of the required rear yard and 6 feet away from the side property line in lieu of the required setback of 10%, or 10.03 feet, from any property line, 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 May 9, 2023, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends APPROVAL based upon the following hardship(s) or unique circumstance(s): Irregularly-shaped lot and topography.

Subject to the following conditions:

- 1. The project shall be constructed in substantial conformance with the plans as submitted and the testimony presented at the May 9, 2023, public hearing of the Zoning Board of Appeals.**

Member Johns seconded the motion, and the motion passed unanimously by a roll call vote. Voting YES: Chairperson Constantino and Board Members Katie Crudele, Matthew Jones, Christiane McKnight, Reed Panther, and Thomas Whalls.

Chairperson Constantino said the request will proceed to a future Village Board meeting for further consideration.

D. Trustee's Report

Village Board Trustee Gould provided updates from recent Village Board of Trustees meetings, including recent approval of Variances for the Willowbrook Wildlife Rehabilitation Center; approval of the Purchase and Sale for the U.S. Bank parcel, in partnership with the Glen Ellyn Park District; and approval for the 411 Main Street building.

E. Adjournment

Member McKnight made a motion to adjourn the meeting. The motion was seconded by Member Crudele, and the motion passed by voice vote. Chairperson Constantino adjourned the meeting at 9:33 P.M.

Respectfully submitted,

Audrey Savikas, Recording Secretary