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Village of Gurnee
Planning and Zoning Board Minutes
December 19, 2018

1. Call to Order and Roll Call

The meeting was called to order at 7:30 p.m.

Planning and Zoning Board Members Present: Chairman James Sula, Brian Baugh, Tim Garrity, Richard McFarlane, David Nordentoft, Edwin Paff, and Josh Pejsach

Planning and Zoning Members Absent: none

Other Officials Present: David Ziegler, Community Development Director; Tracy Velkover, Planning Manager; Clara Schopf, Associate Planner; and Bryan Winter, Village Attorney.

2. Pledge of Allegiance

3. Public Hearing: Brian & Jean Batz Variance (2195 Spruce Pointe Drive)

Brian & Jean Batz are seeking a Variance to allow a shed to encroach into the required interior side yard setback and to be located closer than five feet from the principal structure. The subject property is zoned R-3, Single-Family Residence District, and is located at 2195 Spruce Pointe Drive.

Ms. Schopf introduced the item by stating that Brian & Jean Batz are seeking a Variance to allow a shed to be located less than five feet from the principal structure and to encroach into the required interior side yard setback. The shed is located approximately 8.5 inches from the house and approximately 8-12 inches from the side lot line. The subject property is zoned R-3, Single-Family Residence District, and is located at 2195 Spruce Pointe Drive. As with all Variance petitions, the Planning and Zoning Board will make a recommendation that will be forwarded to the Village Board for their determination. The petitioner is in attendance to present his request and answer any questions the board may have.

As this was a Public Hearing, Mr. Sula asked that anyone wishing to speak on the matter be sworn in. Mr. Winter then conducted the swearing-in.

Mr. Sula asked the Petitioner if he had anything to add.

Mr. Batz explained that he operates a home based business from his house. As a locksmith, his business operates on a 24 hours a day, seven days a week, and that he is always on-call. Because of this, he needs his equipment and supplies to be in close proximity. The shed was needed to hold items for his business because there is no room in his house for them and using the garage to store them would create the inconvenience of having to constantly shuffle cars around on his driveway. In regards to the shed's exact location on his property, he explained that a substantial grade change to his backyard prevented him from placing it in back of his house, citing the inaccessibility of a smaller shed placed back there years ago, especially when there is heavy snow and icy conditions. Mr. Batz acknowledged that the shed has been there for about six years.

Mr. Sula asked if there were any questions or comments from members of the Board.

Mr. Garrity stated that he is trying to understand the hardship and asked if other such ideas had been considered for storing his business related items, such as the use of self-storage units.

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Mr. Batz replied that he already has several such units, but that what he keeps in the shed is for emergencies, and that the time it would take to travel to a self-storage unit (and find what he would need within a dark storage unit with no electrical power) would be a hindrance to the immediate service his clients expect in such emergencies.

Mr. McFarlane asked what is kept in the shed.

Mr. Batz replied that keys, locks, cameras, and various electronic units are kept in the shed.

Mr. McFarlane then asked why the shed was not placed along the bump-out of his house, noting the utility and drainage easement on the east side of his property.

Mr. Batz replied that the slope in the backyard was too steep, and that the settling snow is often head-high in the winter.

Mr. McFarlane asked if he knew the shed was located in an easement when he installed it.

Mr. Batz responded, yes and no. He stated that he had a plat of survey.

Mr. Paff, noting that the petitioner pulled several other permits for the property, asked why a permit was not pulled for the shed.

Mr. Batz replied that the shed was not a permanent structure. He noted that they poured cement for the shed in back and it was a permanent structure. The shed that is the subject of this hearing he bought at Home Depot and is constructed of plastic that was laid on top of an existing gravel pad.

Mr. Paff stated that a permit had been pulled for the fence and windows. Mr. Paff asked if this variance would have been approved had a permit been pulled for it when it was originally erected.

It was noted that a permit would not have been issued for this shed because its location does not comply with code. The owner would have either had to bring the shed into conformance or request a variance. The same considerations would have been given at that time that are being given now in respect to the variance application.

Mr. Batz asserted that the fence and windows are permanent structures, unlike the shed. His reasoning was that the shed was store-bought, and made of plastic. He did state that the shed was placed on a pad made for it.

Mr. Winter asked if the home has a basement.

Mr. Batz responded that it has a finished basement, and that he did not want to store any of the business items in the basement because he didn't want anyone "traipsing" through his house to the basement while "dirty."

