

ZONING BOARD OF APPEALS
MINUTES
APRIL 10, 2018

The meeting was called to order by Chairperson Richard Garrity at 7:00 p.m. ZBA Members Gregory Constantino, Matthew Jones, John Micheli, Chip Miller, Reed Panther, Thomas Whalls and student Madeleine Greenleaf were present. Also present were Trustee Liaison Mark Senak, Associate Planner Kelly Purvis, Plans Examiner Paula Moritz and Recording Secretary Barbara Utterback.

Chairperson Garrity described the procedures of the Zoning Board of Appeals.

On the agenda was a public hearing regarding the property at 614 Lenox Road.

PUBLIC HEARING – 614 LENOX ROAD

A REQUEST FOR APPROVAL OF CONSTRUCTION NECESSITATED VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION TABLE 10-5-5(B)4 RECREATIONAL EQUIPMENT TO ALLOW THE CONSTRUCTED PERGOLA AND OUTDOOR KITCHEN TO REMAIN AT A DISTANCE OF 6.37 FEET FROM THE REAR PROPERTY LINE IN LIEU OF THE REQUIRED 19.8 FEET. 2. SECTION TABLE 10-5-5(B)4 RECREATIONAL EQUIPMENT TO ALLOW THE CONSTRUCTED TRAMPOLINE TIMBERS TO REMAIN AT A DISTANCE OF 9.9 FEET FROM THE REAR PROPERTY LINE IN LIEU OF THE REQUIRED 19.8 FEET. 3. SECTION TABLE 10-5-5(B)4 RECREATIONAL EQUIPMENT TO ALLOW THE CONSTRUCTED FIRE PIT TO REMAIN AT A DISTANCE OF 16.5 FEET FROM THE SIDE PROPERTY LINE IN LIEU OF THE REQUIRED 19.8 FEET.

(Brian and Christy Collie, owners, and Jamie Simoneit, Architect)

Staff Presentation

Associate Planner Kelly Purvis and Plans Examiner Paula Moritz, Village of Glen Ellyn, 535 Duane Street, Glen Ellyn, Illinois were present to speak regarding the subject variation requests.

Ms. Purvis stated that construction necessitated variations are being requested for the property at 614 Lenox Road to allow recreational equipment to be closer to the property line than allowed. She stated that the owners of the property are Brian and Christy Collie who were present with their architect, Jamie Simoneit. She stated that the owners are requesting approval of construction necessitated variations from the Glen Ellyn Zoning Code as follows: 1. Section Table 10-5-5(B)4 Recreational equipment to allow the constructed pergola and outdoor kitchen to remain at a distance of 6.37 feet from the rear property line in lieu of the required 19.8 feet. 2. Section Table 10-5-5(B)4 Recreational equipment to allow the constructed trampoline timbers to remain at a distance of 9.9 feet from the rear property line in lieu of the required 19.8 feet. 3. Section Table 10-5-5(B)4 Recreational equipment to allow the constructed fire pit to remain at a distance of 16.5 feet from the side property line in lieu of the required 19.8 feet.

Ms. Purvis stated that the property is an interior lot located in the R2 Zoning District on Lenox Road between Hawthorne Boulevard and Linden Street. The zoning and land use immediately surrounding the subject property is R2 Single-Family Residential and CR – Conservation Recreation. She added that notice of the public hearing was published in the March 22, 2018 edition of the Daily Herald, mailed to property owners within 250 feet of the subject property and a placard was placed on the property. Ms. Purvis stated that one previous variation to Section 10-5-5(B)4 was granted on January 17, 2017 to allow the construction of an attached rear porch with a rear yard setback of 36 feet 9 inches in lieu of the required minimum rear yard setback of 40 feet. She displayed a site plan of the subject property.

Ms. Purvis stated that the Collies' purchased the adjacent property north of their home at 618 Lenox Road in 2016 and consolidated the two lots after demolishing the structures on that lot. She stated that following the consolidation of the lots, the Collies' submitted a building permit application to construct a new detached garage, a breezeway and an addition which was a utility/mud room to the principal structure.

