

**MINUTES OF THE ZONING BOARD OF APPEALS**  
**January 14, 2008**

The regular meeting of the Zoning Board of Appeals was called to order by Chairman Mark Moore at 7:02 p.m. at the Village Hall.

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

Members absent: Andy Robinson.

A quorum was established.

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

Board Member Oakley moved, seconded by Board Member Jaffe, to approve the December 10, 2007, Zoning Board of Appeals meeting minutes.

Motion carried 6 - 0.

**OLD 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 53% 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.**

**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.**

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Mr. David Smith, Senior Planner, stated that the petitioner was before the Zoning Board of Appeals meeting at their November 26, 2007 meeting seeking variations to increase the maximum permitted lot coverage in order to allow various impervious surfaces to remain on his property, to reduce the minimum required setback for a swimming pool deck in order to allow it to remain on his property and to reduce the minimum required side yard setback in order to allow a storage shed to remain on his property. He stated that the subject property is located in an R-5, Single Family Residential District.

Mr. Joe Newman, 310 E. Winchester Road, stated he is concerned about the grading plan that shows Mr. Baker's grade is still elevated above his and will still cause a drainage problem.

Mr. Pat Sheeran, Village Project Engineer stated that the re-grading is adjacent to the proposed retaining wall. He stated that the grading plan shows that drainage will be directed towards the north and towards the south, not towards the property located at 310 E. Winchester Road.

Board Member Hezner asked if the grade was raised to provide for the proper slope. Mr. Sheeran responded in the affirmative.

Board Member Howard asked if the proposed grade will carry the rain levels experienced during the 2007 rains. Mr. Sheeran stated that the proposed grading in conjunction with the other proposed improvements will support the drainage.

Mr. Newman asked if the proposed slopes will be sufficient to eliminate water backing up. Mr. Sheeran stated that any back-up will be negligible.

Mr. Newman stated that he is still concerned about the lot coverage. He stated that requested variations do not meet the Standards for Variations as indicated in the Zoning Code. He stated that the pool deck should meet the setback requirement.

Board Member Howard asked why the petitioner chose to not address the pool deck setback. Mrs. Susan Baker, 300 E. Winchester Road, stated that she and her husband have tried to be a good neighbor and have had pool parties in the past. She stated that if the pool deck were cut back to meet the setback it would limit the area for pool parties and increase the burden.

Board Member Howard asked if the improvements were already in place when they purchased the home in 1987. Mrs. Baker responded in the affirmative.

Board Member Jaffe asked for clarification of the material at the east edge of the pool deck. Board Member Hezner stated that the material is part of the underpinning of the pool deck.

Mr. James Babowice stated that the petitioner would like to keep the pool deck as it is.

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Board Member Hezner stated that he would have a more favorable recommendation for the lot coverage variation if the pool deck were cut back to meet the minimum required setback from the property line. He asked the petitioner what material he plans to use to construct the retaining wall.

Mr. Baker stated that he will rely upon his landscape consultant to decide the material for the retaining wall. He stated that it will either be cement or wood.

Board Member Hezner stated that concrete will last longer for the retaining wall. He asked the petitioner if he would be willing to cut back the deck.

Mr. Babowice stated that Manhard Engineering has a workable drainage plan. He asked that the Zoning Board of Appeals render their recommendation upon the plan as presented.

*In the matter of ZBA 07-39, Board Member Hezner moved, seconded by Board Member Howard, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted lot coverage from 45% to approximately 53% in order to allow various impervious surfaces to remain on property in an R-5, Single-Family Residential District, in accordance with the plans submitted.*

*Motion carried 4 - 2.*

*Ayes: Moore, Cotey, Hezner, Jaffe*  
*Nays: Howard, Oakley*  
*Absent: Robinson*

*In the matter of ZBA 07-40, Board Member Hezner moved, seconded by Board Member Howard, to recommend the Village Board of Trustees approve a variation to reduce the minimum required setback for a swimming pool deck from 10 feet to approximately 7 feet in order to allow pool deck to remain on property in an R-5, Single Family Residential District, in accordance with the plans submitted.*

*Motion failed 2 - 4.*

*Ayes: Jaffe, Oakley*  
*Nays: Moore, Cotey, Hezner, Howard*  
*Absent: Robinson*

*In the matter of ZBA 07-41, Board Member Hezner moved, seconded by Board Member Cotey, to recommend the Village Board of Trustees approve 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, subject to the following conditions: 1) Permit application with complete construction documents for shed shall be filed to the Building Division for review and approval.*

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*Motion carried 6 - 0.*

*Ayes: Moore, Cotey, Hezner, Howard, Jaffe, Oakley*  
*Nays: None*  
*Absent: Robinson*

