

**MINUTES OF THE ZONING BOARD OF APPEALS**  
**September 26, 2022**

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

Board Member Oakley moved, seconded by Board Member Pyter, to appoint Board Member Steffe as Temporary Chairman of the Zoning Board of Appeals in Vice Chairman Mark Moore's absence.

Motion carried 6 - 0.

Members present: Temporary Chairman Eric Steffe, Amy Flores, Walter Oakley, Richard Pyter, Thomas Rankin, and Gregory Wheeler.

Members absent: Vice Chairman Mark Moore.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Jeff Cooper, Village Engineer.

Others present: Brooke Lenneman, Village Attorney.

Board Member Pyter moved, seconded by Board Member Wheeler, to approve the September 12, 2022, Zoning Board of Appeals minutes.

Motion carried 6 - 0.

**OLD BUSINESS:**

**ZBA 22-05 William K. Willard Living Trust, Applicant**  
**252 East Ellis Avenue (Lot 28)**

**Request is for a variation from Zoning Code Section 26-17-5.3 in order to reduce the amount of frontage that a lot of record or zoning lot has on an improved public street from 100% to approximately 82% for property located in an R-6 Single Family Residential District.**

Mr. David Smith, Senior Planner, introduced the applicant's variation request. He stated that the applicant was before the Zoning Board of Appeals at their meeting held in April of 2022 requesting approval for a variation to reduce the amount of frontage that a lot of record has on an improved public street for property located at 252 East Ellis Avenue in an R-6 Single Family Residential District. Mr. Smith stated that the request was continued in order to give the applicant the opportunity to submit preliminary engineering plans and an updated tree survey to the Village for review.

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Mr. Jeff Braiman, attorney for the petitioner, stated that the subject Lot 28 on East Ellis Avenue was part of the subdivision platted over 73 years ago. He stated that Section 16 of the Libertyville Zoning Code authorizes the Village Board to grant a variation to reduce frontage of an unimproved street up to 1/3 the width of the lot. He stated that their variation is a reduction of only 18% of the width. He stated that access is attainable along the remaining 82% of the width of the lot that fronts the improved portion of East Ellis Avenue. He stated that the lot is buildable. He stated that they are not proposing to develop the lot at this time but they are only seeking the variation from Zoning Code in order to reduce the amount of frontage that a lot of record or zoning lot has on an improved public street in order to allow it's buildability in the future. He stated that they have provided an updated preliminary engineering plan and modified tree survey as requested by the Village. He stated that when a permit is submitted to develop this lot they building can update the tree survey as necessary.

Ms. Kelly Richter, 249 East Ellis Avenue, has been a resident of Lot 26 for 8 years. She stated that during that time there have been three (3) drastic rainstorm events that have caused flooding along East Ellis Avenue down to Sandstone Drive. She stated that the storm sewers cannot handle the storms that have breached the sanitary sewers. She stated that anything else built along Ellis Avenue will impact the storm sewers.

Temporary Chairman Steffe asked Staff if the Village's Master Storm Water Management Plan includes the East Ellis Avenue/Sandstone Drive area. Mr. Jeff Cooper, Village Engineer, stated that the Master Storm Water Management Plan does cover the subject area, but improvements are 6 to 7 years away.

Mr. Tim Laud, 223 Ellis Avenue, stated that the east end of Ellis Avenue is used as a turnaround which is directly in front of Lot 28. He stated that East Ellis Avenue drops 25 feet from one end to the other end. He stated that portions of Lot 28 function like a wetland with no evidence of where storm water can go so it has to go to Sandstone Drive. He stated that the last three (3) lots on East Ellis Avenue should be made to function as a storm water retention system.

Mr. Cooper stated that they have to rely on the Stormwater Management Commission to confirm whether or not any part of Lot 28 contains a wetland.

Mr. David Giza, 811 Sandstone Drive, stated that he had served on the Libertyville Village Board of Trustees. He stated that the storm water problems relative to Lot 28 on East Ellis Avenue and the surrounding area have plagued Libertyville for several years. He stated that the applicant does not meet the Standards for the variation request.

Ms. Sandy Culver, 236 East Ellis Avenue, stated that she lives on the same side of the street as Lot 28. She stated that storm water flows down from several streets such as Parliament Court, Bartlett Terrace, and Minear Drive.

Mr. James Ramaker, 942 Sandstone Drive, stated that the storm water problems began in 2017. He stated that he was told to install a cistern on his property.