Ms. Purvis stated that during the plan review, the Village's Plans Examiner Paula Moritz granted approval of the plans for the detached garage and the addition but rejected the proposed breezeway since a part of it was attached to the principal structure in the manner of a porch and encroached into the required rear yard. She stated that the breezeway was omitted from the application for building permit while they applied for a zoning variation. She also stated that a building permit was issued once the breezeway was removed and all other plan review issues were resolved, allowing work to commence on the garage and addition. She stated that the petitioners were granted a variation for the breezeway in January of 2017 and resubmitted their application for this part of the project. Ms. Purvis displayed the approved plans and stated that the breezeway was removed from the scope of the plans. She also stated that the trampoline and fire pit met the code requirements on the set of approved plans, however, there was no kitchen or pergola on the plans.

Ms. Purvis stated that during an inspection of the detached garage which had begun construction, one of the Village inspectors noticed that the front terrace on the home was being re-constructed without a permit. She stated that the original building permit was amended and plans were submitted to include the front terrace in December 2016. She displayed the modified footprint of the front terrace. Ms. Purvis stated that in May 2017, a patio permit was applied for with the submittal of a landscape plan which was not dimensioned and did not provide adequate information for review. She added that a permit clerk accepted the landscape plan at which time the contractor stated he would provide more information so that the submittal could be reviewed. She added that nothing was reviewed as nothing had been submitted. She stated that in December 2017, it was noted that the patio, pergola and outdoor kitchen had already been constructed without review or approval of the plans. She provided photos that showed the outdoor kitchen, pergola, new patio area, wood timbers, trampoline area and fire pit in non-compliant locations.

Ms. Purvis stated that the Village's Plans Examiner issued a letter dated December 12, 2017 which noted the violations and asked that detailed dimensioned drawings be submitted that included setbacks. She stated it was noted that the trampoline and fire pit previously approved with the garage and addition also appeared to be constructed outside of their approved locations. She added that a review of the "as built" survey dated January 24, 2018 confirmed that the outdoor kitchen, trampoline and fire pit had been constructed too close to the property lines and also showed that the retaining walls on the lot had been reconstructed without review and approval. She displayed photos of the site and indicated the location of the property line and retaining walls. She added that staff's notes of the original review of the plans for the detached garage, breezeway and addition stated that the trampoline must adhere to the requirements for recreational equipment and must be placed at a distance of 10 percent of the lot width away from any property line. She added that the plans were amended and the trampoline was brought into compliance. She also stated that the fire pit was never an issue until construction.

Ms. Purvis stated that, as required by the construction necessitated variation ordinance, the petitioners submitted a timeline of events leading up to the construction necessitated variation request as well as some alternative solutions with cost estimates. She added that the cost of demolishing and removing the retaining wall, outdoor kitchen and trellis is estimated by the petitioners to be \$19,000 and the cost to disassemble and relocate those items would be \$38,000. She added that to relocate the trampoline pit into the side yard would be \$6,500. She also stated that to demolish and remove the fire pit and fill the void with and add patio furniture would be \$18,000 and to demolish and move it into a compliant location would be \$32,000. Ms. Purvis added that the petitioners' preferred solution is to have variances granted for all three of the recreational equipment accessory structures.

Questions to Staff from the Zoning Board of Appeals

ZBA Member Panther asked if the retaining walls were all right in their location and Ms. Purvis responded that the Village stormwater engineer has approved of the location for the retaining walls. She added that if the requested variances are recommended for approval by the ZBA, the Building Department will review the retaining walls to be sure they are structurally sound. Ms. Purvis responded to ZBA Member Jones that Jim Jergovan was the general contractor on the original application for the garage permit and on the patio permit application that was not resolved. ZBA Member Miller asked for verification that staff was not notified about the retaining walls, the kitchen or the pergola and Ms. Purvis agreed with that statement. She added that in December 2017, one of the Village building inspectors was at the site doing an inspection and noticed that a pergola, patio and kitchen had been constructed without the knowledge of the building department. Ms. Purvis stated that staff had never received a full application to review. Ms. Purvis verified for ZBA Member Jones that the petitioners would not have been able to build a garage if they had kept their property as two (2) separate lots and she added that the garage is almost entirely on their second lot.