As there were no more comments/questions from the Board, Mr. Sula stated that he wanted to point out a few things. First, he wanted to remind Board members that the fact that the applicant did not secure a permit prior to installing the shed is not relevant. The Board must consider whether they would be amenable to this structure regardless of whether a permit was secured or not. He also noted that he wanted to expand on Mr. Garrity's point about hardship. He stated that, from his perspective, the property is zoned residential and there aren't any hardships that relate to the property owner's ability to use the property as intended in the residential district. He noted that if the owner can run a business out of the home and still comply with all codes and ordinances, then that is fine. But if the

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operation of the business cannot operate in conformance with codes and ordinances then that does not constitute a hardship to using the property as intended by the zoning classification. Although it is a physical inconvenience for the operation of Mr. Batz's business, it does not constitute a zoning hardship, in his opinion.

Mr. Paff clarified that the reason he asked about the permit was that he was trying to determine if the Board would react any differently if this request was coming to the Board as a permit and the owner was requesting a variance. He stated that he didn't think the Board should react any differently.

Mr. Sula stated that is exactly how the Board should approach this matter.

Mr. Sula then opened the floor to the public on this matter. As there was no one in the audience, Mr. Sula closed the floor to the public. He asked if there were any more questions from Board members.

Mr. Sula asked if there were any more questions from members of the Board.

Mr. Paff asked Mr. Batz if the gate is in his neighbor's yard.

Mr. Batz stated that it is on his property, and that the fence is on the property line. Mr. Batz then questioned the assessment that the shed is eight to twelve inches from the side lot line and 8.5 inches from the house, claiming there was another two to three feet there.

Ms. Schopf explained that staff measured the separation from the house and, as for the setback from the property line, because a plat of survey showing the location of the shed on the property was not provided, staff estimated the setback based on the setback for the house, the measured width of the shed, and its separation from the house. Because the shed is setback slightly from the face of the garage and the property line flairs, an exact setback could not be provided, but the estimate should be in the ballpark.

Batz argued that the analysis is off due in part by the lot's "pie" shape.

Ms. Velkover added that the setback is an estimate, but that is it clear that the shed does not approach the required 3 foot setback.

Mr. Garrity questioned the Applicant's claim that the shed is "temporary," as it has a door, electricity, etc. He also brought up the issue of safety, questioning whether or not first responders could get to the house with the shed in that location.

Ms. Schopf and Mr. Ziegler noted that access for the fire department and other first responders is one of the reasons for the required separation from the principal structure, but clarified that it was not an issue in this particular case as the shed is located next to the garage and there is no livable space above the garage where the shed is located. The fire department has determined that they still have access to the second floor of the house without a ladder.

Mr. Batz asked if the garage is to be considered part of the primary structure.

Mr. Ziegler replied that if the garage is attached to the house, it would be. But there is no physical connection.

Mr. Baugh also asked if other employees have access to this shed.

Mr. Batz stated there is one employee who does.

Mr. Baugh stated that he agrees with Mr. Sula's opinion that a zoning hardship does not exist.

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Mr. Sula then asked if there were any more questions/comments from the Board, and stated that—if not—a motion would be in order.

Mr. Winter reminded that a motion is to be made in the affirmative, so as to make it clear that the petitioner's request has been advanced through the Board.

Several Board members discussed the fact that this is residentially zoned property and that there is no inherent right that allows a property owner to operate a home based business. Also, the operation of a business from the property that cannot meet codes and ordinances does not constitute a hardship. There are other alternatives for storing items related to the business, including off-site storage or dedicating areas interior to the house or garage.

Mr. McFarlane motioned, seconded by Mr. Garrity, to forward a favorable recommendation to the Village Board to on the petition of Brian and Jean Batz for a variance to allow a shed to be located less than five feet from the principal structure and to encroach into the required interior side yard setback.

Mr. Sula then asked if there was any discussion on the motion. As there was not, a vote was taken.

Roll Call Vote:

Ayes: none

Nays: Baugh, Garrity, McFarlane, Nordentoft, Paff, Pejsach, Sula

Abstain: none

Motion failed: 0-7-0

4. Next Meeting Date: January 16, 2019

Ms. Schopf stated that there is nothing on the agenda at this time.

5. Public Comment

There were no public comments made at this meeting

6. Adjournment

Mr. Baugh motioned, seconded by Mr. Paff, to adjourn the meeting.

Voice vote:

All "Ayes," no "Nays," none abstaining

Motion carried: 7-0-0

The meeting was adjourned at 7:50 p.m.

Respectfully Submitted,

Joann Metzger,
Recording Secretary, Planning and Zoning Board