

ZONING BOARD OF APPEALS  
MINUTES  
JANUARY 9, 2018

The meeting was called to order by Chairperson Rick Garrity at 7:00 p.m. ZBA Members Greg Constantino, Matthew Jones, John Micheli, Reed Panther, Tom Whalls and Student Commissioner Maddie Greenleaf were present. ZBA Member Chip Miller was excused. Also present were Trustee Liaison Mark Senak, Associate Planner Kelly Purvis and Recording Secretary Debbie Solomon.

Chairperson Garrity explained the procedures of the Zoning Board of Appeals (ZBA).

MINUTES

ZBA Member Micheli moved, seconded by ZBA Member Jones, to approve the minutes of the October 17, 2017 meeting and the minutes of the November 14, 2017 meeting. The motion carried unanimously with a voice vote.

On the agenda was a public hearing regarding the property at 265 S. Ott Avenue.

Chairperson Garrity stated all members of the Zoning Board of Appeals have visited the property and are aware of the proposed plans.

PUBLIC HEARING – 265 S. OTT AVENUE

DAGMARA KAMIONKA IS REQUESTING APPROVAL OF VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS TO ALLOW A VERTICAL ADDITION ON A NON-CONFORMING STRUCTURE AT 265 S. OTT AVENUE: 1. SECTION 10-4-6(D)1 TO ALLOW THE CONSTRUCTION OF A TWO-STORY ADDITION ON A SINGLE FAMILY HOME WITH AN EXISTING NON-CONFORMING FRONT YARD SETBACK OF APPROXIMATELY 40 FEET IN LIEU OF THE REQUIRED FRONT YARD SETBACK OF 50 FEET. 2. SECTION 10-5-4(A)4(B) TO ALLOW THE DETACHED GARAGE TO REMAIN APPROXIMATELY 9.13 FEET FROM THE SIDE PROPERTY LINE IN LIEU OF THE MINIMUM REQUIRED SIDE YARD SETBACK OF 16.8 FEET FOR AN ACCESSORY STRUCTURE WITHIN 10 FEET OF A PRINCIPAL STRUCTURE. 3. SECTION 10-5-5(B)4 TABLE - TO ALLOW THE CONSTRUCTION OF A FRONT PORCH ADDITION THAT WILL ENCROACH INTO THE REQUIRED FRONT YARD APPROXIMATELY 29.7% IN LIEU OF THE MAXIMUM PERMITTED ENCROACHMENT OF 25% INTO THE REQUIRED FRONT YARD. 4. SECTION 10-8-6(B)3 TO ALLOW A CLASS II ALTERATION TO A SINGLE FAMILY DWELLING THAT IS NON-CONFORMING DUE TO ZONING BULK CONTROL REGULATIONS WHERE THE ADDITION WILL NOT CONFORM TO ALL REGULATIONS IN THE DISTRICT IN WHICH IT IS LOCATED. 5. 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.

(Dagmara Kamionka, owner)

## Staff Presentation

Associate Planner Kelly Purvis was present to speak regarding the proposed variation request. Associate Planner Purvis stated Dagmara Kamionka is the owner of 265 S. Ott Avenue, and she is proposing variations from the Glen Ellyn Zoning Code to allow a vertical addition on a non-conforming structure as follows:

1. Section 10-4-6(D)1 - to allow the construction of a two-story addition on a single family home with an existing non-conforming front yard setback of approximately 40 feet in lieu of the required front yard setback of 50 feet.
2. Section 10-5-4(A)4(b) to allow the detached garage to remain approximately 9.13 feet from the side property line in lieu of the minimum required side yard setback of 16.8 feet for an accessory structure within 10 feet of a principal structure.
3. Section 10-5-5(B)4 TABLE - to allow the construction of a front porch addition that will encroach into the required front yard approximately 29.7% in lieu of the maximum permitted encroachment of 25% into the required front yard.
4. Section 10-8-6(B)3 to allow a Class II Alteration to a single family dwelling that is non-conforming due to zoning bulk control regulations where the addition will not conform to all regulations in the district in which it is located.
5. 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.

