

MINUTES
Glen Ellyn Zoning Board of Appeals Meeting
Tuesday, October 8, 2024 at 7:00 PM
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 7:01 PM and 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.

Roll was called.

Present: Chairperson Gregory Constantino, Members Christiane McKnight, Matthew Jones, Peter Kelly, and Craig Pavlich

Also in attendance: Daniel Harper, Planning Manager, Anabel Pederson, Associate Planner and Anne Gould, Village Trustee

B. Public Comment (non-agenda items)

None

C. Approval of Minutes

Member McKnight made a motion to approve the draft minutes of the September 10, 2024 ZBA meeting; seconded by Member Jones, the motion passed by voice vote.

D. New Business

1. Public Hearing – 252 Merton Avenue

Member Pavlich moved to open the Public Hearing. Member Kelly seconded the motion and the motion passed by voice vote.

Staff Introduction

Sworn in, Anabel Pederson, Associate Planner for the Village of Glen Ellyn, introduced the request: A Construction Necessitated Zoning Variation from the Glen Ellyn Zoning Code as follows:

1. Section 10-5-5(B)4 #34 to allow a sport court to be 7.9% of the lot width from the property line in lieu of the required 10% as required in the R2 Residential Zoning District.

2. Any other zoning relief necessary to allow the home to remain as constructed and as depicted on the plans presented at the public hearing or at a public meeting of the Village Board.

Ms. Pederson introduced the property stating that the property is zoned R2 Single-Family Residential and also gave the following history of the property. She stated that Village had been made aware of the unpermitted sport court in May of 2024 through an anonymous call. A Village Inspector visited the site and saw the construction vehicle for the sport court contractor along with the finished sport court on the property on May 28, 2024.

Ms. Pederson stated that the property owners submitted for a building permit on June 5, 2024 for a sport court and patio fireplace. The permit application was rejected for building, and zoning requirements on June 24, 2024. The applicant was asked to submit revised plans with the necessary dimensions to construct the patio and the gas fireplace. It indicated that the sport court was too close to the west property line in violation of Village Code Table 10-5-5(B)4, which maintains that a sport court must be 10% of the lot width away from the property line. In this case, the sport court partially extended past this limit, 5'11" in lieu of the required 7'5". The applicant submitted for a second review which was rejected for zoning on July 15, 2024 due to the above-mentioned sport court setbacks being out of conformance. The applicant was notified in the review of the need for a Construction Necessitated Variation (CNZV) to maintain the sport court in the non-conforming location. The applicant submitted the application for a construction necessitated zoning variation on August 14, 2024.

Ms. Pederson stated that the property owners are requesting a variation due to the court being installed at an angle relative to the rear lot line, leaving part of the court within the 10% setback requirement and the rest of the court as close as 7.9%. Ms. Pederson reported that the property owner stated that their yard has unique conditions that create hardship, sloping harshly and containing a shallow power line on the other side of the yard which leaves the current location of the sport court the only feasible option. Their driveway contains a steep slope which would allow the basketballs to roll into the street if a hoop were installed there. Ms. Pederson also stated that the applicants report that moving the sport court from the current location would create a ledge that would be unsafe.

Petitioner Testimony

Sworn in, Ryan and Elizabeth Hogan, owners, and residents of 252 Merton Avenue. Glen Ellyn, IL addressed the Board Members. Mr. Hogan stated that he and his wife hired a company to construct the sport court in the backyard as playing in the front driveway presented safety concerns for their children. He gave permission to the contractor to proceed with construction without a permit, with the understanding that the sport court was constructed in compliance to Village Code. Mr. Hogan stated that they wanted to place the court on the south end of the property but the existence of the ComEd line and the sprinkler valve connection box and slope of the yard necessitated the placement of the court at its location. He stated that they planted new trees by the corner for privacy. He stated that they positioned the court at its current location away from the patio as they wanted to keep the court away from the patio for safety concerns.

Member McKnight asked the applicant to explain the dimensions of the court and if the applicant had considered constructing a small court.

Mr. Hogan responded that the court was 22 feet wide and was the recommended smallest size for the court and would be about the same width of a driveway.

