

**Village of Gurnee
Zoning Board of Appeals Minutes
April 27, 2011**

APPROVED

The meeting was called to order at 7:30 P.M.

Zoning Board Members Present: Chairman Tom Hood, Edwin Paff, Don Wilson, Jerry Kolar, Richard Twitchell

Zoning Board Members Absent: John Spadaro, Robert Monahan

Other Officials Present: Doug Stiles, Village Attorney; Tracy Velkover, Planning Manager; Molly Booth, Associate Planner

1. Approval of Joint Plan Commission & Zoning Board of Appeals Meeting Minutes for December 15, 2010. (ZBA only)

Mr. Paff made a motion, seconded by Mr. Wilson, to approve the Joint Plan Commission & Zoning Board of Appeals Meeting Minutes for December 15, 2010.

Roll Call

Ayes: Hood, Paff, Wilson, Kolar, Twitchell

Nays: None

Abstain:

Motion Carried: 5-0-0

2. Public Hearing: Variation for Screen Porch Addition (4390 Eagle Court)

Chairman Hood stated Steve and Kathy Stephany are requesting a variation to encroach into a required 30-foot rear yard setback for purposes of constructing a screen porch addition onto their existing single family residence at 4390 Eagle Ct. He stated the subject property is zoned R-3, Single Family Residence District, and is part of the Big Oaks Subdivision.

Ms. Molly Booth stated the petitioners, Steve and Kathy Stephany, are represented by their architect, Shawn Purnell. She stated they are requesting an approximate 8.95 ft. encroachment into the required 30-ft. rear yard setback for purposes of constructing of a screen porch addition at the subject property, 4390 Eagle Court. She stated the proposed is a 256 sq. ft. (16' x 16') screen porch that will be setback approximately 21.05 ft. from the rear lot line and attached to the rear of their existing 1 ½ story, single family house. She stated the single story screen porch will be constructed of a wood frame with an exterior façade of vinyl siding, cedar trim and architectural asphalt shingles that match the existing house. She stated the petitioners have also proposed a 216 sq. ft. (13'6" x 16') concrete patio attached to the west side of the screen porch; however, the patio is not part of the variance petition as the Zoning Ordinance allows open and non-enclosed patios to encroach 10-ft. into required rear yard setbacks.

Chairman Hood stated this is a Public Hearing and asked for all persons intending to testify to please stand and be sworn in by the Village Attorney.

Mr. Shawn Purnell of 1607 North Avenue in Round Lake Beach, Illinois stated he is the architect for the petitioners Steve and Kathy Stephany. He stated the petitioners are asking for a variation to the required 30 yard setback. He stated the home currently is on a shallow lot with a total of (37) thirty-seven feet to the back of the lot line which would leave the petitioners only (6) six to (7) seven feet that could realistically be used for any type of sun room or screened porch expansion attached to the house. He stated the petitioners are requesting to put in a reasonably sized screened porch attached to the house. He stated in looking over the requirements to the setback they were initially under the impression with this shallow depth lot that it only required a 8% total rear yard setback which would leave approximately (9) nine feet as a required setback rather than the (30) thirty feet. He stated as this was discussed with staff it became apparent that the lot was originally preliminarily approved prior to the Village of Gurnee adopting the (30) thirty foot rear yard setback. He stated there were several other homes with a shallow lot that received similar variations for this rear yard setback.

Mr. Purnell stated the architectural style and planning of this proposed sunroom are consistent with the neighborhood and they have several letters from surrounding neighbors that are generally in support of the project and noted that he didn't think anyone is particularly opposed to the proposed addition. He stated the closest

neighbors have written letters of support and noted that architecturally there was probably no impact of anything negative within the surrounding community.

Chairman Hood closed the floor to the public and asked for any discussion from the Zoning Board of Appeals members.

Mr. Wilson thanked the petitioners for all their work in submitting the paperwork to make their home more beautiful and noted it looks like this is a great plan.

Mr. Paff commented to Ms. Velkover that Staff is pushing for a "yes" vote on this request. He questioned why this house is any different than any of the other homes in Big Oaks Subdivision, Unit 7. He stated he did not see any difference with this being a rectangular lot. He stated he understood why variances were previously granted to other lots on the cul-de-sac due to those having a shorter depth to their lots. He stated he doesn't have a problem with this, but doesn't understand why variances will be done on each of these houses in this subdivision. He stated he would think this should be adjusted for all the homes and personally doesn't understand why people are spending money to do this. He stated if a variance will be given to this house it should be done for all of them because there is not anything that is unique about this lot. He stated another thing that he noticed is the fact that this had originally been approved for the (9) nine foot setbacks and stated every lot that has been purchased in Gurnee comes with some kind of zoning ordinance. He stated therefore, the fact that this is looking for approval for a (9) nine foot setback really doesn't have any relevance on this at all. He noted again, that he really doesn't have a problem with this other than the fact that others will be coming before the Board for each one of these when there is nothing unique about the particular lots.