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Ms. Susan Kelly, 945 Sandstone Drive, stated that she has been a resident in her current home on Sandstone Drive since 2012. She stated that their future is hanging in the balance and by allowing Lot 28 to develop is akin to a property taking. She stated that the 1995 Village ordinance would be violated. She stated that during a heavy rain event a river flows between her house and her neighbor's house. She stated that Lot 28 is not a buildable lot. She stated that if Lot 28 is developed it would decrease the value of her property.

Mr. Bill Van Pelt, 249 East Ellis Avenue, read letter to the Zoning Board of Appeals on behalf of Ellen Curry who resides at 933 Sandstone Drive. The Ellen Curry letter stated that she objects to the requested variation.

Mr. Josh Ruffner, 245 East Ellis Avenue, stated that he does not understand why it will take the Village 6 or 7 years to make the storm water management improvements to the area.

Mr. Braiman stated that he understands that there are flooding problems in the area. He stated that his client is only seeking approval for the variation. He stated that they are not proposing to develop Lot 28. He stated that by not approving the variation could be viewed as a taking of the property. He stated that any future development of Lot 28 must comply with storm water management and engineering standards.

Ms. Sandy Culver, 236 East Ellis Avenue, stated that the flooding should be fixed first before approving the requested variation. She stated that if a new home is built on Lot 28 before the flood issues are fixed it will be too late.

Ms. Barbara Shafer, via video recording, stated that there is no proof that the petitioner's request if granted won't cause harm to the neighbors. She stated that the petitioner's engineering plan is not proof and it is not fact, but only a hypothesis as to how the storm water could be managed on the subject lot. She stated that there have already been too many knock-down and rebuilding of homes further up the street on Ellis Avenue. She stated that there has been no information provided by the petitioner that acknowledges that the neighboring area is a drainage sensitive area. She stated that the grading and development of Lot 28 will be detrimental to the properties further east as they are lower in elevation. She stated that Appendix P is generic and reflects only the content of impervious area. She stated that Lot 28 mitigation requirement will still require the same detention volume regardless of the context it is within. She stated that Appendix P only reflects or regulates the content of the subject lot and does not consider the context of the surrounding area. She stated that there is a 37 foot incline from the east end of East Ellis Avenue to Milwaukee Avenue. She stated that one inch of rainfall on the sixteen foot wide Ellis Avenue would sheet down 1,200 feet will produce 1,600 cubic feet of water which is almost twice the detention volume required for Lot 28. She stated that the storm drains are already deficient in handling the storm water. She stated that there is also an intermittent stream in the woods provided that Lots 29 and 30 have not been permitted to grade it away. She stated that the engineering concept plan shows the overland flow going from southwest to northeast towards proposed inlet structures, but once they get clogged up then the overland flow will go towards Sally (Bauer's) house. She stated that the storm water will contribute to sanitary sewer overflow. She stated that past storm water problems contributed to the formation of a sink hole that required three days to repair. She stated that the grade elevation for a new house on Lot 28 will increase the force of the overland storm

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water flow. She stated that the petitioner's concept engineering plan has flaws including the proposed storm water management system indicates the use of a dry well which is misleading. She stated that the detail image on the plan is not to scale and not a genuine cross section of the area proposed for this subsurface detention system which is a 25 foot by 34 foot gravel pit which would be the largest such facility for a single family residential lot attempted in the Village of Libertyville. She stated that hiding the gravel area wrapped in a geo textile fabric under six inches of soil is not encouraging and subject to being penetrated by tree roots allowing sediment to clog it where the proposed outflow and inflow pipes are located. She stated that detention basins fail all the time if they are not properly maintained. She stated that industry specifications recommend inspections of detention facilities at least twice annually but in this case the proposed dry well does not indicate that there are any observation ports. She stated that it is unlikely that the future home owner will be able to pay to repair or replace a dry well of this magnitude if it becomes damaged or dilapidated. She stated that it will be the neighbors who will suffer the consequences from any mismanaged stormwater management attempts not the property owner of Lot 28 after they sell the property. She stated that the Zoning Board of Appeals must deny the request for the variation.

Ms. Kelly Richter stated that Lot F was not buildable but it was sold to the property owner at 939 Sandstone Drive which enabled them to extend their rear yard.

Board Member Rankin stated that he echoes the concerns of the neighbors and is not in favor of supporting the variation request.

Board Member Oakley stated that the property owner should consider waiting and work with the Village for a more appropriate storm water management plan.

