

MINUTES OF THE ZONING BOARD OF APPEALS
November 12, 2012

The regular meeting of the Zoning Board of Appeals was called to order by Chairman William Cotey at 7:00 p.m. at the Village Hall.

Members present: Chairman William Cotey, Scott Adams, Dan Donahue, Mark Moore, Walter Oakley, David Semmelman, and Kurt Schultz.

Members absent: None.

A quorum was established.

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

Board Member Oakley moved, seconded by Board Member Donahue, to approve the October 8, 2012, Zoning Board of Appeals meeting minutes.

Motion carried 7 - 0.

OLD BUSINESS: None.

NEW BUSINESS:

**ZBA 12-19 Kimberly Kick, Applicant
 Catherine Chestler, Applicant
 206 Johnson Avenue**

Request is for variations to: 1) reduce the minimum required front yard setback from 30 feet to approximately 13.3 feet; 2) reduce the minimum required side yard setback along the west side property line from 5 feet to approximately 4.48 feet; and 3) reduce the minimum required aggregate side yard setback from 15 feet to approximately 7.48 feet in order to construct a house addition in an R-6, Single Family Residential District.

Mr. David Smith, Senior Planner, introduced the variation requests. Mr. Smith stated that the petitioner is requesting variations to reduce the minimum required front, west side, and aggregate side yards in order to construct a second story house addition to an existing 1-1/2 story single family residence located in an R-6, Single Family Residential District at 206 Johnson Avenue. Mr. Smith stated that the petitioner reports that the historic residence was originally constructed in 1929. Mr. Smith stated that the existing home is a non-conforming structure as the current front yard setback is approximately 13.3 feet, with a west side yard setback of approximately 4.4 feet, and an east side yard setback of approximately 3 feet. Mr. Smith stated that the petitioner is proposing to construct a second story to the existing structure without expanding the current footprint of the building. Mr. Smith stated that the new construction of the exterior walls on the

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second floor is proposed to line up with the existing exterior walls on the first story thereby encroaching into the required yards and thus requiring the variations requested.

Ms. Kim Kick, petitioner, stated that certain documents give evidence that the house was originally constructed in 1925 and other documents indicate that it was constructed in 1929. She stated that they intend to preserve the original house and enhance the historic nature with the addition.

Board Member Oakley stated that it looks like a good project.

Board Member Adams asked for clarification regarding the structural integrity of the existing foundation. Ms. Kick stated that the existing foundation is cinder block and the plan is to reinforce it as part of the proposed construction.

Chairman Cotey asked the petitioner what she would like the Zoning Board of Appeals to do tonight. Ms. Kick stated that should would like the Zoning Board of Appeals to render their recommendation to the Village Board.

In the matter of ZBA 12-19.1), Board Member Donahue moved, seconded by Board Member Schultz, to recommend the Village Board of Trustees approve a variation to reduce the minimum required front yard setback from 30 feet to approximately 13.3 feet in order to construct a house addition in an R-6, Single Family Residential District, in accordance with the plans submitted.

Motion carried 7 - 0.

Ayes: Cotey, Adams, Donahue, Moore, Oakley, Semmelman, Schultz
Nays: None
Absent: None

In the matter of ZBA 12-19.2), Board Member Adams moved, seconded by Board Member Donahue, to recommend the Village Board of Trustees approve a variation to reduce the minimum required side yard setback along the west side property line from 5 feet to approximately 4.48 feet in order to construct a house addition in an R-6, Single Family Residential District, in accordance with the plans submitted.

Motion carried 7 - 0.

Ayes: Cotey, Adams, Donahue, Moore, Oakley, Semmelman, Schultz
Nays: None
Absent: None

In the matter of ZBA 12-19.3), Board Member Oakley moved, seconded by Board Member Schultz, to recommend the Village Board of Trustees approve a variation to reduce the minimum required aggregate side yard setback from 15 feet to approximately 7.48 feet in order to construct a house addition in an R-6, Single Family Residential District, in accordance with the plans submitted.

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Motion carried 7 - 0.

Ayes: Cotey, Adams, Donahue, Moore, Oakley, Semmelman, Schultz
Nays: None
Absent: None

ZBA 12-20 Thomas and Kathleen Reed, Applicants
1112 Kildare Avenue

Request is for a variation to reduce the minimum required side yard setback from 10 feet to approximately 8 feet in order to permit a sport court to the rear of a single family residence in an R-4, Single Family Residential District.

Mr. David Smith, Senior Planner, introduced the variation request. Mr. Smith stated that the petitioner is seeking a variation to reduce the minimum required side yard setback in order to permit a 35' by 30' concrete sport court area to encroach into the minimum required side yard setback. Mr. Smith stated that the Zoning Code classifies this sport court improvement as a "Recreational Facility, Residential" and defined in Zoning Code Section 2-2 as, "An area, court, or facility, other than a recreational device, intended for active recreational or athletic use such as game courts or ball fields established as an accessory use to a residential dwelling."