Associate Planner Purvis stated that the subject property is an interior lot in the R0 Zoning District on the east side of Ott Avenue between McCreedy Avenue and Buena Vista Drive. Associate Planner Purvis stated that the zoning and land use immediately surrounding the subject property is R0 and R2 Single Family Residential. Associate Planner Purvis stated that the public hearing notice was published in the December 23, 2017, Daily Herald, a public hearing notice was mailed to the surround properties within a 250 ft. radius of the subject property and a public hearing notice placard was placed on the property. Associate Planner Purvis stated the Village records indicate that there were several prior variations and a building permit granted for this property which include Front-Yard, Side-Yard and Front Porch Setbacks in 2015, a Front-Yard Setback for a New Home in 2016 and a Water Hook Up permit in 1999.

Associate Planner Purvis stated home owner Dagmara Kamionka purchased the property at 265 S. Ott Avenue in June of 2017. Associate Planner Purvis stated Ms. Kamionka was aware at the time of purchase that the property had been granted variations for the non-conforming front yard setback to construct either a new home (2016 Ordinance) or an addition connecting the

principal structure to the existing detached garage (2015 Ordinance). Associate Planner Purvis stated the plans submitted to the Village by the petitioner are not in substantial compliance with the plans for which the previous variations were granted for this property so the property must be granted similar variations for new plans in order for the project to be constructed as proposed. Associate Planner Purvis showed a chart for additional information regarding the previously approved and currently proposed variations for the property.

Associate Planner Purvis stated the existing house is legally non-conforming with a front yard setback of approximately 40 feet. Associate Planner Purvis stated the property was annexed into the Village in 1995, along with 33 other properties in the Lambert Farms Subdivision, with an R0 Zoning designation which requires a 50 foot front yard setback. Associate Planner Purvis stated the properties surrounding this home all have the same (approximately) 40 foot front yard setback, and it is likely that the homes were constructed this way to accommodate a septic field in the rear of the homes (since there were not municipal water or sanitary mains for the properties to connect to at the time the homes were constructed).

Associate Planner Purvis stated the petitioner is proposing to remove the entire roof on the existing structure to add a second story to the home (about 1,165 sf) and will also be adding a 1 story addition to the south elevation toward the existing garage (about 380 sf). Associate Planner Purvis stated the detached garage will not be altered. Associate Planner Purvis stated in addition, an open porch is also being proposed on the front of the home which will encroach approximately 29% into the required front yard setback and will be 35.48 feet from the front property line.

Associate Planner Purvis stated in order to proceed with the project as proposed the petitioner will need to be granted several variations from the Zoning Code:

**Front Yard Setback** - A variation from the front yard setback requirement for is needed to construct the second story addition and the new one story addition to the south of the existing home at approximately 40 feet from the property line in lieu of the required 50 foot setback.

**Front & Side Yard Setback (Accessory Structure)** - Another variation will be needed to allow the garage to remain 9.13 feet from the side yard lot line. When the one story addition is added to the principal structure at the south elevation, the principal structure will only be 3 feet from the detached garage. Village Code requires accessory structures to meet the same setback requirements as the principal structure if the accessory structure is less than 10 feet from the principal structure (in this case a 16.8 foot side yard setback, and 50 foot front yard setback).

**Front Porch Setback** - A variation to allow the front porch to encroach approximately 14.52 feet into the required front yard setback will be needed to accommodate the proposed front porch addition. The Zoning Code allows front porches to encroach up to 25% into the required front yard setback, in this case, a 12.5 feet encroachment is permitted. If the required front yard

setback were 40 feet, the porch would only be required to meet a 30 foot front yard setback (it will be approximately 35 feet from the front lot line as proposed).

Class II Alteration - The Zoning Code regulates the amount of alteration that is permitted on a non-conforming structure. The petitioner is requesting to alter approximately 50% of the existing structure (mostly due to the removal of the roof to add the second story) which falls within the limits permitted by the Zoning Code. However, a 50% alteration is permitted, only when the addition will meet the requirements of the Zoning Code. In this case the additions do not meet the front yard setback requirement and therefore would not be permitted without a variation. Staff also feels that the Class I Alteration could very easily become a Class II Alteration if the square footage calculation of altered areas is even slightly different than anticipated, and has therefore suggested that a variation be requested for a Class II Alteration.

