

**VILLAGE OF RIVER FOREST
ZONING BOARD OF APPEALS MEETING MINUTES
January 9, 2020**

A meeting of the Village of River Forest Zoning Board of Appeals was held at 7:30 p.m. on Thursday, January 9, 2020 in the Community Room of the River Forest Village Hall, 400 Park Avenue, River Forest, Illinois.

I. CALL TO ORDER

The meeting was called to order at 7:30 p.m. Upon roll call, the following persons were:

Present: Chairman Frank Martin, Gerald Dombrowski, Ronald Lucchesi, Tagger O'Brien, and Michael Smetana

Absent: David Berni, Joanna Schubkegel

Also Present: Assistant Village Administrator Lisa Scheiner and Village Attorney Carmen Forte, Jr.

II. PUBLIC COMMENT

None.

III. APPROVAL OF NOVEMBER 14, 2019 ZONING BOARD OF APPEALS MEETING MINUTES

A MOTION was made by Member O'Brien and SECONDED by Member Lucchesi to approve the minutes of the November 14, 2019 Zoning Board of Appeals meeting.

Ayes: Chairman Martin, Members Dombrowski, Lucchesi, and O'Brien

Nays: None

Abstain: Member Smetana

Motion passed.

Chairman Martin stated that the next item to be considered from the agenda was the request for consideration of text amendments to the Zoning Ordinance, and then the variation request would be considered.

IV. TEXT AMENDMENT REQUEST - PUBLIC HEARING REGARDING PROPOSED TEXT AMENDMENTS TO THE VILLAGE OF RIVER FOREST ZONING ORDINANCE REGARDING BEAUTY SHOPS, PERMANENT COSMETICS, MICROBLADING, MICROPIGMENTATION AND SIMILAR CARE PERSONAL CARE SERVICES

Lisa Scheiner, Assistant Village Administrator, administered the admonition regarding the false statements ordinance and swore in all parties wishing to speak.

Chairman Martin explained that the zoning code has a chart of uses that are approved for various zoning districts and that the uses are defined in the code. He described the proposed text amendment as a request to amend to the definition of "beauty shop." He stated that the proposed text amendment will be presented by Ms. Scheiner on behalf of the Village.

Ms. Scheiner explained that there was a recent request from a citizen (Dustin Cagnina) who would like to open a beauty salon and have, as an accessory use of that salon, certain personal care services including micropigmentation. When the request came in, it was discovered at the time that the Zoning Code did not have a definition for beauty shops. For that reason, the Village felt it would be appropriate to add the definition of beauty shop to the Zoning Code. She described the proposed definition of beauty salon as a standard definition, as it relates to the beauty shop services that are currently being provided in the Village. Ms. Scheiner noted that beauty shops are currently permitted uses in the commercial zoning districts, the C1, C2, C3 and ORIC Zoning Districts.

Ms. Scheiner then addressed the specific request for micropigmentation use. She explained that micropigmentation has a variety of uses. She stated that someone who performs the service must have appropriate certifications and licenses from the state for tattooing. Micropigmentation, in the context of beauty shops, she explained, is typically used for the permanent application of cosmetics or make-up, or as part of restoration services for women who have had breast cancer and are going through different restorative procedures after the surgery.

Ms. Scheiner stated that they are proposing that permanent cosmetics, microblading, micropigmentation, and similar care services be defined and made as a permitted accessory use to beauty shops. She stated this amendment would not give someone the ability to open a stand-alone tattoo shop, as the types of services would have to occur in a beauty shop. Additionally, Ms. Scheiner noted there is language that limits the type of micropigmentation that can be done, so that tattooing would not be done in a beauty shop under the guise that it is micropigmentation. She explained that such a use would be a violation of the Zoning Ordinance and they would be able to cite and stop the services.

Ms. Scheiner summarized the proposals by stating that before the Board was a definition of beauty shop; a definition of permanent cosmetics, microblading, micropigmentation; and a proposal to modify the land use chart to list these uses as permitted accessory uses to beauty shops in the commercial zoning districts.

Public Comment with Regard to the Request

Chairman Martin asked if there were any questions. As no one came forward to speak, Chairman Martin closed the public portion of the hearing.

Discussion and Deliberation of the Request

Chairman Martin then asked if there were any safety concerns as to the procedure.

Ms. Scheiner stated that there are licenses that aestheticians, cosmeticians, and people who perform the services have to get through the State and the Health Department, and that the services are regulated in that manner.

Member Lucchesi asked if the technicians are licensed by the State.

Ms. Scheiner explained that a license from the State was required in order to perform micropigmentation, and that any aesthetician or anyone who cuts hair, or does massages or facials all have to obtain a license from the State.

Member O'Brien asked if the locations have to have certain equipment to perform the procedures.

Ms. Scheiner stated that she is certain that there is equipment that they must have relative to the services that they are providing.

Chairman Martin asked if the definition is a common definition used by other zoning codes.

Village Attorney Carmen Forte, Jr. responded that it was a common definition. He stated that it is becoming more of a common practice, and that it is a newer type of procedure for cosmetic purposes, as well as restoring an individual's appearance after a medical procedure.

Ms. Scheiner added that some different applications are for post-surgery restoration and also for those who have muscular challenges or muscular ailments who find it difficult to apply cosmetics. She stated some people choose to have the cosmetics permanently applied because they will lack motor function to be able to apply cosmetics as their disease progresses.

Member Smetana asked if there are any age limits to the procedure.

Ms. Scheiner stated that she believes that those under the age of 18 require parental consent. She mentioned that whatever the State regulations are would apply.