Ms. Purvis also verified for ZBA Member Jones that the petitioners would not have not been able to construct the trampoline or fire pit if their property was two (2) separate lots. Ms. Purvis added that nothing is allowed on a lot without a principal structure.

Ms. Purvis responded to ZBA Member Micheli that staff works with Architect Jamie Simoneit on a regular basis and Ms. Moritz stated that staff sees Jim Jergovan in the office quite often applying for permits.

Petitioners' Presentation

Christy and Brian Collie, owners of the subject property, and Architect Jamie Simoneit of Z + O Architects, 864 Woodland, Glen Ellyn, Illinois spoke on behalf of the subject variation requests.

Architect Jamie Simoneit began by stating that Matt Culligan of Rolling Landscapes was the contractor at the subject property—not Jim Jergovan—and his scope of work included hardscape, patios, pavers, a fire pit, retaining walls and a trampoline pit. Mr. Simoneit stated he applied for permits for architectural work including the garage, breezeway and the addition. He added that the hardscape was separate from the architectural which is part of this disconnect.

Mr. Collie stated they had three (3) professional service firms providing support on his property and his expectation was that those firms would be working closely together to work through any issues. He stated that he and his wife are accountable for this project, however, having different contractors for the garage, driveway and front porch for the hardscape and landscape is partly why the ball was dropped.

Mr. Collie stated this is the beginning of the third year of work on their property and they are nearing completion of their project. He added that his family and the neighbors are looking forward to a summer void of any further disruption. Mr. Collie stated he is not experienced in construction and has been leaning on a team of experts to work together, however, that did not occur. He added that they have done nothing to try to undermine the process and had been unaware that they were not in compliance until December of 2017.

Mr. Collie stated that they purchased plans for the garage and driveway from a different company than Rolling Landscapes as the former company was too expensive. He also stated that Rolling Landscapes proposed a series of improvements that would dramatically improve the overall look and character of the project and he and his wife agreed to hire them. He stated that one of the improvements is that the trampoline is in the ground and concealed from sight. Mr. Collie stated that the design firm also proposed enhancements for the kitchen and fire pit, adding that the fire pit was set back a bit and a large hole was built to reduce the level of the

structures for the neighbors. Mr. Collie stated that he and his wife mistakenly assumed they would receive plans that were in full compliance with local zoning requirements from Rolling Landscapes which was not the case.

Mr. Collie stated they received a variation for a covered walkway last February. He stated that on February 15, he had contacted his contractors asking if he needed any permits for the hardscaping or landscaping that was planned. He stated he received a reply from Rolling Landscapes stating they did not think that was necessary, therefore, based on the opinion of experts, the petitioners felt they were in a position to move forward.

Mr. Collie stated that Jim Jergovan was the driveway contractor and in order to build the driveway, the gas lines needed to be approved. He stated that an inspector from the Village came to the site and the gas lines were approved and no mention was made of the location of the gas lines.

Mr. Collie asked that the ZBA consider that everything done on their lot has been done with the intent to enhance the beauty of the yard and the surrounding community and to minimize the changes and blend them into the natural terrain. He added that the changes in no way impede access to the property from the police or fire departments in the event of an emergency. Mr. Collie stated he believes there is a bit of a disconnect in the code where the code previously allowed for the prior 2-story garage on the 614 property to be less than five (5) feet from the lot line yet it does not allow for an outdoor grill, trampoline or retaining wall which is less than 20 feet away to be on the prior 4-1/2 feet of a massive 600-foot garage. Mr. Collie also stated it would not have been an issue if the trampoline, kitchen or fire pit were put right in the middle of the side yard which seems inconsistent with the intent of the code. Mr. Collie stated that the measurement side as it pertains to the fire pit is to the retaining wall—not the actual fire pit. He stated that the actual circle that has the gas and the fire is beyond the 20 feet in question. He also stated that the retaining wall that holds back the slope of the property is actually where the measurement is to and he does not believe that the retaining wall is held to the same standards as the fire pit. Mr. Collie also stated that the trampoline is not secured in any way and is in a hole so the measurement is to the hole. He stated he could pick up the trampoline and move it to the side of the yard which is no different than yards with portable basketball hoops or portable hockey nets that are next to neighbors' driveways that remain there year round. He also stated that the trampoline will not be in that hole forever as his children will eventually no longer use it. He also stated that landscape timbers do not meet the definition of a recreational accessory structure. He stated that the measurements in front of the grill are to the pizza oven which is heavy but mobile.