Member Pavlich added that a regular college basketball court's dimensions are 94 feet long and 50 feet wide. The constructed width would be less than half of a standard basketball court width.

Chairperson Constantino asked the applicant why they chose to knowingly proceed with the project without a permit.

Mr. Hogan stated that he was told by his contractors that they do sometimes construct courts without a permit and that he was under time constraints and chose to follow the recommendation of the contractor, signing a waiver that he would pay any associated fees. His understanding was the court would be constructed per code by the contractor and that this would not be an issue.

Chairperson Constantino stated that the court is about a foot and half in violation of the setback in the northwest corner of the court and then gradually comes into compliance with the angle of the rear property line. He asked the applicant what it would take from a practical standpoint to remove the portion of the court that is in violation of the required setback and rearrange the direction of the court.

Mr. Hogan stated that the plastic sport court cover is moveable, but there are two issues of concern. The proximity of court to the sunken patio presents safety concerns for their children, and they did not want to cover existing drainage infrastructure on the site.

Chairman Constantino asked if the contractor had a survey of the property.

Mr. and Mrs. Hogan responded that they did not know what the contractor used.

Chairman Constantino responded that variations had to be considered based on the fact that the hardship was not created by the applicant.

Mr. Hogan responded that he believed he was hiring a professional contractor who would follow the Village's code.

Chairman Constantino noted that the lot is not a perfect rectangle, and that shape has caused the issue for setbacks as the court is a rectangle that does not exactly parallel the rear property line.

Member Jones asked the applicant if they were starting the project over, would they have applied for a variance for the same project? He also asked if it was denied, what would they have done differently?

Mr. Hogan responded that the site constraints really limited their options and that in the event of denial they probably would not have constructed the court.

Mrs. Hogan responded that the patio design would have probably been adjusted to accommodate the court.

Chairman Constantino asked what the effects would be of shrinking the court.

Mr. Hogan responded that the hoop would need to be moved as the court would not be symmetrical.

Chairman Constantino stated he was having a hard time coming to a positive recommendation for the request.

Mr. Hogan responded that if he removed the sport court top and the hoop than it would be patio and would be compliant with the code.

Member Jones asked Village Staff to confirm Mr. Hogan's statement.

Planner Pederson responded that a patio would be required to be 3% of the lot width setback from the rear property line. But the definition states that the patio must be directly adjacent to the principal structure.

Member Jones asked if the sport court surface and the existing patio would be considered one patio if the sport court top was removed.

Mr. Hogan responded that it could be possible to connect the surfaces.

Member Kelly asked the applicant what the material underneath the sport court surface was.

Mr. Hogan responded that it was poured concrete.

Member McKnight asked village staff if an engineering stormwater assessment had been performed as part of this application.

Ms. Pederson responded that village's consultants (HLR) had performed an initial review of the application, but the review was rejected due to non-compliance with zoning requirements. If the variation was approved, a new building permit application would need to be submitted and the stormwater review would be performed.

Mr. Hogan responded that he had worked with village development engineer Ray Fano and that Mr. Fano did not express concerns regarding stormwater impact.

Member Jones asked the applicant if they asked their contractor if they could remove the portion of the court in violation of the setback and add additional surface to the other side of the court.

Mr. Hogan responded yes but he would not want to interfere with the existing drainage infrastructure. He also stated that the sport court top was installed in 1'x 1' dimensions and could only be removed at those dimensions.

Member Kelly asked the applicant if the referenced drain tiles were between the sport court and the existing patio.

Mr. Hogan responded yes and that he would not want to cover that with impervious surface, and it goes the whole length of the patio.

Member Jones asked Village Staff if this was a different type of structure like a pool, would it need to be 10% off the lot line.

Ms. Pederson responded that a pool would be required to be 10% setback from the property line.

Chairperson Constantino asked if there were members of the public present who wished to comment on the application or if any correspondence had been received by Village staff.

Seeing none, Chairman Constantino asked for Member McKnight to present a findings of fact.

Member McKnight stated the following findings of fact:

Due to the characteristics of the property in question, there are practical difficulties or particular hardship for the applicant/owner in carrying out the strict letter of the Zoning Code, because based on the testimony of the applicant the property has unique topography challenges and the existing ComEd line restricts the proposed sport court to the existing location as the only feasible option.