**ZBA 07-37 Milun and Jelica Radojevic, Applicants**  
**258-260 Florence Court**

**Request is for variations to: 1) reduce the minimum required front yard setback from 30 feet to approximately 26 feet; and 2) reduce the minimum required rear yard setback from 25 feet to approximately 8 feet in order to construct house additions to a single family attached home in an R-7, Single Family Attached Residential District.**

**ZBA 07-38 Milun and Jelica Radojevic, Applicants**  
**258-260 Florence Court**

**Request is for a variation to permit the orientation of a single family attached dwelling on a zoning lot so that the principal entrance does not face the front property line along the public right of way and the principal entrance is not located on that portion of the front facade wall located closest to the front property line in an R-7, Single Family Attached Residential District.**

Mr. David Smith, Senior Planner, stated that the petitioner was before the Zoning Board of Appeals at their December 10, 2007 meeting requesting variations to reduce the minimum required front yard setback, to reduce the minimum required rear yard setback, and a variation to permit the orientation of a single family attached dwelling on a zoning lot so that the principal entrance does not face the front property line along the public right of way and the principal entrance is not located on that portion of the front facade wall located closest to the front property line in order to construct house additions to a residential duplex structure in an R-7, Single Family Attached Residential District.

Mr. Steve Kolber, architect for the petitioner, stated that he has revised the plans. He stated that the previous plan had the garages configured in a winged layout creating an interior driveway court between the two proposed garage entrances. He stated that the petitioner did not want to put the garages in the rear of the principal structure. He stated that their intent is to build upon the existing structure. He stated that the revised plan now has one of the two front entrances facing the front property line. He stated that the driveway turning radius is tight, but it can work. He stated that they can resolve any of the Engineering Division comments.

Mr. Pat Sheeran, Village Project Engineer, stated that the existing utility lines are public.

Mr. Kolber stated that they will address the utility connection.

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Board Member Hezner stated that the petitioner may have to make their utility connection from the southeast corner of the property. He asked the petitioner if they would consider reconfiguring the garage so that vehicles will tandem park inside. He stated that if the garage were reconfigured, it may eliminate Staff's concern as to whether vehicles will be able to use the west garage with such a tight turning radius.

Board Member Hezner asked how many trees are proposed to be removed. Mr. Kolber stated that there is one tree proposed to be removed that is currently located in front of the house.

Board Member Hezner asked Staff what the regulations are for removing trees. Mr. John Spoden, Director of Community Development, stated that there is a replacement schedule for trees that are 18 inches in diameter dbh.

Board Member Jaffe stated that the revised plan before them tonight is an improved plan, but that the petitioner should consider tearing down the existing house and rebuilding a new structure that meets the Zoning Code bulk requirements.

Board Member Howard asked for clarification of the rear yard setback encroachment. Mr. Smith stated that if there is any new construction within the required rear yard, even if within the same existing footprint of an existing nonconforming structure, a variation shall be required.

Board Member Hezner asked if one of the two front door entrances complies, a variation is still required for the other entrance that does not comply. Mr. Spoden responded in the affirmative, stating that a variation will still be required.

*In the matter of ZBA 07-37.1, Board Member Oakley moved, seconded by Board Member Howard, to recommend the Village Board of Trustees approve a variation to reduce the minimum required front yard setback from 30 feet to approximately 26 feet in order to construct house additions to a single family attached home (duplex) in an R-7, Single Family Attached Residential District, subject to revising the garage configuration so that vehicles tandem park within the garage with a single entrance driveway.*

*Motion failed 3 - 3.*

*Ayes: Cotey, Hezner, Howard*  
*Nays: Moore, Jaffe, Oakley*  
*Absent: Robinson*

*In the matter of ZBA 07-37.2, Board Member Hezner moved, seconded by Board Member Jaffe, to recommend the Village Board of Trustees approve a variation to reduce the minimum required rear yard setback from 25 feet to approximately 8 feet in order to construct house additions to a single family attached home (duplex) in an R-7, Single Family Attached Residential District, subject to revising the garage configuration so that vehicles tandem park within the garage with a single entrance driveway.*

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*Motion failed 3 - 3.*

*Ayes: Cotey, Hezner, Howard  
Nays: Moore, Jaffe, Oakley  
Absent: Robinson*

*In the matter of ZBA 07-38, Board Member Cotey moved, seconded by Board Member Oakley, to recommend the Village Board of Trustees approve a variation to permit the orientation of a single family attached dwelling on a zoning lot so that the principal entrance does not face the front property line along the public right of way and the principal entrance is not located on that portion of the front facade wall located closest to the front property line in an R-7, Single Family Attached Residential District, subject to revising the garage configuration so that vehicles tandem park within the garage with a single entrance driveway.*

