

MINUTES OF THE ZONING BOARD OF APPEALS
July 14, 2008

The regular meeting of the Zoning Board of Appeals was called to order by Chairman Mark Moore at 7:06 p.m. at the Village Hall.

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

Members absent: Walter Oakley and 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 Cotey moved, seconded by Board Member Hezner, to approve the June 9, 2008, Zoning Board of Appeals meeting minutes, as amended.

Motion carried 5 - 0.

OLD BUSINESS:

**ZBA 08-12 River Trail Properties, LLC, Applicant
162 Broadway**

Request is for variations to: 1) reduce the minimum required front yard setback from 30 feet to approximately 20 feet ; and 2) reduce the minimum required corner side yard setback from 30 feet to approximately 20 feet in order to construct a single family home in an R-8, Single Family Residential District.

The applicant requested that this item be continued to the August 11, 2008, Zoning Board of Appeals meeting.

In the matter of ZBA 08-12, Board Member Jaffe moved, seconded by Board Member Hezner, to continue this item to the August 11, 2008, Zoning Board of Appeals meeting.

Motion carried 5 - 0.

**ZBA 08-13 Marshall and Lorraine Fletcher, Applicants
1205 Deer Trail Lane**

Request is for a variation to a variation to reduce the minimum required front yard setback from 50 feet to approximately 37 feet in order to construct an addition to a single family home in an R-2, Single Family Residential District.

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Mr. David Smith, Senior Planner, stated that the petitioner was before the Zoning Board of Appeals at their June 9, 2008 meeting requesting a variation to reduce the minimum required front yard setback in order to construct an addition to a single family home in an R-2, Single Family Residential District located at 1205 Deer Trail Lane. Mr. Smith stated that during the course of the June 9, 2008 meeting, concerns regarding the encroaching flood plain and the proposed large size of the addition were discussed. Mr. Smith stated that the Zoning Board of Appeals continued this item to their July 14, 2008 agenda in order to provide the petitioner an opportunity to revise their plans and/or submit additional materials to address the concerns.

Mr. Marshall Fletcher, petitioner, stated that the proposed three season room will eventually be converted into a Great Room. He stated that the impact upon the flood plain is approximately 36 cubic feet. He stated that the flood plain encroachment will be compensated for by excavating behind his shed. He stated that the hardship is due to the orientation of the house and the existing visual obstruction of the trees in his rear yard. Mr. Fletcher presented photos of his property to the Zoning Board of Appeals.

Ms. Patty Boddy, 532 Lange Court, asked what the impact upon the neighbors would be if Mr. Fletcher would be permitted to construct the addition into the flood plain. Mr. Pat Sheeran, Village Project Engineer, stated that the petitioner would be required to install erosion control measures during any grading of his property.

Board Member Cotey stated that is difficult for him to support the proposed size of the addition.

Mr. Fletcher presented several past Zoning Board of Appeals cases for setback variations that were approved. He stated that his situation differs in that he has a relatively smaller home on a larger lot.

Board Member Jaffe asked what the F.A.R. is on the subject site. Mr. Smith stated that it was not calculated.

Board Member Howard asked the petitioner as to when they plan to convert the proposed three-season room into the Great Room. Mr. Fletcher stated that the conversion is a long term goal.

Board Member Howard asked if the petitioner will be required to come back to the Zoning Board of Appeals if they convert the addition from a three season room to a Great Room. Mr. John Spoden, Director of Community Development, stated that if the elevations change, they will be required to come back.

Board Member Howard asked for clarification of the flood plain requirements. Mr. Sheeran stated that the Engineering Division will review the permit application for compliance with the flood plain regulations.

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Board Member Howard asked what the dimensions of the proposed addition would be if it met the setback requirement. Mr. Fletcher stated that he would have to reduce the size of the proposed addition by one-half in order to meet the setback requirement.

Board Member Cotey asked for clarification as to the required foundation or footings necessary once the petitioner is ready to convert the structure. Mr. Fletcher stated that he would install the addition on a slab with footings that would accommodate the conversion.

Board Member Hezner asked what the circumstances were for the variation requested by the home owner of 520 McKinley. Mr. Spoden stated that they proposed to encroach into the required yard with front porch steps.

Board Member Hezner stated that the other cases referred to by Mr. Fletcher, including 127 Kenloch, are not relevant to Mr. Fletcher's case. He stated that due to the encroachment into the flood plain, the floor elevation may go up above the existing floor level.

Mr. Fletcher stated that he has anticipated the possible floor level change.

Chairman Moore asked who the property owner to the west of the subject site is. Mr. Spoden stated that the adjacent property to the west belongs to the Forest Preserve.

Chairman Moore asked if the southwest corner of the home can accommodate a family room/great room combination. Mr. Fletcher stated that he needs two spaces.

Board Member Hezner asked where the door leads to on the south elevation. Mr. Fletcher stated that the door location is conceptual at this time.

Board Member Howard stated that he will not vote in favor for the requested variation at this time because the addition is too large. He stated that he may be in favor if he were to remove the addition either from the flood plain or the front yard encroachment.

Board Member Jaffe stated that he would vote in favor of the variation request.

Board Member Hezner stated that everything has not been thought out. He stated that there are alternatives. He stated that he would vote no.

Mr. Fletcher stated that he understands what he is doing and what he is asking for.

Board Member Hezner stated that he would like to see at least 40% engineering completed.

Board Member Cotey stated that he does not like to see the building in the flood plain. He stated that the hardship is self-created.

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In the matter of ZBA 08-13, Board Member Hezner moved, seconded by Board Member Oakley, to continue this item to the September 8, 2008, Zoning Board of Appeals meeting.

Motion carried 5 - 0.