Mr. Smith stated that the minimum required side yard for the R-4, Single Family Residential District is not less than 10 feet. Mr. Smith stated that in April 2012, the Village received an application for a Construction Permit for the sport court. Mr. Smith stated that the Construction Permit application included a Site Plan showing a Code compliant setback of 10 feet for the sport court. Mr. Smith stated that the Village then issued a permit to construct the sport court with the understanding that it would be set back from the side property line approximately 10 feet. Mr. Smith stated that upon inspection by Staff and the submission of an "as built" plat of survey, it was determined that the sport court was not constructed in accordance with the approved plans, but instead was constructed with an approximate setback from the side property line of 8 feet.

Mr. Smith stated that in lieu of correcting the setback of the sport court, the applicant has opted to apply for a variation to reduce the minimum required setback of 10 feet to approximately 8 feet in order to maintain sport court's existing placement and distance from the side property line.

Mr. Scott Hezner, petitioner's representative, stated that the sport court was constructed concurrently with a patio installation. Mr. Hezner stated that the sport court contractor spoke to Karen Marren but was told that a five (5) foot setback is required. He stated that the patio contractor submitted a site plan showing the 10 foot setback for the sport court but the sport court contractor was unaware of the 10 foot setback requirement and subsequently installed it approximately eight (8) feet from the property line and out of the 7.5 foot wide utility easement.

Mr. Hezner stated that it is a great installation and to modify the sport court does not make sense. He stated that the landscaping is remarkable and acts to buffer the sport court from the adjacent neighbor's property. He stated that tearing out 2 feet of the sport court would be a substantial

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impact on the adjacent grade and landscaping. He stated that the petitioner is requesting that the sport court be accepted as a legal, non-conforming improvement to the property.

Mr. Paul Yates, 1120 Kildare, stated that he has been neighbors with the Reeds for about 10 years. He stated that he should have been notified prior to the construction of the sport court. He stated that the Reeds had the sport court constructed prior to the new patio.

Ms. Victoria Yates, 1120 Kildare, stated that she is concerned about the drainage.

Mr. Hezner stated there is a ten (10") inch encroachment into the detention easement in the rear of the property, but this has been resolved by providing additional compensatory storage. He stated that the Reeds worked with the Village Engineer as they resolved the compensatory detention issue and that that this is a separate issue from the sport court. He stated that there should be no negative drainage impacts imposed by the sport court.

Mrs. Yates stated that 2 feet does make a difference.

Mr. Yates asked how the sport court will be lighted. Mr. Hezner stated that the sport court will benefit from the existing patio light and this light shouldn't spill over onto the neighbor's property.

Board Member Schultz asked if other neighbors have reacted to the sport court in anyway. Mr. Hezner stated that an email was received from another neighbor, the "Schulers", whose comments expressed support for the variation request.

Board Member Schultz stated that he is concerned about the noise that would come from the sport court area and that there is a reason for the established setbacks.

Mr. John Spoden, Director of Community Development, stated that Karen may have made a mistake when quoting to the contractor the 5 foot setback. He stated that most accessory structures are required to be set back a minimum of 5 feet from the property lines.

Board Member Schultz asked if there is anything that the petitioner can do to lessen the impact of the sport court's proximity to the neighbor's property.

Mr. Tom Reed, petitioner, stated that he will continue to be a good neighbor and considerate to his neighbor.

Board Member Donahue asked what is installed between the sport court and the neighbor's property. Mr. Reed stated that there is an abundance of evergreen plantings.

Mr. Hezner stated that that the planted Arborvitae will get bigger.

Board Member Moore asked for clarification of the permit process that took place for the sport court. Mr. Reed stated that the sport court contractor spoke to Karen Marren and was told that a 5 foot setback is required. He stated that the patio contractor submitted a Site Plan showing the

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10 foot setback for the sport court, but the sport court contractor was unaware of the 10 foot setback requirement and subsequently installed it approximately 8 feet from the property line, but out of the utility easement.

Board Member Adams asked about the drainage on the property. Mr. Yates stated that there is about a 4 foot drop from the either property to the detention swale and that there are trees planted within the swale.

Mr. Hezner stated that the detention is designed to collect and channel storm water. He stated that the culvert between the subject property and the neighbor's property is designed to discharge storm water as well.

Mr. Yates asked for clarification of the lot coverage requirement. Mr. Hezner stated that the lot coverage includes all impervious surfaces on a lot.

Chairman Cotey asked what the petitioner would like for the Zoning Board of Appeals to do tonight. Mr. Hezner stated that he would like the Zoning Board of Appeals to render their recommendation regarding the variation request.

In the matter of ZBA 12-20, Board Member Oakley moved, seconded by Board Member Adams, to recommend the Village Board of Trustees approve a variation to reduce the minimum required side yard setback from 10 feet to approximately 8 feet in order to permit a sport court to the rear of a single family residence in an R-4, Single Family Residential District, in accordance with the plans submitted.