Mr. Collie stated that he does not believe the code is written with 200 feet of frontage in mind and when one applies the code in the strictest sense, a hardship for his family is presented because they are prevented from realizing the full benefits and investment in their home as

others in Glen Ellyn are able to do. He stated they are confident that the additions and decisions they made are in the best interest of the community. He stated they believe they have created a more pleasant environment than the previous large garage and residence. He stated that some of their neighbors are present at this meeting to support the changes that have been made. Mr. Collie stated that any changes that would be required now will result in disruption and several changes will need to be made including drainage and gas lines. Mr. Collie concluded by stating that they did nothing that was inappropriate and will gladly right their mistakes by paying the fines and securing building permits.

Ms. Collie stated that the area where the trampoline is located is saturated so another reason for having the hole there is to have it be used as a drainage area. She added that there is a drain located there. She also stated she can use that area as a garden when the trampoline is no longer there.

Questions/Comments from the Zoning Board of Appeals

Ms. Collie responded to ZBA Member Whalls that the drain goes down to a slope. Ms. Collie responded to ZBA Member Panther that the pizza oven is wood burning. Mr. Collie responded to ZBA Member Jones that they did not have a general contractor for their work, adding that they had separate contractors for the different types of work. Mr. Collie also stated that lack of single point accountability was an issue. Mr. Collie responded to ZBA Member Jones that the initial plans for the front steps were based on a drawing from the Bruss firm and that they expanded the stairs to be in proportion with the house. Architect Simoneit added that he submitted drawings to the Village prior to that construction and adjustments were made in the field during the construction process. Mr. Simoneit responded to ZBA Member Micheli that a landscape architect designed the front entry, however, changes were never filed with the Village. ZBA Member Jones asked Ms. Moritz what happened with the terrace. Ms. Moritz responded that the front terrace changes came to the Village's attention when the foundation location survey was submitted and the foundation shown was a lot larger than what was approved. Mr. Simoneit was contacted by the Village to provide revised drawings and he responded that field changes were made to the terrace. Ms. Moritz confirmed for ZBA Member Jones that the foundation was constructed prior to submittal of the revised drawings. Mr. Collie responded to ZBA Member Micheli that the first time they heard about any infractions was in December. Ms. Purvis responded to ZBA Member Jones that a permit was never issued for the hardscape, landscape, the kitchen and fire pit.

ZBA Member Miller stated he believes that the petitioners did not make any of the changes for which they are requesting variations on purpose. He also clarified that the petitioners built the fire pit before the trampoline was installed. He stated that if in the future a resident comes

before the ZBA and states he forgot to get a permit but ZBA Member Miller does not believe him--how does he justify granting the Collies' request without opening Pandora's box? Mr. Simoneit responded that if they had known that these would be the final locations when they came for the first variation, they would have presented them at that time and he believes the ZBA would have approved them. ZBA Member Miller stated that ignorance of the law is not an excuse and he was not supportive of the variation requests. Mr. Collie stated that they lose half of their back yard because of the setback and does not feel that is the intent of the code. ZBA Member Micheli stated it is self-inflicted because of where they placed their home. ZBA Member Constantino asked why Matt Culligan of Rolling Landscapes was not at this meeting to explain what happened and Ms. Collie responded that he always pointed fingers back. Mr. Collie stated he had been told by Jim Jergovan that permits were not needed.

Mr. Simoneit verified for ZBA Member Micheli that the fire pit is not in violation of the code, however, the retaining wall is. Plans Examiner Paula Moritz stated that the way that the code is set up is that recreational equipment has a 10% setback (10% of the lot width). The walls around the fire pit are actually seat walls for the patio which requires a 10% setback. She added that retaining walls are different than seat walls. She also stated that retaining walls are allowed closer to the property line and are typically at the property line to transition between the two properties.

