

MINUTES OF THE ZONING BOARD OF APPEALS
June 8, 2015

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, Dan Donahue, Amy Flores, Walter Oakley, Kurt Schultz, and David Semmelman.

Members absent: Mark Moore.

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

Board Member Oakley moved, seconded by Board Member Schultz, to approve the May 11, 2015, Zoning Board of Appeals meeting minutes.

Motion carried 6 - 0.

OLD BUSINESS: None.

NEW BUSINESS:

**ZBA 15-15 A Village Green Montessori, Applicant
125 West Church Street**

Request is for a variation for a fence in order to allow the fence line to extend forward of the front building line in an IB, Institutional Buildings District.

Mr. David Smith, Senior Planner, introduced the request for the amendment for the Special Use Permit. Mr. Smith stated that in February 2002 the Village Board granted the applicant, Ann Phillips, a Special Use Permit to allow a Day Care Center in an IB Institutional Buildings District located in St. Lawrence Episcopal Church at 125 West Church Street. Mr. Smith stated that one of the conditions of that approval was to limit the ages of the children served from 3 to 6 years of age. Mr. Smith stated that the petitioner has submitted an application to amend that condition to include 2 year olds. Mr. Smith stated that in accordance to DCFS regulations, any outdoor play area dedicated for 2 year old children must be maintained on site of the Montessori establishment, therefore, the petitioner is proposing to install a fenced in play area on the west side of the St. Lawrence Church building. Mr. Smith stated that St. Lawrence Episcopal Church is located within the IB, Institutional Buildings District near the southeast corner of Church Street and Brainerd Avenue across Church Street from Cook Memorial Library.

Ms. Ann Phillips, A Village Green Montessori, Applicant, stated that her Montessori establishment is an education use with hours of operation from 8:30 a.m. to 3:30 p.m. She stated that they will comply with both the State Fire Marshall and the local Fire Department District's requirements. She stated that due to the State requirements relative to the 2 year old children that

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they will serve they are proposing the on-site fenced in outdoor play area. She stated that the play area will be based with rubber and wood mulch for safety and in accordance to the DCFS regulations. She stated that the 975 square foot area can accommodate up to 13 children. She stated that the proposed fence will be a decorative fence styled similar to a black wrought iron type and conducive to the fence styles that exist on neighboring properties.

Mr. Mike Hazen, Warden for St. Lawrence Church, stated that he supports the zoning requests by Montessori. He stated that the Montessori as a tenant who leases from the church provides financial stability to the church's budget. He stated that since the public school system has required full school days for kindergarten age children, it will have a substantial impact upon Montessori being able to administer their services. He stated that the hardship placed upon the Montessori is brought on by the public school system by changing their policy to require full school days for kindergarten age children. He stated that DCFS requires the play area for the 2 year old children to be on site. He stated that the church property has substantial site constraints requiring the outdoor fence placement to need a variation.

Board Member Flores asked for clarification as to the location of the existing ground mounted transformer equipment relative to the proposed play area. Ms. Phillips stated that the transformer is against the church building wall and will be inside the proposed play area, but will be fenced off so that the children will not have any access to it.

Board Member Flores asked about the area where there appears to be a storm drain. Ms. Phillips stated that the storm water drain is outside of the fenced in area.

Board Member Schultz asked about the height of the proposed fence used to screen the transformer. Ms. Phillips stated that the fence and landscape screening will comply with the Village regulations.

Board Member Schultz asked if there will be any playground equipment. Ms. Phillips stated that at this time the plan is only to include the fence and DCFS approved ground mulch.

Chairman Cotey asked for clarification regarding the traffic generated on the site. Ms. Phillips stated that the parents park their cars in the parking lot and walk their children into the facility. She stated that the parents don't typically stay in the building longer than 5 minutes. She stated that the class times are staggered so that it is not an overwhelming number of people arriving or leaving at the same time. She stated that the parents use the rear entrance to the building.

Chairman Cotey asked if the petitioner would consider using a higher fence as he is concerned about the high level of traffic along Church Street. Ms. Phillips stated that they are not necessarily opposed to a higher fence.

Chairman Cotey read the DRC Staff Report review comments. He asked the petitioner if they would like for the Zoning Board of Appeals to go to a vote on the petition. Ms. Phillips stated that she would like the Zoning Board of Appeals to render their recommendation for support to the Village Board.

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In the matter of ZBA 15-16, Board Member Schultz moved, seconded by Board Member Semmelman, to recommend the Village Board of Trustees approve a variation for a fence in order to allow the fence line to extend forward of the front building line in an IB, Institutional Buildings District, in accordance with the plans submitted.

Motion carried 6 - 0.

Ayes: Cotey, Donahue, Schultz, Flores, Oakley, Semmelman

Nays: None

Absent: Moore

ZBA 15-16 Nick Lazzaretto, Applicant
515 McKinley avenue

Request is for variations to: 1) reduce the minimum required corner side yard setback from 30 feet to approximately 21.3 feet in order to construct a single family residence; and 2) reduce the minimum required corner side yard setback from 30 feet to approximately 21.3 feet in order to construct a detached garage in an R-6, Single Family Residential District.