Board Member Flores stated that the 40 foot side yard setback from the east side property line as recommended by Staff does not reduce the size of the lot and so the maximum permitted building or lot coverages would not change either.

Board Member Wheeler stated that he cannot identify any justification for the variation request and does not support the variation.

Board Member Pyter asked for clarification as to whether there is a wetland on the property or not. Mr. Braiman stated that this issue was never raised with them and it does not appear to be identified on the wetland maps.

Board Member Pyter asked how many homes contribute to the flooding issues in this area. Mr. Cooper stated that there is approximately 100 acres that drain naturally in this direction.

Board Member Pyter stated that Lot 28 seems like a very small percentage of the overall 100 acre area that drains towards this area.

Ms. Susan Kelly stated that there are two small sewers at the end of Ellis Avenue and they do not have the capacity to withstand the flooding caused from a rain event.

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Chairman Steffe stated that the variation request does not appear to comply with the Standards for Variation. He stated that he is not in favor of the request. He asked the petitioner if they are ready for the Zoning Board of Appeals to make their recommendation. Mr. Braiman stated that they are ready for the Zoning Board of Appeals to make their recommendation.

*In the matter of ZBA 22-05, Board Member Oakley moved, seconded by Board Member Wheeler, to recommend the Village Board of Trustees approve a variation from Zoning Code Section 26-17-5.3 in order to reduce the amount of frontage that a lot of record or zoning lot has on an improved public street from 100% to approximately 82% for property located in an R-6 Single Family Residential District, subject to the following conditions:*

1. *That no future structure or impervious surface improvements shall be located closer than 40 feet from the east side property line.*
2. *That any future development on this lot shall comply with the Village's Tree Preservation ordinance by replacing trees as required by the ordinance.*
3. *The potential for existing wetlands and any associated permits or approvals shall be addressed in accordance with Lake County Stormwater Management Commission requirements prior to permit issuance.*
4. *An engineering plan for the site shall be submitted that provides for a minimum 20-ft setback for all stormwater management system improvements, except for encroachments allowable in the determination of the Village Engineer, where such improvements are deemed beneficial for the purpose of stormwater management prior to permit issuance.*
5. *An engineering plan for the site shall be provided that includes a detention system design that provides for adequate means of observation and maintenance, in the determination of the Village Engineer prior to permit issuance.*

*Motion failed 0 - 6.*

*Ayes: None*

*Nays: Steffe, Flores, Oakley, Pyter, Rankin, Wheeler*

*Absent: Moore*

*In the matter of ZBA 22-05, Board Member Wheeler moved, seconded by Board Member Flores, to recommend the Village Board of Trustees deny a variation from Zoning Code Section 26-17-5.3 in order to reduce the amount of frontage that a lot of record or zoning lot has on an improved public street from 100% to approximately 82% for property located in an R-6 Single Family Residential District, subject to the following conditions:*

1. *That no future structure or impervious surface improvements shall be located closer than 40 feet from the east side property line.*
2. *That any future development on this lot shall comply with the Village's Tree Preservation ordinance by replacing trees as required by the ordinance.*
3. *The potential for existing wetlands and any associated permits or approvals shall be addressed in accordance with Lake County Stormwater Management Commission requirements prior to permit issuance.*

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4. *An engineering plan for the site shall be submitted that provides for a minimum 20-ft setback for all stormwater management system improvements, except for encroachments allowable in the determination of the Village Engineer, where such improvements are deemed beneficial for the purpose of stormwater management prior to permit issuance.*
5. *An engineering plan for the site shall be provided that includes a detention system design that provides for adequate means of observation and maintenance, in the determination of the Village Engineer prior to permit issuance.*

*Motion carried 6 - 0.*

*Ayes: Steffe, Flores, Oakley, Pyter, Rankin, Wheeler*  
*Nays: None*  
*Absent: Moore*

**NEW BUSINESS:**

**ZBA 22-27 AMZ Supply, Applicant**  
**410 E. Church Street**

**Request is for a variation to reduce the minimum required setback for accessory parking from 5 feet to approximately 3 feet from the east side property line for property located in the I-3 General Industrial District.**

**ZBA 22-28 AMZ Supply, Applicant**  
**410 E. Church Street**

**Request is for a variation to reduce the minimum required number of parking spaces from 23 to 18 for property located in the I-3 General Industrial District.**

Ms. Marina Snopova, introduced her requests for a Special Use Permit, Site Plan Permit and variations from the parking regulations. Ms. Snopova stated that the variations are to reduce the minimum required setback for parking and the minimum required number of parking spaces in order to occupy and space located at 410 East Church Street and operate a warehousing and distribution facility. Ms. Snopova stated that AMZ Supply is a shipping, packaging, medical and safety supplies company. She stated that operations include the warehousing and distribution of materials. She stated that they do not manufacture on site and customers do not come to the site. She stated that they have up to four (4) employees on site and have hours of operation Monday thru Friday from 8am to 6pm and Saturdays from 8am to 1pm. She stated that the distribution activity includes UPS daily pick-up/deliveries and semi-truck twice weekly pick-up/deliveries.