ZBA Member Constantino stated he has heard nothing regarding why the subject property is unique or if there is a hardship that warrants granting a variation request. He stated that he realizes there is a significant amount of money at stake, however, the ZBA's determination should not be based on monetary reasons alone. He stated he would like to know what the hardship and/or unique circumstances are. ZBA Member Constantino stated that the original diagrams showed the trampoline and fire pit to be outside of the setbacks, however, they were moved within the setbacks without asking for permission to do so. ZBA Member Constantino also stated that there is nothing in the plans regarding consideration of the pergola and the barbecue area which is very significant. Mr. Simoneit responded that if they had known the subject locations were the perfect places for the pergola, outdoor kitchen, trampoline and fire pit to be, they would have applied for variations at the same time as the other variation request. He stated that they are asking for the ZBA's approval regarding dealing with two different properties that had two different buildings on them which is unique in Glen Ellyn. He added it is unfortunate that this is a construction necessitated variation. He then displayed graphics and described the subject property before and after the merging of those properties. He added that the subject site has no flat land. He added that the house previously on the site was in violation of the side yard setback and was two stories tall.

Mr. Simoneit stated that the outdoor kitchen was a last-minute add-on by the landscaper who felt it was a better place to grill. He also stated that the landscaper felt that a better place for the trampoline would be in the ground where it could be used for drainage. Mr. Simoneit stated that the location of the fireplace in his original drawings was in a conforming location.

He stated he has sympathy for the Collies' and is at this meeting to help rectify this situation. He added that he felt a very creative designer on the job site started moving certain things around on the lot to their current locations and over-stepped some boundaries.

Mr. Simoneit stated that the changes that have been made to the site are huge improvements to what was previously located there, including natural light, access for everyone and proper drainage. He stated that the variation process is to allow permission to do something that does not conform to the code. He also stated that a precedent would not be established by allowing the subject variations because this property has extreme fall-off from the west to east off the back yard, nothing that has been built is obstructing anyone's view and there is a stockade fence in the rear. Mr. Simoneit stated that although permits were pulled, he believes that the person who made mistakes in the field was basing that on his knowledge of other codes in other communities. He stated that per the Village code, accessory structures are to be set back at 9.9 feet and that recreational is a sub-group of accessory structures with a different setback. He added that these setback errors were unintentional but not outside of any great norms. He also stated he does not believe the fire pit is an obstruction as it is flush in the ground. He also stated that the the fire pit is a retaining wall with a bench and is compliant on the subject property and a non-issue. He stated that the timber pit is also compliant and could remain as is if the Collies' moved the trampoline to the left.

Mr. Simoneit stated that when retaining walls in the rear crumbled as workers were excavating in a very tight location, they built a small kitchen in that area which is in violation by the interpretation that it is recreational equipment. Ms. Purvis responded to Mr. Simoneit that something is not in compliance when it does not meet the distance measured to the property line. Ms. Purvis stated that flush to the ground is not compliant and that what is compliant is that it meets the setbacks that are required. She added that the subject items are not in compliance just because they are not obstructions. She stated it is the distance that is measured from the property line that is what is not in compliance. She stated that the reason that the code sets recreational equipment ten percent (10%) of the lot line from any property line is so that the neighbors are not disrupted by recreational activity on an adjacent lot. Mr. Simoneit stated that the petitioners are seeking variations because their lot is abnormal as it is too wide.

Ms. Collie stated that a hardship for them is that if they have to re-do this project, they will have to re-drain. Ms. Collie added that if they have to make changes, their neighbors will have to suffer through another summer of construction and one of their neighbors is planning an outdoor wedding this summer. Mr. Collie added that they have significantly enhanced the area by creating open space and allowing light in

Persons in Favor or or in Opposition to the Requests

Jonathan Tennant, 622 Lenox Road, Glen Ellyn, Illinois stated he lives to the north of the subject

property and his property is nearest to the fire pit. He stated that the fire pit seems like it is quite a distance from his home, they have no issues with it and it looks great. He also stated that the petitioners have greatly improved the subject property since moving in.