Ms. Velkover stated she believes it is unique to this particular development and probably the entire phase. She stated having (100) one-hundred foot deep lots is not typical for single family residential areas in Gurnee. She stated 100 - 105 foot deep lots do not provide the depth really necessary to accommodate the current R-3 lots. She stated as the architect testified to, this was preliminarily platted under an older ordinance which at the time when this was laid out a (9) nine foot setback was in place. She stated unfortunately it was not platted until the time that a code change had taken place and presently it is now a (30) thirty foot setback. She stated she believes it is unique just to this area and traditionally there is not this depth of lots throughout town being R-2/R-3 in any of Gurnee's single family zoning districts. She stated each variance is an individual case and each would be weighed individually. She stated as Chairman Hood pointed out there are probably a number of lots within this phase of this development that could probably make a similar case for variance if the variance this evening is approved.

Mr. Paff stated under the conditions provided by Ms. Velkover every single one of them could and he didn't see any one that wouldn't make it. He stated some have more severe conditions than the lot being proposed this evening.

Mr. Wilson stated for the purpose of the rule, or the ordinance for different locations it is worthwhile holding the ordinance to that and allowing people to come before the board and ask for a variance.

Mr. Paff asked why someone should have to pay for this. He stated when the Board first gave the (18) eighteen foot setback it should have been done for every one of them. He stated if this one is going to be approved there is no reason why anyone should have to pay to come before the Board and get this approved as there is nothing unique about this lot.

Ms. Velkover stated unfortunately there is no way to go back in time. She stated she didn't know if there is a way to comprehensively adjust the setbacks for this area without doing some sort of Planned Unit Development for this area that would modify the setbacks.

Mr. Stiles stated the zoning ordinance could always be amended but there would need to be Public Hearings and go through process to have the Village Board approve it.

Mr. Wilson asked how far off the house would this be.

Mr. Paff responded (16) sixteen feet.

Mr. Wilson stated he didn't know if this could be amended to allow everyone (16) sixteen feet.

Mr. Purnell stated they would be coming off the home (16) sixteen feet and would still have at least a (20) twenty foot rear yard setback rather than the required (30) thirty feet.

Mr. Twitchell stated this would set precedence for all the other properties. He stated if precedence is set for this property then basically it is stating any other property that would come before the Board would get approved. He stated there would be no other choice and it would open the Village to legal action.

Mr. Wilson stated not every blueprint will come in the same.

Mr. Twitchell stated he believes there are also two other standards that come into play. He stated one would be (#7) the minimum adjustment necessary and questions whether (16) sixteen feet squared is a minimum adjustment or not. He asked why not (12) twelve feet squared or (10) ten feet squared and asked why it has to be (16) sixteen feet x (16) sixteen feet.

Mr. Purnell stated he didn't think this is an objective measurement of minimum and by that standard why not just (7) seven feet which is what would be allowed with the current setback. He stated that his clients do not think this is an acceptable size to be functional for their use given that the (16) sixteen feet doesn't negatively impact the surrounding properties and still maintains the (20) twenty foot setback on an extremely shallow lot. He stated they feel that this is minimal.

Mr. Twitchell stated the other standard for variation that he is looking at is (#9) that states the ordinance would deprive the applicant of any reasonable use of his land. He stated he has problem with the wording of this standard. He stated this standard would deprive anyone of getting any kind of variation, in essence because of what would define reasonable use of land. He stated on a residential property reasonable use of land is lawn or a vegetable garden. He stated he was unsure how the board could get by the 9th standard.

Mr. Wilson stated he wasn't sure that the petitioners would be playing football in their backyard at this point of their lives. He stated what would be reasonable to them would be different on a case by case basis, thus allowing people to come in and ask for variances on their own particular properties and that this would be valid.

Mr. Twitchell stated there is no definition of reasonable use of land within the ordinance and in residential property any typical use of residential land is reasonable use of the land. He stated it is not a case by case basis.

Mr. Wilson stated he believes they should look at this particular case and not necessarily the overall ordinance.