Associate Planner Purvis stated there was one email received from a neighbor in support of the variances requested.

#### Questions from the Zoning Board of Appeals

ZBA Member Constantino asked if it is possible to connect the existing home to any sewer in the area. Associate Planner Purvis stated they could connect to the sanitary sewer in front of the home; however, this is very expensive and would cost thousands of dollars. ZBA Member Constantino asked if the construction and design proposals would otherwise comply with zoning ordinances if there were not existing non-conforming features of the home. Associate Planner Purvis stated the petitioner would be able to do everything she is proposing if there was a 40 foot setback requirement; however, she could not build an addition that would make the garage non-conforming.

ZBA Member Micheli asked why the petitioner is not getting the benefit of the previous variances granted to this property. Associate Planner Purvis stated the petitioner could use these variances if the plans were exactly the same, but the proposed plans are not. Associate Planner Purvis referred to the Zoning Variation Grants vs. Requested chart and stated the variation would need to match the previous plan submittals in order to be allowed to run with the land. ZBA Member Micheli asked if there is anything in the petitioner's request that the ZBA would be granting a variance for the sewer connection. Associate Planner Purvis stated the petitioner can do everything she is requesting to do with this variation without having to connect to the sanitary sewer. Associate Planner Purvis stated what triggers the need to connect to the sanitary sewer is a Class III alteration because this would change the structure enough to be considered a new structure, by the Village's standards and would then be required to come into compliance with the code requirements for a new home.

ZBA Member Jones asked if the petitioner would have to connect to the sanitary sewer when her sewer fails and not just fix this. Associate Planner Purvis stated that the petitioner is

allowed to fix this, and there is no requirement in the annexation ordinance that says she needs to connect to the sanitary sewer by any time certain. ZBA Member Jones stated if the property had been annexed in as an R2 instead of an R0, the petitioner would only need one variance. Associate Planner Purvis agreed with this and stated all the homes in this subdivision came in as non-conforming properties due to the front-yard setback. Associate Planner Purvis stated many of the lots are very big, and the Village wants to ensure these lots cannot be split. Associate Planner Purvis also stated that when properties are annexed the Village tries to choose the classification that matches the property most closely. Associate Planner Purvis stated the front-yard setback is really the only thing that doesn't match the R0 Zoning designation. ZBA Member Jones stated he feels this puts all these homeowners at a disadvantage as they all have non-conforming homes, and this can be confusing. ZBA Member Jones asked how close this request was to just getting an administrative variation. Associate Planner Purvis stated it was not eligible for administrative variation approval as staff is only allowed to approve minor yard setbacks and lot coverage variances and could not approve a Class II alteration to a non-conforming structure.

ZBA Member Whalls asked if this property has to be sprinkled because of the size of the addition. Associate Planner Purvis stated only if this was a Class III addition or alteration.

ZBA Member Reed asked about the front porch. Ms. Kamionka stated the front porch will be the same as it is now.

#### Petitioners' Presentation

Dagmara Kamionka, owner of the property at 265 S. Ott Avenue, stated they currently live in an apartment and want a home with more space. Ms. Kamionka stated the biggest hardship is that they cannot extend into the backyard due to the septic field so they need to add the addition to make the home two stories to extend the square footage of the home. Ms. Kamionka stated it is really hard to do anything else but add an addition, and they are hoping to make the home and neighborhood better.

#### Additional Questions from the Zoning Board of Appeals

None

#### Persons in Favor of or in Opposition to the Variation Requests

None

### Findings of Fact

ZBA Member Constantino presented that petitioner Dagmara Kamionka, owner of the property at 265 S. Ott Avenue, is proposing variations from the Glen Ellyn Zoning Code to allow a vertical addition on her existing non-conforming structure as follows:

1. Section 10-4-6(D)1 - to allow the construction of a two-story addition on a single family home with an existing non-conforming front yard setback of approximately 40 feet in lieu of the required front yard setback of 50 feet.
2. Section 10-5-4(A)4(b) to allow the detached garage to remain approximately 9.13 feet from the side property line in lieu of the minimum required side yard setback of 16.8 feet for an accessory structure within 10 feet of a principal structure.
3. Section 10-5-5(B)4 TABLE - to allow the construction of a front porch addition that will encroach into the required front yard approximately 29.7% in lieu of the maximum permitted encroachment of 25% into the required front yard.
4. Section 10-8-6(B)3 to allow a Class II Alteration to a single family dwelling that is non-conforming due to zoning bulk control regulations where the addition will not conform to all regulations in the district in which it is located.
5. 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.

