

MINUTES OF THE ZONING BOARD OF APPEALS
November 26, 2007

The regular meeting of the Zoning Board of Appeals was called to order by Chairman Mark Moore at 7:01 p.m. at the Village Hall.

Members present: Chairman Mark Moore, William Cotey, Kurt Hezner, Howard Jaffe, Walter Oakley, and Andy Robinson.

Members absent: Terry Howard.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Pat Sheeran, Project Engineer.

Board Member Hezner moved, seconded by Board Member Robinson, to re-approve the October 8, 2007, Zoning Board of Appeals meeting minutes.

Motion carried 6 - 0.

Board Member Hezner moved, seconded by Board Member Robinson, to approve the October 22, 2007, Zoning Board of Appeals meeting minutes.

Motion carried 6 - 0.

OLD BUSINESS: None.

NEW BUSINESS:

ZBA 07-39 James and Susan Baker, Applicants
300 E. Winchester Road

Request is for a variation to increase the maximum permitted lot coverage from 45% to approximately 52.16% in order to allow various impervious surfaces to remain on property in an R-5, Single-Family Residential District.

ZBA 07-40 James and Susan Baker, Applicants
300 E. Winchester Road

Request is for a variation to reduce minimum required side yard setback from 10 feet to approximately 7 feet in order for a swimming pool deck to remain on property in an R-5, Single-Family Residential District.

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ZBA 07-41 James and Susan Baker, Applicants
300 E. Winchester Road

Request is for a variation to reduce the minimum required side yard setback from 5 feet to approximately 4 feet in order to allow a storage shed to remain on property in an R-5, Single-Family Residential District.

Mr. David Smith, Senior Planner, stated that the Zoning Board of Appeals may recall that the petitioner, James Baker, was before the Zoning Board of Appeals at their October 8, 2007 meeting for an Appeal of an Administrative Decision by the Village of Libertyville for property located in an R-4, Single Family Residential District located at 300 E. Winchester Road.

Mr. Smith stated that on September 19, 2007, the petitioner filed an appeal to the Notices of Violation. Mr. Smith stated that the Zoning Board of Appeals rendered a decision on the appeal at their October 8, 2007 meeting that included an order that the petitioner remove all structures and hard surfaces from within the rear 10 foot wide utility and drainage easement by November 12, 2007. Mr. Smith stated that if there are any remaining nonconforming structures that exist on the property, but outside of the 10 foot wide utility and drainage easement, also referred to as the drainage swale, the Zoning Board of Appeals ordered the petitioner to file a petition for variations for said nonconforming structures in which the Village Board has the authority to consider for approval or not, in lieu of removing them.

Mr. Smith stated that the petitioner has removed all structures and hard surfaces from within the 10 foot easement and has filed for three variations to permit certain structures and impervious surfaces to remain outside of the rear yard 10 foot easement. Mr. Smith stated that the requested variations include an increase of the maximum permitted lot coverage in order to allow various impervious surfaces to remain on the property, a request to reduce the minimum required setback for a swimming pool deck in order to allow the deck to remain on the property, and a request to reduce the minimum required side yard setback in order to allow a storage shed to remain on property in an R-5, Single-Family Residential District.

Mr. James Baker, petitioner, stated that the landscaping company he hired suggested to him that there is a three foot drop off on the east side of the pool and that they intend to direct drainage to remain on the property and to buttress the pool deck with a retaining wall.

Mr. Jim Babowice, petitioner's authorized agent, stated that the proposed retaining wall will create an additional 18 square feet of lot coverage to equal 52.34% total lot coverage.

Mr. Baker stated that it is difficult to get the lot coverage down to 45%. He stated that he is concerned about the structural integrity of the pool if any more of the pool deck is removed.

Mr. Babowice stated that Mr. Baker would like to keep the pool deck in place.

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Mr. Baker stated that he has installed a new board-on-board fence that will not act as a dam to permit the proper drainage flows.

Mr. Pat Sheeran, Village Project Engineer, stated that a staggered board-on-board fence has been recommended.