Moving the court closer to the patio would be unsafe and as a result of the angle of the lot line a variation is required to allow for the court to remain where it was constructed as it is 5'-11" from the rear property line in lieu of the required 7'-5".

The plight of the applicant is due to the unique circumstances related to the property in question for the same reasons and that granting the request would not alter essential character of the locality of the property in question because the court is confined to the back yard of the property.

Member Jones made a motion to accept the findings of fact. Seconded by Pavlich. The motion was approved unanimously.

Member Pavlich expressed to the applicant that the primary concern was that the construction was performed without a permit. He expressed that the setback requirements for accessory uses in the backyard was not consistent throughout. But the impact of the setback violation was not significant and that he would be favor of recommending approval.

Member McKnight expressed that if the permitting process had been followed then this could have been avoided and the court would have been compliant. Because this was reported to the village anonymously, she interpreted that there is some opposition to the request. She is having trouble determining if the request would have met the standards of a regular zoning variation and she is not in favor of the request as presented.

Member Jones stated that he was not favor of the application as presented. This project could have been differently and to code and does not meet the requirements for a variation.

Member Kelly stated he believed that the contractor could have come to a design that was compliant.

Member Jones stated that if they had smaller lot or if the surface was a patio and not a sport court, then the proposal would be in compliance.

Chairman Constantino stated that he was hesitant to recommend approval the request as the applicant knowingly proceeded with the construction without a permit.

Member Jones asked staff if the board could make a recommendation of approval with the condition that the sport court be modified to be 6'-11" from the property in lieu of the requested 5'-11"?

Mr. Harper responded yes.

Member Kelly stated that this was a reasonable compromise and asked the applicant if they would agree to a revised condition.

Mr. Hogan: Inaudible.

Member Jones stated that the amended conditions would have a negligible impact on the surrounding neighbors and that he would support a revised condition to allow for a setback of 6'-11" in lieu of the required 7'-5". Making a violation of 7" to the lot line.

Member McKnight expressed support of the revised condition.

Member Kelly made a motion to close the Public Hearing for 252 Merton Avenue. Member McKnight seconded the motion and the motion passed by voice vote.

Board Recommendation

Member Jones moved for the following:

Having considered the application of Ryan and Elizabeth Hogan, owners of the property located at 252 Merton Avenue, Glen Ellyn, for a construction necessitated zoning variation to allow sport court to be 7.9% of the lot width setback from the rear property line in lieu of the required 10%.

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 October 8, 2024, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends APPROVAL of the requested variation with the condition that the revised setback for the sport court be 6'-11" from the rear property line in lieu of the required 7'-5".

Member McKnight seconded the motion. The motion passed 5-1 on a roll call vote with five Members present voting “Yes” and Chairperson Constantino voting “No”.

2. Public Hearing – 417 Dawn Avenue

Member McKnight moved to open the Public Hearing. Member Pavlich seconded the motion and the motion passed by voice vote.

Staff Introduction

Sworn in, Daniel Harper, Planning Manager for the Village of Glen Ellyn, introduced the request: Variations from the Glen Ellyn Zoning Code as follows:

1. Section 10-8-6(B)(3) to allow for a Class II alteration to a non-conforming single-family dwelling on a lot with a width of at least 50 feet or greater in width.
2. Section 10-8-6(B)(3) to allow for a Class II addition to a non-conforming single-family dwelling on a lot with a width of at least 50 feet or greater in width.
3. Section 10-4-8(E) to allow a lot coverage of 23.5% in lieu of the maximum allowed lot coverage of 20%.
4. Section 10-4-8(D)(3) to allow for a four foot and one inch (4'-1") interior side yard setback in lieu of the required six and one-half foot (6'-6") interior side yard setback.
5. Section 10-4-8(F)(1) to allow for a maximum building ridge height of thirty-two feet and nine inches (32'-9") in lieu of the maximum allowed building ridge height of thirty-two feet (32'-0").
6. Any other zoning relief necessary to construct the project as depicted on the plans presented or revised at the public hearing or at a public meeting of the Village Board.