Motion carried 7 - 0.

Ayes: Cotey, Adams, Donahue, Moore, Oakley, Semmelman, Schultz
Nays: None
Absent: None

ZBA 12-21 Jessica Brown, Applicant
208 N. Second Street

Request is for a variation to reduce the minimum required front yard setback from 30 feet to approximately 8.4 feet in order to construct a front stoop and steps for a single family residence in an R-6, Single Family Residential District.

Mr. David Smith, Senior Planner, introduced the variation request. Mr. Smith stated that the petitioner is requesting a variation to reduce the minimum required front yard setback in order to construct a new front stoop in an R-6, Single Family Residential District at 208 N. Second Street. Mr. Smith stated that the petitioner is proposing to replace their existing dilapidated front stoop and stairs with a new wood deck and steps to match the existing both in size and location. Mr. Smith stated that the existing front stoop and steps are non-conforming due to their encroachment into the front yard setback.

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Ms. Jessica Brown, petitioner, stated that the new front stoop and steps are a needed replacement and will be similar to those in the fronts of other homes in the neighborhood. She stated that the existing stoop and steps are without a concrete footing and are quite ugly and in bad shape.

Chairman Cotey asked what the petitioner would like for the Zoning Board of Appeals to do tonight. Ms. Brown stated that she would like the Zoning Board of Appeals to render their recommendation regarding the variation request.

In the matter of ZBA 12-21, Board Member Semmelman moved, seconded by Board Member Schultz, to recommend the Village Board of Trustees approve a variation to reduce the minimum required front yard setback from 30 feet to approximately 8.4 feet in order to construct a front stoop and steps for a single family residence in an R-6, Single Family Residential District, in accordance with the plans submitted.

Motion carried 7 - 0.

Ayes: Cotey, Adams, Donahue, Moore, Oakley, Semmelman, Schultz
Nays: None
Absent: None

ZBA 12-22 Nick Lazzaretto, Applicant
403 Wedgemere Place

Request for a variation to reduce the minimum required corner side yard setback from 30 feet to approximately 20 feet in order to construct a single family residence in an R-6, Single Family Residential District.

Mr. David Smith, Senior Planner, introduced the variation request. He stated that the petitioner is seeking approval for a variation to reduce the minimum required corner side yard setback in order to construct a single family residence in an R-6, Single Family Residential District located at 403 Wedgemere Place. Mr. Smith stated that the subject lot is a corner lot and is 65 feet wide by 127 feet deep.

Mr. Smith stated that the Zoning Code states the minimum required corner side yard in an R-6, Single Family Residential District shall not be less than 30 feet for the principal structure. He stated that the petitioner is proposing to demolish the existing single family home and construct a new single family home at the southwest corner of Lincoln Avenue and Wedgemere Place with a corner side yard setback of approximately 20 feet.

Mr. Nick Lazzaretto, petitioner, stated that the existing home is actually closer to the corner side yard property line with a setback of approximately 19 feet and the new home is proposed to be set back 20 feet. He stated that it is too difficult make the proposed home narrower and still preserve the existing detached garage located to the rear of the home.

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Ms. Jill Hancock, 400 Windsor Terrace, stated that she is concerned about the impact on drainage that the new construction may have.

Mr. Lazzaretto stated that the site will be engineered and graded properly to accommodate drainage.

Board Member Schultz asked about the proposed lot coverage. Mr. Lazzaretto stated that the proposed lot coverage will be well below the maximum permitted.

Board Member Moore asked about the proposed height for the new home. Mr. Lazzaretto stated that it will be approximately 32 feet in height.

Board Member Adams asked about the proposed size of the new home. Mr. Lazzaretto stated that it will be approximately 2,900 square feet in floor area and the house width will be approximately the same as the existing home.

Chairman Cotey asked if there will be a basement. Mr. Lazzaretto stated that there will be a basement and it will have a sump pump.

Chairman Cotey asked what the petitioner would like for the Zoning Board of Appeals to do tonight. Mr. Lazzaretto stated that he would like the Zoning Board of Appeals to render their recommendation regarding the variation request.

In the matter of ZBA 12-22, Board Member Adams moved, seconded by Board Member Donahue, to recommend the Village Board of Trustees approve a variation to reduce the minimum required corner side yard setback from 30 feet to approximately 20 feet in order to construct a single family residence in an R-6, Single Family Residential District, in accordance with the plans submitted.

Motion carried 7 - 0.

Ayes: Cotey, Adams, Donahue, Moore, Oakley, Semmelman, Schultz
Nays: None
Absent: None

COMMUNICATIONS AND DISCUSSION:

Board Member Oakley moved, seconded by Board Member Donahue, to adjourn the Zoning Board of Appeals meeting.

Motion carried 7 - 0.

Meeting adjourned at 8:00 p.m.