ZBA Member Constantino stated Associate Planner Purvis that the property is an interior lot located in the R0 Zoning District on the east side of Ott Avenue between McCree Avenue and Buena Vista Drive. ZBA Member Constantino stated that the zoning and land use immediately surrounding the subject property is R0 and R2 Single Family Residential. ZBA Member Constantino stated the Village records indicate that there were several prior variations and a building permit granted for this property which include Front-Yard, Side-Yard and Front Porch Setbacks in 2015, a Front-Yard Setback for a New Home in 2016 and a Water Hook Up permit in 1999. ZBA Member Constantino stated the plans that were submitted and are before the ZBA are substantially different than the plans originally approved with the prior variances so a new variation request is required.

ZBA Member Constantino stated there was one email submitted by a neighbor who is in support of the variations. ZBA Member Constantino stated they heard from no other neighbors on this.

ZBA Member Constantino stated the home was purchased in June 2017, and the home is a legally non-conforming home due to the front yard setback of approximately 40 feet. ZBA Member Constantino stated this property is part of a subdivision annexed by the Village in 1995, and the homes were an R0 Zoning designation which requires a 50 foot front yard setback. ZBA Member Constantino stated all the homes in the subdivision are non-conforming as all the homes have the same (approximately) 40 foot front yard setback.

ZBA Member Constantino stated the petitioner is proposing to remove the entire roof on the existing structure to add a second story to the home, approximately 1,165 square feet and a one story addition to the south elevation toward the existing garage, approximately 380 square feet. ZBA Member Constantino stated the garage itself would not be altered. ZBA Member Constantino stated it would be cost-prohibitive at this time to connect to the sanitary sewer while it is possible, and there is no requirement for the property owner to connect to the sanitary sewer.

ZBA Member Constantino stated if the Zoning Classification called for a 40 foot front yard setback instead of a 50 foot front yard setback, the addition as proposed would be permitted as well as a Class I alteration of up to 50% of the existing structure; however, the one story addition would not be allowed as proposed.

ZBA Member Constantino stated they have heard from petitioner Dagmara Kamionka about the hardship as they cannot extend the structure into the rear yard due to the existence of the septic field.

#### Motion

ZBA Member Micheli moved, seconded by ZBA Member Whalls, that the Zoning Board of Appeals recommended approval of the Findings of Fact.

The motion carried unanimously with a voice vote.

#### Additional Comments from the Zoning Board of Appeals

ZBA Member Constantino stated the lot is big, but the petitioner does have a limited amount of space. ZBA Member Constantino stated the size of the septic field in the rear yard is unknown which created the 40 foot front yard setback instead of 50 foot setback. ZBA Member Constantino stated this hardship was not created by the property owner. ZBA Member Constantino stated he suggests granting the variances that are requested.

ZBA Member Micheli stated he agrees with ZBA Member Constantino. ZBA Member Micheli stated there are no dramatic issues with these variation requests, and the 40 foot setback is keeping with the neighborhood. ZBA Member Micheli stated he supports the variation requests.

ZBA Member Jones stated he is in favor of this variation and feels the R0 Zoning District should not have been designated in the first place. ZBA Member Jones stated to annex an entire section of homes with 40 foot setbacks that are required to be at 50 feet going forward or be non-conforming homes was a mistake by the Village. ZBA Member Jones stated this hardship has been passed on to the homeowners. ZBA Member Jones stated he is in favor of the variation requests.

Student ZBA Member Greenleaf stated she is in favor of the variation requests and feels the Village should not have done the R0 Zoning District.