Marianne Gigowski, 615 N. Park Blvd., Glen Ellyn, Illinois stated that she is directly to the west of the petitioners where she has lived for 20 years. She stated that the former garage built on the subject site was 4-1/2 feet from her back yard and took sunlight out of her back yard and she was very happy when the Collies' removed it. She stated that all of the improvements the Collies' have made are pretty and she and her husband are wholeheartedly behind those changes. She stated they are great neighbors and she believes they knew nothing about the non-compliant changes that were made on their property. She added that she was in favor of the variations because she does not want another summer of messy construction. Ms. Gigowski responded to ZBA Member Jones that she cannot see the pergola/kitchen from her house.

Jennifer Eldersveld, 623 N. Park Boulevard, Glen Ellyn, Illinois stated she lives in back of the trampoline and the new garage. She stated they could not be happier with the improvements the petitioners have made and added that everything done looks professional. She also stated she had no issues in her back yard from the new construction during a rainfall. She added if they are required to rip everything up to make changes, she may have issues so she is in favor of the changes as they exist.

Findings of Fact

ZBA Member Constantino stated that Brian and Christy Collie, the owners of 614 Lenox Road, are requesting construction necessitated variations from the Glen Ellyn Zoning Code involving the rear property line and the side yard property line and improvements that have been completed including a kitchen/pergola area in the rear setback, the location of a trampoline in the rear setback and a fire pit located in the side property line.

ZBA Member Constantino stated that Associate Planner Kelly Purvis and Plans Examiner Paula Moritz were present to speak regarding the subject variation requests. ZBA Member Constantino stated that the petitioner purchased the property to the north and demolished the 618 North Lenox house, consolidated the lots and obtained permits for a garage, a breezeway and a portion of a breezeway. He stated that the approved plans initially included a trampoline and fire pit which would have been outside the required setbacks and there was no kitchen area included on the approved plans. He added that it was not until December 2017 that a Village inspector noted the new kitchen and pergola and a violation letter was sent to the petitioners. ZBA Member Constantino stated that in May 2017 landscape plans were submitted with inadequate information and more details were required before the review and approval of a permit could occur. He stated that a fire pit and trampoline were installed contrary to the previously approved permits and the pergola and kitchen were not reviewed or approved nor

was there a permit issued prior to construction. He stated there were also some retaining walls reconstructed that were not in the original plans or permits.

ZBA Member Constantino stated that among the information and documents submitted per the request for the construction necessitated variations were estimates of the cost to demolish and remove or relocate the improvements in question which would cost tens of thousands of dollars. He added that the petitioners prefer to seek a variation as a solution rather than a demolition or relocation. ZBA Member Constantino stated that the retaining wall location had been reviewed and approved by a stormwater engineer although was not reviewed structurally by the department. ZBA Member Constantino stated that Jim Jurgovan was the original contractor for this project and Matt Culligan of Rolling Landscapes was responsible for the landscape and hardscape on the subject property. He stated that the department did not receive any requests for approval of the kitchen and pergola areas.

ZBA Member Constantino then stated that Brian and Christy Collie, the owners, and their architect, Jamie Simoneit, were present at this meeting. He stated that Mr. Collie stated that three (3) firms provided support for this project—the architect, general contractor and landscaper—and acknowledged that there was a lack of continuity and coordination among the contractors. He stated that the homeowners later found out that the procedures were not fully complied with. He also stated that the homeowners are not trying to cut corners or do work not in compliance and are now seeking to rectify the situation. He stated that plans were originally prepared by Bruss Architects, however, for a variety of reasons, the petitioners switched to Rolling Landscapes who created additional plans and designs and mistakenly assumed the plans were in compliance with the building and zoning codes. He stated that in February 2017, Mr. Collie asked his contractors if everything was in compliance and learned there were no issues, however, it was later learned there was no coordination among the contractors at that time. ZBA Member Constantino stated that the petitioners did not learn until December 2017 that there were issues. He stated the petitioners asked that the ZBA consider all that has been done to the property to enhance its beauty and provide access for the police and fire departments. He stated that the petitioners believe there is a disconnect in the code based upon what is or could be allowed regarding the location of the garage versus the three (3) improvements in question.

ZBA Member Constantino stated that the petitioners described how the trampoline is movable and it is apparently the hole in the ground that is not compliant. He stated that the fire pit is outside the setback although the retaining wall around the fire pit is within the setback. ZBA Member Constantino stated that the petitioners also indicated that a portion of the grill is portable, however, acknowledges that the pergola is not. He also stated that the petitioners do not feel a variance would create any problems for the subject property or the neighbors and if the variances are not granted, there will be additional costs and additional work, disruption of

the property and inconvenience. ZBA Member Constantino stated that Ms. Collie indicated that the area by the trampoline has a functional role and will help prevent flooding and improve drainage.