Ms. Snopova stated that the subject property is located at the northeast corner of East Church Street and Second Street in a single story building that has approximately 25,170 square feet in floor area. She stated that the size of the warehouse building shall require 23 parking spaces and they are able to provide 18 parking spaces and therefore shall require the approval for a variation to reduce the minimum required number of parking spaces. She stated that the restriping of the parking area places spaces approximately 3 feet from the eastern property line and the Zoning

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Code requires a minimum of five (5) feet setback for parking from all property lines. She stated that this is the second of the two parking variations they are requesting.

Mr. Tim Hart, 141 Adler Drive, stated that he is the real estate broker for both the applicant and the property owner. Mr. Hart stated that AMZ Supply is an ideal user for this particular warehouse building. He stated that this user will have a low impact on traffic in the area.

Mr. George Green, 341 Third Street, stated that he has been a Libertyville resident for 28 years. He stated that the prior tenant at 410 East Church Street was Harbor Town and their operations were 24/7 with truck traffic. He stated that Harbor Town was a substantial noise nuisance. He stated that he supports the AMZ Supply as the new tenant provided that they are not a 24/7 operation.

Mr. John Spoden, Director of Community Development, stated that Mr. Green can always call the Police Department non-emergency number to report noise nuisances.

Board Member Pyter stated that he supports the requests by the petitioner.

Board Member Wheeler asked if the building will be modified. Mr. Hart stated that other than the restriping of the parking lot and the installation of interior racks there is no other building modifications proposed.

Board Member Wheeler asked if there is any asbestos in the building. Mr. Hart stated that there is no asbestos.

Board Member Wheeler asked if the applicant is planning for company growth and if that will have an impact upon the anticipated truck traffic. Ms. Snopova stated that there will be no truck traffic increases as the trucks are scheduled by appointments and will be under AMZ Supply control.

Board Member Wheeler asked if there will be any combustible materials and if the stacking will obscure line of sight to exit signs within the building warehouse itself. Ms. Snopova stated that they will comply with all of the Fire Department and Building Code regulations.

Board Member Flores asked how trucks will maneuver on the property. Ms. Snopova stated that they will be able to pull in and back up to the truck dock area unencumbered.

Board Member Oakley asked why the applicant couldn't land bank parking spaces behind the building. Mr. Hart stated that the property owner wants to reserve that area for future development not associated with AMZ Supply.

Temporary Chairman Steffe asked the petitioner if they are ready for the Zoning Board of Appeals to make a recommendation regarding their requests. Ms. Snopova stated that they are ready for the Zoning Board of Appeals to vote and make their recommendation.

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*In the matter of ZBA 22-27, Board Member Wheeler moved, seconded by Board Member Flores, to recommend the Village Board of Trustees approve a variation to reduce the minimum required setback for accessory parking from 5 feet to approximately 3 feet from the east side property line for property located in the I-3 General Industrial District, in accordance with the plans submitted.*

*Motion carried 6 - 0.*

*Ayes: Steffe, Flores, Oakley, Pyter, Rankin, Wheeler*

*Nays: None*

*Absent: Moore*

*In the matter of ZBA 22-28, Board Member Oakley moved, seconded by Board Member Wheeler, to recommend the Village Board of Trustees approve a variation to reduce the minimum required number of parking spaces from 23 to 18 for property located in the I-3 General Industrial District, in accordance with the plans submitted.*

*Motion carried 6 - 0.*

*Ayes: Steffe, Flores, Oakley, Pyter, Rankin, Wheeler*

*Nays: None*

*Absent: Moore*

**STAFF COMMUNICATIONS AND DISCUSSION:** None.

Board Member Wheeler moved, seconded by Board Member Flores, to adjourn the meeting.

Motion carried 6 - 0.

Meeting adjourned at 8:50 p.m.