Mr. Babowice stated that the hardship in meeting the Zoning Code regulations is not self-created. He stated that the variations that Mr. Baker is seeking are not a special privilege and that they meet the code and plan purposes. He stated that there have been neighbors that have submitted letters of support. He stated that there is no other remedy.

Chairman Moore asked if the petitioner has already installed the retaining wall. Mr. Babowice responded that the petitioner would like to install a retaining wall.

Mr. Sheeran stated that there needs to be additional grading done to the property. He stated that the Buss Landscaping exhibit lacks the necessary grading information.

Mr. Babowice stated that his client would like to have a lot coverage variation that includes the increase of impermeable surface that would be caused by the retaining wall.

Mr. Joe Newman, 310 E. Winchester Road, stated that he opposes all of the requested variations. He stated that the petitioner has not met the Standards for Variation. He stated that he is concerned about the drainage run-off. He stated that there is a significant elevation change between the petitioner's property and his property. He stated that the petitioner's property is not good drainage practice. He stated that the steps off of the petitioner's pool is not shown on Decker's site plan. He stated that he is disappointed that it has taken eight months to rectify this situation.

Mr. Rick Furman, 240 E. Winchester Road, stated that he lives on the west side of the petitioner. He stated that he does not have a problem with the petitioner's shed on the west side of the petitioner's house. He stated that he does not see how cutting back the pool deck will help the drainage problems.

Board Member Oakley stated that he does not have a problem with the proposed lot coverage as long as the drainage problem is fixed. He stated that the petitioner should provide an engineering plan.

Board Member Cotey asked for clarification of the Engineering Division review comment in the Staff report that refers to the term, "feature". Mr. Sheeran stated that the term "feature" may refer to a variety of techniques to help manage drainage on the subject property such as the use of a retaining wall, regrading the property, or installing an underground pipe.

Board Member Cotey asked for clarification of the Engineering Division review comment in the Staff report that refers to the term, "localized pocket". Mr. Sheeran stated that the "localized pocket" term referred to an area in the yard where water becomes trapped and ponding may occur.

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Board Member Cotey asked if an engineering plan is necessary. Mr. Sheeran stated that it would be the best practice to know the elevations of the property in relation to the property to the east. He stated that he does not believe that by removing a portion of the pool deck that it would have an impact on the structural integrity of the pool wall itself.

Board Member Cotey asked what the drainage material will be for the retaining wall. Mr. Baker stated that he will use stone to be installed under the ground at the base of the retaining wall.

Board Member Cotey stated that he is not supportive of the variation requests.

Board Member Jaffe stated that the petitioner should hire an engineer to do an engineering plan. He stated that he is sympathetic to the pool deck encroachment unless its removal is required to improve the drainage.

Board Member Robinson stated that the pool deck appears to be wider on the east side of the pool. He stated that he would like to see that the southeast side of the house is addressed including any necessary improvements to the down spouts.

Board Member Hezner asked if the yard in the rear drainage easement swale has been finished. Mr. Sheeran stated that the swale has been re-graded and sodded.

Board Member Hezner asked for clarification of the existing limestone remnants. Mr. Sheeran stated that the limestone is base material that was used for the bricks that were installed onto the east end of the existing pool deck.

Board Member Hezner stated that the petitioner should hire an engineer and have a plan done that will work and to install a silt fence while the work is being done. He stated that the problem is more of a grade issue, not so much of a lot coverage issue.

Chairman Moore stated that he appreciates the petitioner's response. He stated that he would like for the petitioner to come back with a solution for the drainage issue.

Mr. Babowice stated that the petitioner has agreed to have an engineering plan done and to talk to the Village Engineer, Mr. Sheeran, and to request a continuance for the variation matters to the December 17, 2007 Zoning Board of Appeals meeting.

In the matters of ZBA 07-39, ZBA 07-40, and ZBA 07-41, Board Member Hezner moved, seconded by Board Member Jaffe, to continue these items to the December 17, 2007, Zoning Board of Appeals meeting.

Motion carried 6 - 0.

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COMMUNICATIONS AND DISCUSSION:

Board Member Hezner made a motion, seconded by Board Member Robinson, to adjourn the Zoning Board of Appeals meeting.

Motion carried 6 - 0.

Meeting adjourned at 9:10 p.m.