Mr. David Smith, Senior Planner, introduced the request for variations. He stated that the petitioner, Nick Lazzaretto, is seeking approval for variations to reduce the minimum required corner side yard setback for both a new single family residence and a new detached garage in order to construct a new single family residence with detached garage in an R-6, Single Family Residential District located at 515 McKinley Avenue.

Mr. Nick Lazzaretto, applicant, stated that he is seeking the variation in order to construct a new single family home with a detached garage.

Board Member Flores asked the petitioner if he is going to flip the house. Mr. Lazzaretto stated that he does intend to sell the new home.

Board Member Flores asked if there is a back alley. Mr. Lazzaretto stated that there isn't a back alley and that the garage will load off of McKinley Avenue.

Board Member Oakley asked for clarification as to how the storm water will be managed. Mr. Lazzaretto stated that the site will be graded with sump pumps incorporated into a catch basin to help direct storm water to the storm sewer.

Chairman Cotey stated that there has been a growing concern with storm water management in the Village.

Mr. Lazzaretto stated that other than directing storm water into the storm sewer there is nothing in place that requires on site detention for single family home properties.

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Mr. Fred Chung, Village Engineer, stated that the Village completed a southwest corridor flood study of the Village. He stated that the problem identified in the study includes outdated and undersized storm sewers. He stated that it would cost between 15 to 20 million dollars to upgrade the system. He stated that the results of the field study were presented to the public during three Streets Committee meetings in April. He stated that the study area includes less than 200 homes located in the Ames, Burdick, and Crane Boulevard area. He stated that the flooding issue is an ongoing problem. He stated that although the WDO is intended to regulate larger projects, the Public Works Department has been studying Storm Water Management regulations in the WDO to determine if anything can be applied towards smaller residential lots as a starting point. He stated that the study area has not been classified as a flood zone, but rather a High Water Level Area.

Mr. Lazzaretto stated that for other homes he has built in the High Water Level Area, he raised the foundation level. He stated that he objects to the Storm Water Management system that includes detention for a single family property as it would cost up to \$40,000 more. He stated that the Village's effort to compel on-site detention is a retroactive approach without having a regulation in place. He stated that it is only some of the streets and some yards that may flood, not the homes.

Mr. Chung stated that it is the intent of the on-site detention requirement to credit the development with any existing lot coverage and only require detention for any expanded lot coverage and for that system to release storm water at a reduced rate.

Chairman Cotey stated that the Plan Commission/Zoning Board of Appeals should be educated on the on-site storm water management issue.

Board Member Donahue asked for clarification for the difference between flood zone and a high water level area. Mr. Chung stated that the High Water Level Area classification allows the Village more authority to regulate storm water management. He stated that a Flood Zone classification would be more restrictive to the property owners as to how they can improve their properties. He stated that the Village of Libertyville is a certified community which allows the Village to administer the Lake County Storm Water Development Ordinance.

Board Member Donahue asked what a homeowner can do to restrict the storm water flow. Mr. Chung stated that there are many different designs and that a professional engineer should be hired to review the data for a development. He stated that it should be looked at on a case by case basis, there should not be a one-size fits all approach.

Mr. Lazzaretto stated that there should be a hard set of regulations in place and not regulate storm water management in this fashion retroactively. He stated that it would be easier to plan for if he knew what the regulations are. He stated that on-site detention will not reduce the flooding.

Chairman Cotey asked the petitioner if he will agree with the Staff recommendation and condition as proposed. Mr. Lazzaretto stated that he agrees with the condition.

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Chairman Cotey asked the petitioner what he would like for the Zoning Board of Appeals to do tonight. Mr. Lazzaretto stated that he would like for the Zoning Board of Appeals to render a positive recommendation to the Village Board for his variation requests.

In the matter of ZBA 15-16.1), Board Member Schultz 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 21.3 feet in order to construct a single family residence in an R-6, Single Family Residential District, subject to the following condition: 1) That prior to the issuance of building and engineering permits, the Applicant obtain approval by the Director of Public Works of a stormwater management plan for the property.

Motion carried 6 - 0.

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

In the matter of ZBA 15-16.2), Board Member Schultz 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 21.3 feet in order to construct a detached garage in an R-6, Single Family Residential District, subject to the following condition: 1) That prior to the issuance of building and engineering permits, the Applicant obtain approval by the Director of Public Works of a stormwater management plan for the property.

Motion carried 6 - 0.

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

COMMUNICATIONS AND DISCUSSION:

Mr. John Spoden, Director of Community Development, stated that that the Village Board will hear the School District matter for the Brainerd school site on June 9, 2015. He stated that the Bridge Development matter has been deferred to the July 14, 2015, Village Board agenda. He stated that Frito Lay has withdrawn their request for occupancy at the Bridge Development site so the truck trailer location is no longer part of Bridge Developments amendment request, but Bridge Development is still asking for the 24 hour delivery amendment.

Board Member Schultz moved, seconded by Board Member Semmelman, to adjourn the Zoning Board of Appeals meeting.

Motion carried 6 - 0.

Meeting adjourned at 8:05 p.m.