Mr. Harper stated that the home was originally constructed in 1957 and is a legally non-conforming structure that encroaches into the required side yard setback. Mr. Harper stated that the petitioners are requesting five (5) zoning variations cited below to allow for the construction of an approximately three hundred (300) square-foot addition within the south interior side yard of the existing single-story single-family home located at 417 Dawn Avenue. The proposed southern addition would take the place of an existing unenclosed carport and would consist of an enclosed one-car garage as part of the construction of a second story to the home.

Mr. Harper stated that the ZBA should consider the testimony presented during the public hearing and review the written evidence presented as part of the petitioners' application packet. The ZBA should make findings of fact and determine if practical difficulty or a particular hardship exists for the requested variation and if the essential character of the neighborhood is maintained.

The ZBA may choose to make a recommendation to the Village Board for the approval, approval with conditions, or denial of the request per Section 10-10-12 of the Glen Ellyn Zoning Code.

Mr. Harper opened the floor to questions from the Board.

Member Pavlich asked Mr. Harper how the maximum building height was determined.

Mr. Harper stated that the building height was determined by measuring the vertical distance measured from the average existing grade on a zoning lot to the highest point of a structure.

Member Jones asked if the proposed lot coverage of 23.5% included the accessory building and the deck shown on the plans.

Mr. Harper responded that the accessory building (shed) contributed to the overall lot coverage, but the deck is not considered in the overall lot coverage calculation as it is not a detached accessory building and is impermeable.

Member Jones asked if the applicant had considered reducing the size of the accessory building.

Mr. Harper responded that he had discussions with the architect and discussed various options for lot coverage bonuses available in the code.

Member Pavlich asked if any neighboring properties had been granted zoning relief.

Mr. Harper responded that there were no identified zoning variations for the surrounding properties of 409, 413 or 427 Dawn Avenue.

Mr. Harper stated that staff had received nine (9) pieces of correspondence in support of the request. Seven (7) were included in the packet. Mr. Harper read the two (2) other pieces of support into the record.

Chairman Constantino asked if the maximum eave height would be compliant if the property were flat.

Mr. Harper responded that he believed it would be.

Chairman Constantino asked if there was a history of stormwater drainage issues in the neighborhood.

Mr. Harper reported that there is a compliant history in the area of stormwater impacts in the area and this was partly due to the original construction and grading of the block.

Petitioner Testimony

Sworn in, Steve Poteracki, Studio1 Architects, 1105 Burlington Ave, Western Springs, IL, representing the owners of 417 Dawn Avenue. Glen Ellyn, IL who addressed the Board Members.

Mr. Poteracki stated that he and the property owners have been working together for two years as the property want to stay in their home for the long term. The major concept of the design was to avoid a detached garage as the rear yard is impacted by stormwater and the presented design

would be the best solution to meet the needs of the property owner with the least impact on the neighborhood.

Chairman Constantino asked if this would be the least amount of variation from the code to allow for a reasonable use by the owner and what was the slope change on the property.

Mr. Poteracki responded yes and that making the garage any smaller would be impractical. The slope change is about 8 feet from front to back.

Chairman Constantino asked if he had worked and asked for variations for projects in this area.

Mr. Poteracki responded that he designed a home on the corner of the street but none of the properties on the subject side of the street or in a similar design.

Member Jones if the basement would be a true walk out.

Mr. Poteracki responded yes.

Member Jones stated that if the proposed home was constructed as a ranch style home, the basement and slope of the property would cause the home to be two-story and the applicant would not be able to comply with lot coverage requirements.

Mr. Pavlich asked Mr. Harper if the carport was subject to the same zoning setbacks as a garage.

Mr. Harper responded yes.

Sworn in, Mr. Quinn and Brittany Cosgrove, the owners of 417 Dawn Avenue. Glen Ellyn, IL addressed the Board Members.

Mr. Cosgrove stated that the proposed height of the building would be in character to the neighborhood and that the existing stormwater impacts influenced the proposed design.

Mrs. Cosgrove emphasized wanting to avoid a teardown in their design plans.