NEW BUSINESS:

ZBA 08-09 Brent Griffin, Applicant
1414 Sunnyview Road

Request is for variations to: 1) increase the maximum permitted linear length of a fence in the front yard; 2) increase the maximum permitted height of a fence in the front yard; and 3) increase the maximum permitted amount in which a fence may be opaque in the front yard for property in an R-4, Single-Family Residential District.

Due to improper notification by the applicant, this item will be re-noticed for the July 14, 2008, Zoning Board of Appeals meeting.

ZBA 08-14 Warren and Margaret Aldridge, Applicants
1210 Sandstone Drive

Request is for a variation a variation to increase the maximum permitted height for an accessory structure from 15 feet to approximately 16.5 feet in order to permit the construction of a gazebo located in the rear yard in an R-4, Single Family Residential District.

Mr. David Smith, Senior Planner, stated that the petitioner, Margaret Aldridge, is requesting a variation to increase the maximum permitted height for an accessory structure in order to permit the construction of a gazebo located in the rear yard in an R-4, Single Family Residential District located at 1210 Sandstone Drive.

Mr. Warren Aldridge, petitioner, stated that they built their original gazebo in 1984. He stated that his property slopes downward from front to back towards Lake Minear. He stated that they constructed the new gazebo in order to match the roof lines of their remodeled home. He stated that they constructed the gazebo without a permit. He stated that the floor of the new gazebo has been constructed with a raised floor that is approximately 1.5 feet off the ground as it is next to the lake water. He stated that the new gazebo is not visible to the neighbors.

Board Member Hezner asked if the petitioner obtained a permit before starting construction. Mr. Aldridge stated that the new gazebo was not much of an alteration and the question of obtaining a permit did not come to mind.

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Board Member Hezner asked if there are any flood plain issues to be considered. Mr. Pat Sheeran, Village Project Engineer, stated that site studies have already been accepted by the Village.

Board Member Howard stated that the gazebo is visually compatible, but the hardship has been self-created.

Board Member Jaffe asked why they wanted to change the gazebo roof line. Mr. Aldridge stated that they wanted to match the house roof line.

Chairman Moore stated that the property grade slopes down from front to rear and that this topography merits a hardship that should support the variation request.

Board Member Cotey stated that this case should be looked at based upon the merits of the variation, not because the structure was constructed without a building permit.

Chairman Moore asked the petitioner if he would like for the Zoning Board of Appeals to render its recommendation to the Village Board tonight. Mr. Aldridge responded in the affirmative.

In the matter of ZBA 08-14, Board Member Hezner moved, seconded by Board Member Jaffe, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted height for an accessory structure from 15 feet to approximately 16.5 feet in order to permit the construction of a gazebo located in the rear yard in an R-4, Single Family Residential District, in accordance with the plans submitted.

Motion failed 3 - 2.

Ayes: Moore, Cotey, Jaffe

Nays: Howard, Hezner

Absent: Oakley, Robinson

ZBA 08-17 Michael and Tamara Buscemi, Applicants
609 Lange Court

Request is for a variation to install a fence in the corner side yard that abuts the front yard of an adjacent lot in an R-6, Single Family Residential District.

Mr. David Smith, Senior Planner, stated that the petitioners are requesting a variation to install a fence in the corner side yard that abuts the front yard of an adjacent lot in an R-6, Single Family Residential District at 609 Lange Court. Mr. Smith stated that the fences may be installed in a corner side yard, provided that the fence line does not extend beyond the rear building line of the principal structure and, if the corner side abuts the front yard of an adjacent property, fences are not permitted

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in the corner side yard. Mr. Smith stated that in this case the petitioners' corner side yard abuts the neighboring front yard that belongs to the property addressed as 407 Lake Street. The neighboring property is required to have front yard of thirty feet (30').

Mr. Michael Buscemi, petitioner, stated that his property is on the corner of Lake Street and Lange Court. He stated that the intent of the proposed fence is to incorporate as much of the brick patio as possible.

Ms. Patty Boddy, 532 Lange Court, asked for clarification of the fence regulation. Mr. Smith stated that fences may be installed in a corner side yard, provided that the fence line does not extend beyond the rear building line of the principal structure and, if the corner side abuts the front yard of an adjacent property, fences are not permitted in the corner side yard.

Board Member Hezner asked if the petitioner had reviewed zoning requirements for the lot prior to purchase. Mr. Buscemi stated that he did not check the Zoning Code as it pertains to the fence regulations.

Board Member Cotey asked if the petitioner can identify a hardship that supports the variation request. Mr. Buscemi stated that the existing structure, brick patio, and setback lines are oriented in such a way as to cause a practical difficulty in meeting the fence regulation.

Board Member Jaffe stated that the house seems to have a unique design in that the corner side yard abuts a heavily traveled street.

Chairman Moore stated that the petitioner's response to the Standards for Variation should be considered for their accuracy by Staff.

Board Member Howard asked the petitioner if he considered any other alternatives such as landscaping. Mr. Buscemi stated that he as already installed an abundant amount of landscaping. He stated that they also have a dog that they want to be able to keep within the perimeter of an enclosed fence.

Chairman Moore asked if consideration should be given to relocating the proposed fence gate on the west side as the current proposed location shows the gate opening up to Lake Street. Mr. Buscemi stated that the gate would be opened infrequently.

In the matter of ZBA 08-17, Board Member Hezner moved, seconded by Board Member Howard, to recommend the Village Board of Trustees approve a variation to install a fence in the corner side yard that abuts the front yard of an adjacent lot in an R-6, Single Family Residential District for property located at 609 Lange Court.

Motion carried 5 - 0.

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COMMUNICATIONS AND DISCUSSION:

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

Motion carried 5 - 0.

Meeting adjourned at 8:30 p.m.