*Motion failed 3 - 3.*

*Ayes: Cotey, Hezner, Howard  
Nays: Moore, Jaffe, Oakley  
Absent: Robinson*

**NEW BUSINESS:**

**ZBA 07-42 Adam and Gail Lyons, Applicant  
325 First Street**

**Request is for a variation to reduce the minimum required rear yard setback from 25 feet to approximately 11 feet in order to construct a house addition to an existing single-family home in an R-7, Single-Family Attached Residential District.**

**ZBA 07-43 Adam and Gail Lyons, Applicant  
325 First Street**

**Request is for a variation to increase the maximum permitted building coverage from 35% to approximately 37.3% in order to construct a house addition to an existing single-family home in an R-7, Single-Family Attached Residential District.**

Mr. David Smith, Senior Planner, stated that the petitioner is requesting variations to reduce the minimum required rear yard setback and to increase the maximum permitted lot coverage in order to construct a house addition to a single family home in an R-7, Single Family Attached Residential District located at 325 First Street.

Mr. Smith stated that the petitioner has submitted for a building permit and was approved for the construction of a single family two-story house as shown in the plans except for the 10' 5"x15' 3½"

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screened porch shown to be added to the rear of the approved home. Mr. Smith stated that the addition of the screened porch at the rear of the house requires the requested variations for the rear yard setback reduction and the lot coverage increase.

Mr. Adam Lyons, petitioner, stated he has lived in the Libertyville community for 14 years. He stated that the subject site is undersized property, but was platted in the 1800's. He stated that what he wants to build would otherwise be permitted if the lot was not undersized. He stated that if the variations were not approved, he would be denied the same rights as what other owners in the community have. He stated that his house design has eliminated the garage doors from facing the street. He stated that he and his family will be long term residents. He stated that his plan is an energy conscience design. He stated that he has incorporated a solar energy component. He stated that the site plan layout provides open space to the front of the property. He stated that the alley terminates one lot further to the north. He stated that he has letters of endorsement from some of the neighbors.

Board Member Howard asked the petitioner if he knew at the time of the building permit application for the principal structure if he was going to build the screened porch and that it would require variations. He stated that there should have been ample lot depth to accommodate the proposal had the petitioner planned the site plan differently.

Mr. Lyons stated that most homes are massed towards the front of the lot. He stated that the 50 foot wide lot provides more design restraints.

Board Member Howard stated that a 135 foot deep lot should be deep enough. He stated that the hardship is self-created.

Board Member Jaffe asked the petitioner why he came back with the enclosed porch addition after the planned house was approved by the Building Division. Mr. Lyons stated the rear enclosed porch was part of the initial goal. He stated that the house is not big. He stated that the slab was initially enough. He stated that he later thought that by enclosing the porch slab would further enhance the home.

Board Member Jaffe stated that the petitioner could revise the plans and comply with the Zoning Code. He asked if the petitioner was willing to revise the plans. Mr. Lyons stated that he could revise the plans to show that the enclosed porch is detached.

Board Member Jaffe stated that the plan as proposed is a self-created hardship.

Board Member Hezner asked if the screened porch were detached from the principal structure, would there still be a building coverage issue. Mr. John Spoden, Director of Community Development, responded in the affirmative.

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Board Member Cotey asked if the petitioner would be willing to reduce some of the pavement surface on the site. Mr. Lyons responded in the negative.

Board Member Cotey asked if the petitioner would be willing to reduce the size of the proposed screened porch. Mr. Lyons responded in the affirmative.

Board Member Oakley stated that he likes the plan, but all of the bulk requirements should apply as this is still only a plan. He stated that the hardship has been self-created.

Chairman Moore stated that he likes the house, but the screened porch is an after-thought and he does not support the variation.

Mr. Lyons stated that he might consider detaching the screened enclosure from the principal house if the Zoning Board of Appeals would consider approving the building coverage variation.

Board Member Hezner stated that he would be positive if the petitioner detached the screened porch enclosure from the house.

Board Member Howard stated that the size of the lot is not a hardship. He stated that the given hardship is self-created. He stated that he is not in favor of supporting the requested variations.

Board Member Oakley stated that he is not in favor of supporting the requested variations as proposed.

Board Member Cotey that the petitioner would have better argument if the project was a rehab on an existing house. He stated that the petitioner should detach the screened porch from the house and reduce the size.

Chairman Moore stated that the hardship is self-created and that he cannot support it.

Mr. Lyons stated that he will consider detaching the addition and requested that his variation requests be continued to the next Zoning Board of Appeals meeting in April.