Chairperson Constantino asked Mr. Harper to read into the record the two letters of support received by staff after the publishing of the agenda packet.

Mr. Harper read letters of support from Ellen and Dave Brannegan of 435 Dawn Avenue and from Lindsey Scott Goodman of 424 Dawn Avenue.

Member Jones asked the applicants if they had considered removing the existing shed and reducing the size to 100 square feet in order to take advantage of the lot coverage bonus.

Mr. Cosgrove responded that the shed was permitted by the village and that he would prefer to keep it but he would be willing to downsize for the current application.

Chairperson Constantino asked if any members of the audience would like to testify regarding this application.

Sworn in, Craig Cudzilo , 431 Dawn Avenue, Glen Ellyn IL, addressed the Board Members and expressed his support for the application.

Member Pavlich presented a finding of fact as follows:

There would practical difficulties or particular hardship for the applicant resulting from the characteristics of the property in question if strict compliance with the Zoning Code were required because the lot is existing non-conforming, the modification proposed is similar to those of the surrounding neighborhood.

The plight of the applicant is due to unique circumstances relating to the property in question because the slope of the lot and the existing building is existing non-conforming.

Granting the requested zoning variation will not alter the essential character of the locality of the property in question because the proposed addition would be similar to those of the surrounding neighborhood.

Member McKnight made a motion to accept the findings of fact. Seconded by Jones. The motion was approved unanimously.

Member Kelly expressed support of the application.

Member Jones stated that he would like the shed reduced in size to 100 square feet to take advantage of the lot coverage bonus but expressed support for the overall request.

Member McKnight expressed support of the application based on the evidence provided and the support of the neighbors.

Member Pavlich expressed support of the application based on the evidence provided and that it would be in character with the neighborhood.

Chairman Constantino expressed support of the application based on the physical property hardships demonstrated by the application and that the requests seemed to be minimal variations needed to be practical .

Member McKnight made a motion to close the Public Hearing for 417 Dawn Avenue. The motion passed by voice vote.

Member Jones moved for the following:

Having considered the application of Quinn and Brittany Cosgrove, owners of the property located at 417 Dawn Avenue, Glen Ellyn, for the following zoning variations:

- 1. Section 10-8-6(B)(3) to allow for a Class II alteration to a non-conforming single-family dwelling on a lot with a width of at least 50 feet or greater in width.**
- 2. Section 10-8-6(B)(3) to allow for a Class II addition to a non-conforming single-family**

- dwelling on a lot with a width of at least 50 feet or greater in width.
3. Section 10-4-8(E) to allow a lot coverage of 23.5% in lieu of the maximum allowed lot coverage of 20%.
 4. Section 10-4-8(D)(3) to allow for a four foot and one inch (4'-1") interior side yard setback in lieu of the required six and one-half foot (6'-6") interior side yard setback.
 5. Section 10-4-8(F)(1) to allow for a maximum building ridge height of thirty-two feet and nine inches (32'9") in lieu of the maximum allowed building ridge height of thirty-two feet (32'0").
 6. Any other zoning relief necessary to construct the project as depicted on the plans presented or revised at the public hearing or at a public meeting of the Village Board.

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 October 8, 2024, as well as the findings included in the deliberations of the Zoning Board of Appeals and recommends APPROVAL of the requested variations.

Member Kelly seconded the motion. The motion passed 6-0 on a roll call vote with six Members present voting "Yes".

E. Other Business

None.

F. Chairperson's Statement

None.

G. Village Board Trustee Report

Trustee Anne Gould stated the Village Board had had several budget meetings recently and that the Boards and Commissions recognition event will be held on October 16th at Reserve 22. The Village Board has also discussed de-annexation for some parcels bordering Wheaton on Pennsylvania Avenue and Anthony Street.

H. Staff Report

Mr. Harper stated that two new member of the ZBA will be appointed at the October 14th Village Board meeting. Training for ZBA members has been discussed for the winter. Mr. Harper gave a brief update on other Community Development projects. Member Pavlich asked questions about licensing for contractors.

I. Adjournment

Member Jones made a motion to adjourn the meeting. Member Kelly seconded the motion and the motion passed by voice vote at 9:09 PM.