ZBA Member Constantino stated that, regarding setting precedent, the petitioners stated they are only seeking a variance to bring the site into compliance and are not seeking to set precedence. They believe that the 200 feet of frontage is inconsistent with the typical lot structure in Glen Ellyn, their lot does not affect access to emergency services and they are seeking to experience the full benefit of the property.

ZBA Member Constantino stated that Architect Jamie Simoneit believes this request is an anomaly and is a situation that truly needs a variance because it is atypical. He stated Mr. Simoneit believes this property is unique because there is no other property in town that has such a wide frontage. He stated that Mr. Simoneit said the pergola was a last-minute add-on and that the landscaper took it upon himself to make changes to improve the design in the yard. Mr. Simoneit also stated the lot is huge with no significant flat area which necessitates a different approach to the design. He believes the three (3) items improved upon were done by a designer and landscaper for the benefit of the property and not to avoid the permit process. ZBA Member Constantino stated that Mr. Simoneit believes the reasons for the variations are because the levels of the grade have been improved, the neighbors' light and views have been improved and there is sufficient emergency access. ZBA Member Constantino added that there is a difference of opinion by staff and the petitioners regarding whether or not the variation items are accessory structures or recreational equipment. ZBA Member Constantino stated that the petitioners believe that the fire pit cannot be seen from the ground and as recreational equipment may not need a variation. He added that the hole for the trampoline is a similar situation. ZBA Member Constantino stated that Ms. Purvis stated that the improvements are not compliant with setbacks.

ZBA Member Constantino stated that Jamie Simoneit said the 200-foot wide lot is unique in Glen Ellyn and would not create a precedent with regard to the setback variations. He added that the subject lot has larger restrictions than other lots due to its size and that the setbacks are larger than other lots in the area. He stated Ms. Collie added that a hardship would be that they would have to relocate drainage which would inconvenience the neighbors over the summer. ZBA Member Constantino stated that Mr. Collie then said they have improved the neighborhood and there was no intentional action on their part to avoid getting permits. He added that the neighbors seem to be happy with the outcome.

ZBA Member Constantino stated that John Tennant, 622 Lenox Road, Glen Ellyn, Illinois lives nearest to the fire pit. He believes that the petitioners' current improvements look much better than the prior improvements.

ZBA Member Constantino stated tht Marianne Gigowski of 615 Lenox Road in Glen Ellyn, Illinois lives at the property to the west of the petitioners and has been a 20-year resident there. She felt that the prior improvements were unacceptable and reduced light and air to her property. She stated that the current owners greatly improved the area and she does not want to suffer through another summer of construction. She added she is satisfied with the work that the petitioners have done.

ZBA Member Constantino stated that Jennifer Eldersveld of 623 N. Park Boulevard, Glen Ellyn, Illinois lives behind the trampoline and garage area. She is happy with the improvements and the manner in which they were constructed. She finds the views acceptable and has not experienced any drainage issues even when rains have been heavy. She stated that there could be possible adverse effects on drainage if anything was relocated. She also does not want another season of construction.

ZBA Member Micheli moved, seconded by ZBA Member Jones, to approve the findings of fact. The motion carried unanimously by voice vote.

Comments from the Zoning Board of Appeals

Chairperson Garrity stated that he is in favor of the variation requests. He stated that if the petitioners had taken the trampoline out of the pit, there would have been no issue for the purposes of this meeting. He added it is serving a purpose and the neighbors behind the petitioner are happy with it. He also stated that most people would not even know it is there. Chairperson Garrity also stated that he can live with the fire pit and stated it is actually uncertain whether or not it is in violation. Chairman Garrity then stated that the kitchen is in violation but also has the most practical difficulties and particular hardships involved because of the retaining wall that is serving a purpose. He stated the petitioners have made that area nice by putting something there that will enhance the value of their home.