*In the matters of ZBA 07-42 and ZBA 07-43, Board Member Hezner moved, seconded by Board Member Jaffe, to continue these items to the February 11, 2008, Zoning Board of Appeals meeting.*

*Motion carried 6 - 0.*

**ZBA 07-44 Terence and Nancy Grupe, Applicants**  
**311 E. Rockland Road**

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**Request is for variations to: 1) reduce the minimum required corner side yard setback from 30 feet to approximately 7.6 feet; and 2) reduce the minimum required rear yard setback from 35 feet to approximately 34.5 feet in order to construct a house addition to an existing single-family home in an R-6, Single-Family Residential District.**

Mr. David Smith, Senior Planner, stated that the petitioner is requesting variations to reduce the minimum required corner side yard setback and to reduce the minimum required rear yard setback in order to construct a house addition to a single family home in an R-6, Single Family Residential District located at 311 E. Rockland Road.

Mr. Smith stated that the petitioner is proposing to construct an entry addition along east side of the house approximately 102 square feet in floor area and will replace an existing wood deck. Mr. Smith stated that this entry addition with a covered porch will be set back from the corner side property line along Second Avenue approximately 11.8 feet from the new foundation wall and approximately 7.6 feet from a covered porch overhang, thus requiring a corner side yard setback variation. Mr. Smith stated that the petitioner is also proposing to add a sunroom addition to the rear of the house with a setback from the rear property line approximately 34.5 feet, thus requiring a rear yard setback variation.

Ms. Nancy Grupe, petitioner, stated that their house is 100 years old and was located at its present site from its old location near Milwaukee Avenue. She stated that the entrance is precarious and has many problems so they need a new entrance. She stated that the entrance has a deck area. She stated that they applied for a variation for their garage about 20 years ago and have a close setback from the corner side yard property line. She stated that the proposed entrance will not protrude past the existing detached garage. She stated that they also want to add a four season room that has a symmetrical design. She stated that if they reduce the depth by 6 inches just to meet the rear yard setback, then they would have to reduce all four walls of the proposed enclosure which would significantly reduce the square footage of the floor area.

Mr. Terence Grupe, petitioner, stated that only one corner encroaches into the rear yard setback requirement by a few inches. He stated that the one corner encroachment is caused by the fact that house is not sitting straight on the lot. He stated that they are attempting to match the roof line of the existing house.

Board Member Oakley asked why the petitioner could not reduce the four season room encroachment 6 inches to meet the setback requirement. Mr. Grupe stated that the window frames would be impacted and the room is already small.

Board Member Cotey asked for clarification on the trees that will be impacted. Mrs. Grupe stated that the root base of one of the trees will be impacted. She stated that the impacted tree is approximately 18 inches and is a Silver Maple.

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Board Member Hezner stated that he has no problem with the rear yard setback variation request. He asked the petitioners if they would be willing to set back the eave and have it supported with a bracket attached to the wall of the house and not supported by posts on the ground.

Chairman Moore asked when the house was moved. Ms. Grupe stated that the house was moved in the 1970's. She stated that she was told that the previous location was where the current Rouse's Auto Repair facility is located now.

Mr. Grupe stated that there is a current drainage problem at the front entrance that faces Rockland Road now and the proposed improvements will help to rectify that problem.

Board Member Hezner stated this property in comparison to the Douglas Coup property located at 801 E. Rockland Road has more corner side yard and parkway area between the house and the street curb. He stated that the Coup property was approved for a similar corner side yard setback variation.

Chairman Moore asked the petitioner if they would like for the Zoning Board of Appeals to render their recommendation tonight. Mr. Grupe responded in the affirmative.

*In the matter of ZBA 07-44.1, Board Member Oakley moved, seconded by Board Member Cotey, to recommend the Village Board of Trustees approve a variation to reduce the minimum required corner side yard setback from 30 feet to approximately 7.6 feet in order to construct a house addition to a single family home in an R-6, Single Family Residential District.*

*Motion passed 6 - 0.*

*In the matter of ZBA 07-44.2, Board Member Jaffe moved, seconded by Board Member Howard, to recommend the Village Board of Trustees approve a variation to reduce the minimum required rear yard setback from 35 feet to approximately 34.5 feet in order to construct a house addition to a single family home in an R-6, Single Family Residential District.*

*Motion passed 6 - 0.*

**COMMUNICATIONS AND DISCUSSION:**

Board Member Hezner moved, seconded by Board Member Howard, to adjourn the Zoning Board of Appeals meeting.

Motion carried 6 - 0.

Meeting adjourned at 9:04 p.m.