ZBA Member Whalls stated he is in favor of the variances as the Village created this when the annexation happened. ZBA Member Whalls stated the septic field, the front yard setback and garage were all inherited by the petitioner when the home was purchased. ZBA Member Whalls stated the architectural elevations will be a nice addition to the neighborhood, and he is in favor of these variations.

ZBA Member Panther stated he is in favor of the variances.

#### Motion

A motion was made by ZBA Member Micheli and seconded by ZBA Member Jones to close the public hearing for 265 S. Ott Avenue at 7:30 p.m.

The motion carried unanimously with a voice vote.

A motion was made by ZBA Member Micheli and seconded by ZBA Member Constantino that the Zoning Board of Approvals recommend approval of the variances as requested by Dagmara Kamionka, owner of 265 S. Ott Avenue, to allow a vertical addition on a non-conforming structure due to the circumstances of the lot, the neighborhood this property is in, the septic field at the rear of the home and the 40-foot front yard setback. The recommended variances are as follows:

1. Section 10-4-6(D)1 - to allow the construction of a two-story addition on a single family home with an existing non-conforming front yard setback of approximately 40 feet in lieu of the required front yard setback of 50 feet.
2. Section 10-5-4(A)4(b) to allow the detached garage to remain approximately 9.13 feet from the side property line in lieu of the minimum required side yard setback of 16.8 feet for an accessory structure within 10 feet of a principal structure.

3. Section 10-5-5(B)4 TABLE - to allow the construction of a front porch addition that will encroach into the required front yard approximately 29.7% in lieu of the maximum permitted encroachment of 25% into the required front yard.
4. Section 10-8-6(B)3 to allow a Class II Alteration to a single family dwelling that is non-conforming due to zoning bulk control regulations where the addition will not conform to all regulations in the district in which it is located.
5. 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 motion carried unanimously with six (6) “yes” votes as follows: ZBA Members Micheli, Constantino, Jones, Panther and Whalls and Chairman Garrity voted yes.

#### Trustee Report

Trustee Senak stated the Village Board did discuss and approve the sale and closing for True North on the 825 N. Main Street property where the Village will received money for the property and agreed to buy back the property if True North does not win the lawsuit about this property.

Trustee Senak stated the Board did approve the Taylor Street Pedestrian Underpass project as well as possible Public Art for this underpass. Trustee Senak stated the Village Board did approve the purchase of a new fire truck and a Pick-Up/Drop-Off window at the Glen Ellyn Public Library. Trustee Senak stated the Village Board has been discussing a possible parking garage in the downtown area as well, and he supports a garage behind the Civic Center, paid for by a possible 0.75% food and beverage tax.

ZBA Member Whalls asked about the Giesche property. Trustee Senak stated this property was purchased by Maize and Mash to be a possible event space. Associate Planner Purvis stated they will only be remodeling this building (not demolishing).

Trustee Senak reviewed the results from the Village Survey that was recently done.

#### Chairperson Report

No Chairperson Report was given.

#### Staff Report

Associate Planner Purvis stated she is in the process of reviewing one application, but this application will not be ready for the next proposed meeting so they will not have a meeting on January 23, 2018.

ZBA Member Micheli stated the new electronic packets are not helpful as they do not print correctly and are not legible, and you cannot see the details. ZBA Member Micheli made a motion to request that the Planning and Development Department prepare hard-copy packets for pick-up on request. ZBA Member Whalls seconded this motion. No vote was taken on this. Chairman Garrity stated the staff is working on getting the electronic packets up and running.

Associate Planner Purvis stated this is the first packet to be done electronically so they are working out the kinks. Associate Planner Purvis stated the Village is getting laptops soon at the dais to be used during Village Board meetings or Commission meetings, but will take ZBA Member Micheli's request to her department head.

Trustee Senak stated he will pass along the ZBA Members concerns to the Village President and Village Manager as the ZBA Members should have all the information they need to do their job.

At 8:03 p.m., a motion was made by ZBA Member Jones and seconded by ZBA Member Whalls to adjourn the meeting. The motion carried unanimously by a voice vote.

Respectfully submitted,

Debbie Solomon  
Recording Secretary