ZBA Member Miller stated that the petitioners have a beautiful home and property and although he felt bad for them, he felt some of these issues could have been built to code. He stated he also is struggling with the kitchen, the retaining wall and the pergola as the Village had no clue they had been built. He stated he needs to see more of a hardship as this is a construction-necessitated variation. He also stated he was very concerned about setting a precedent and was not in favor of this project. Chairperson Garrity added that the Village does not want to encourage outside vendors coming into town to do whatever they want because they do not know the rules. (Before the vote, ZBA Member Miller changed his mind and stated he would vote yes).

ZBA Member Micheli stated that this request is difficult because of how it got here and added that a ball was dropped regarding communications. He stated he does not believe the ZBA is an enforcement arm and did not feel the construction is within the ZBA's purview. Ms. Purvis

responded to ZBA Member Micheli that the standards are the same for variations and construction-necessitated variations. He stated he felt it is within the Village Board's purview to reject this type of request. He stated he sees a 200-foot lot and saw a practical difficulty in conforming to the rule so he was supportive of the petitioners' requests.

ZBA Member Jones stated he sees the fire pit as being poured wrong which created a unique situation. He stated if the ZBA was looking for a compromise, the easiest thing to do would be to move the trampoline forward so that it would be the least intrusive for their neighbors. ZBA Member Jones stated that regarding the kitchen, he saw the back yard as a hardship because it would not work if everything was flipped around. ZBA Member Jones stated that he is in favor of the variation requests.

ZBA Member Greenleaf stated that she felt the petitioners could find a middle ground, including moving the trampoline forward into a conforming area. She also felt that the kitchen should remain as is.

ZBA Member Panther stated he is supportive of the existing location of the trampoline. He stated he sees the confusion with the Village Code and the interpretation of the fire pit versus the retaining wall. He stated that technically where the wall is, people would still be sitting there around the fire pit which would be fine. ZBA Member Panther stated he struggled more with the outdoor kitchen area but was comfortable with it as it is tied in structurally with the retaining wall.

ZBA Member Whalls stated he has no issues with the side yard setbacks because the petitioner is being punished for having a wide lot. He also stated that adjacent neighbors spoke in favor of the requests. He stated that the trampoline is not an issue but the storm drain needs to be moved. He also was in favor of the fire pit and retaining wall.

ZBA Member Constantino stated he is very upset about the fact that the landscaper did this kind of work and spent this kind of money without permits but added that he did a good job. He stated he was most impressed that the neighbors most affected by the improvements have wholeheartedly approved of them and would not want any changes now. He recommended that the Village Board vote yes on these requests.

ZBA Micheli moved, seconded by ZBA Member Whalls, to close the public hearing. The motion carried unanimously by voice vote.

Motion

ZBA Member Miller moved, seconded by ZBA Member Constantino, that after considering the application of Brian and Christy Collie and the testimony and evidence presented, the Zoning Board of Appeals recommends approval of the following variations: 1. Section Table 10-5-5(B)4

Recreational equipment to allow the constructed pergola and outdoor kitchen to remain at a distance of 6.37 feet from the rear property line in lieu of the required 19.8 feet. 2. Section Table 10-5-5(B)4 Recreational equipment to allow the constructed trampoline timbers to remain at a distance of 9.9 feet from the rear property line in lieu of the required 19.8 feet. 3. Section Table 10-5-5(B)4 Recreational equipment to allow the constructed fire pit to remain at a distance of 16.5 feet from the side property line in lieu of the required 19.8 feet. He stated that after reviewing the findings of fact, the situation of the homeowners is unique due to the issues discovered while working on the retaining wall causing the location to be moved and the odd shaped size and topography makes it difficult to comply with the current code.

The motion carried unanimously with seven (7) yes votes as follows: ZBA Members Miller, Constantino, Jones, Micheli, Panther, Whalls and Chairperson Garrity voted yes.

Trustee Report

No Trustee report was given.

Chairperson Report

No Chairperson report was given.

Staff Report

No Staff Report was given.

ZBA Member Miller moved, seconded by ZBA Member Panther, to adjourn the meeting at 9:31 p.m. The motion carried unanimously by voice vote.

Submitted by:

Barbara Utterback
Recording Secretary

Kelly Purvis
Associate Planner