Ms. Velkover stated she believes most people would consider a reasonable use of a single family lot to be occupied by a single family home. She stated the board needs to make a decision whether the traditional typical home nowadays has certain amenities and whether a screened in porch is something that is typical and reasonable for a single family home to have. She stated in today's environment where there is the West Nile Virus it should be considered for a screened in area versus just a plain deck which could encroach into a rear yard setback and if this is something that is typically seen in single family homes.

Mr. Paff stated this is something that is fairly common but the problem is that this neighborhood it is not very common. He stated personally if he were the next door neighbor he isn't sure that he would want this because right now there is a view right through all the back yards. He stated once this screened in porch would be done there would no longer be the view as their yard is not very deep. He stated (16) sixteen feet would take down the big tree in the back yard.

Mr. Purnell stated the tree will remain as they would not be impacting any landscaping on the property.

Mr. Paff questioned if the tree in front of the door is staying and asked how this is being managed.

Mr. Purnell responded the minimum criteria for the screened porch was to preserve the tree. He stated the size and location of the screened porch was minimized so that only one limb of the tree that comes out quite far would be removed.

Mr. Paff asked if this was on the other side of the porch.

Mr. Purnell responded correct and that it is on the east side and the tree would be preserved.

Mr. Kolar asked if anything would be done with the fencing which obscures the apartments and asked if this was a three or four season room.

Mr. Purnell responded no, the fencing will not be modified and that this is just a screened in porch. He noted the screens will be somewhat opaque yet still being able to see through them noting there will not be any glass.

Ms. Booth made mention to Mr. Paff that the screened in porch will be set (26) feet from the interior sideline which meets the setback of both what the principal structure would be; noting the house could be (10) ten feet away from the property line, but this addition will be setback (26) twenty-six feet from that property line. She stated the other side is a corner side lot which is abutting a street and the rear yard is facing an existing 2-story apartment building.

Mr. Paff stated a neighbor who once was looking out able to see all the way to a street will now be looking at part of a house. He stated normally in a neighborhood the back of houses are usually all lined up providing an open back yard. He stated in this case if the neighbor on the other side builds a screened in porch it potentially would be an enclosed area if a person comes out into their backyard.

Mr. Purnell stated his client has letters of support from all the surrounding neighbors that would be impacted. He stated there would be only one neighbor that would be in a condition as Mr. Paff mentioned because on the other side is the street. He stated he has a written a letter of support from that neighbor.

Mr. Paff asked what the address is of that neighbor.

Ms. Booth stated the address is 4380 Eagle Court and that letter has been provided to the Board.

Mr. Purnell stated they have other letters of support as well.

Mr. Hood asked the Board members for any other discussion.

Mr. Twitchell stated it looks like this will be a nice project. He noted that this property backs up to a driveway and guest parking for a condominium unit and makes mention that in general he does not have a problem with this. He stated when trying to compare this to the standards that the board must legally follow that is where his difficulty comes in. He stated there are standards that they must abide by and this is a difficult situation because of this.

Mr. Purnell stated he can understand that and primarily that the justification he would put forward is that the lack of depth of this particular lot is quite unusual for the zoning that it is in. He stated obviously there was a time lapse in terms of the preliminary plat and when the plat was finalized. He stated if the plat had been finalized at the time that it was preliminarily approved then he would not be having this discussion. He stated since this was caught in kind of an odd limbo the petitioner is being held to a standard that was not really made for this shallow of a lot, and this is their primary argument.

Mr. Paff asked if this leaves this open if someone wanted to do a 2-story addition on the back of their house. He asked if that would be different enough that it could be stopped.

Ms. Booth responded there are other provisions that come into play such as Floor Area Ratio (FAR) which in this case was met as the R-3 District allows 0.35. She noted they were getting close to that amount and if it were a 2-story addition it would be very tight.

Mr. Twitchell asked if the Village Engineer has looked at this.

Ms. Booth responded not yet. She stated it is typically looked at through the building permit process and up to this point it has not been done.

Mr. Twitchell stated then there is probably not a storm water drainage issue with this additional pervious surface.

Ms. Velkover responded no, there is not.

Chairman Hood asked for a motion.

Mr. Wilson moved to forward a favorable recommendation, seconded by Mr. Kolar, to allow for the variance and that the proposed screen porch addition is limited to the size, dimensions and location as shown on the building and site plans submitted with the variation petition.

Roll Call

Ayes: Hood, Wilson, Kolar, Twitchell
Nays: Paff
Abstain: None
Motion Carried: 4-0-1

Chairman Hood asked for motion to adjourn.

Mr. Kolar made a motion to adjourn.

The Meeting was adjourned at 7:52 P.M.

Respectfully Submitted:

Joanne Havenhill
Plan Commission Secretary