Chairman Martin noted that if the board recommended the procedure as an accessory use, it would still be bound by the State regulations and State laws in effect.

Ms. Scheiner stated that in her research, it stated that the minimum age is eighteen (18) for tattoos.

Chairman Martin asked if there were any other further questions. He then asked if anyone has any motions.

A MOTION was made by Member O'Brien and SECONDED by Member Lucchesi to amend the text to include the definition of beauty shop.

Ayes: Chairman Martin, Members Dombrowski, Lucchesi, O'Brien, and Smetana
Nays: None

Motion passed.

Village Attorney Carmen Forte, Jr. stated that because the Village's requests were for two separate text amendments, that they would recommend two separate votes: one for the definition of beauty shop and the second for the definition of the procedures. That way, if there is any change on the Board level that it can be delineated that they were both either approved or not approved.

Chairman Martin noted that the first vote was on the definition of beauty shop.

Village Attorney Carmen Forte, Jr. stated that the vote on the definition of beauty shop was moved and voted properly. He stated they would seek a second motion to approve the text amendment as presented to section 10-21 regarding the procedures.

A MOTION was made by Member Lucchesi and SECONDED by Member O'Brien to approve the definition of permanent cosmetics, microblading, micropigmentation, and similar care services and make such services as permitted accessory uses to beauty shops in the Village in the C1, C2, C3 and ORIC Zoning Districts.

Ayes: Chairman Martin and Members Dombrowski, Lucchesi, O'Brien, and Smetana
Nays: None

Motion passed.

V. APPOINTMENT OF CHAIR *PRO TEM*

Chairman Martin stated that the presentation for the variation request for 243 Park Avenue is to be made by Mr. Zinni. By way of disclosure, Chairman Martin stated that Mr. Zinni has been hired in the past by him and currently does work for Chairman Martin. Chairman Martin stated that although he believes he can make a fair decision on the matter before the Board, that he does not want there to be any reason that anyone could argue that the decision has been tainted due to his economic relationship with Mr. Zinni. For that reason, Chairman Martin recused himself.

Chairman Martin suggested that, because Member O'Brien is the longest-serving member of the Board, that the Board replace Chairman Martin with Member O'Brien as Chair *Pro Tem* for the remainder of the meeting.

A MOTION was made by Member Smetana and SECONDED by Member Lucchesi to appoint Ms. O'Brien as Chair *Pro Tem*.

Ayes: Members Dombrowski, Lucchesi, O'Brien, and Smetana
Nays: None
Abstain: Chairman Martin

Motion Passed.

Chairman Frank Martin left the meeting at 7:42 p.m.

VI. VARIATION REQUEST FOR 243 PARK AVENUE – LOT COVERAGE, FRONT YARD SETBACK AND SECONDARY FRONT YARD SETBACK FOR HOME ADDITION

Member Smetana stated that he did not believe there is a conflict of interest that prevented him from considering or voting on the matter, but, for the sake of transparency, disclosed that he has known the applicants, Mr. and Mrs. Plywacz, for a number of years and that his daughter and their daughter are at the same grade level at the same school and play soccer together. He stated he has no economic or business relationship with the applicants, and that he only knows them socially. For that reason, he stated he did not believe he should recuse himself from the matter.

Christopher Plywacz, one of the applicants, stated that he and his family have been living in the Village for four and a half years, and that he has been working in the Village for the last 20 years. They own a business in the Village. He stated that his family "fell in love with" the area and the house in question. He noted that the house is a "small, modest house on the corner."

Mr. Plywacz stated that they are proposing to add a second story addition to the house. He stated that it would be "straight up and with a small, modest opening on the side." He stated that they planned to make this addition as opposed to building to the side or the back of the house because their neighbors have skylights on their second floor, and they did not want to "get too close to them" where the neighbors would feel uncomfortable or their light blocked. He shared a personal anecdote that he found a historic newspaper in the wall of the home when doing prior remodeling, bearing his birthdate.

Mr. Zinni, the Architect hired for the addition to 243 Park Avenue, stated that a packet was submitted to the Board and also a notice of a hearing for a zoning variance. He stated that a correction needs to be made to the application. The application states that the applicant is requesting a variation for Section 10-8-5, which would allow the property to have lot

coverage equal to 33.8% of the lot, which is not what the applicants are requesting. He noted the property has a lot coverage of about 10% below the permitted lot coverage.

Mr. Zinni stated they are requesting variances of a front yard setback of 31 feet, 3.5 inches, and a secondary side yard setback of 3 feet, 1.5, which matches the existing footprint of the home.

Mr. Zinni explained that the property was already zoned as R2, and that it would stay at that zoning, as a single-family residence. He stated the entire variance would only be for the second floor addition, on top of an existing non-conforming residence, as a corner lot.

Mr. Zinni explained that the front yard would match the overhang, which is part of the request. However, the primary request is the secondary side yard, since it is a corner lot. He explained the Zoning Code clearly states that a 50-foot lot in River Forest needs to have a 13-foot secondary side yard setback. If the lot gets larger, it needs to be increased by the ratio. It does not address properties of less than 50-foot on a corner lot. He stated they would take the 13-foot secondary side yard setback as the standard, even though it does not address lots less than 50 feet.

Mr. Zinni explained that they were assuming a 13-foot side yard setback. He stated that Section 10-8.7 states that on secondary streets the front yard shall be a minimum of 13 feet for a 50-foot wide lot. He noted that it does not address a lot that is 42 feet wide.

Mr. Zinni directed the Board to the section in the packet which contained the site plan of the existing house. He noted that the existing house has a secondary side yard setback of 3 foot, 1.25 inches.

Mr. Zinni explained that they are proposing a second floor addition over the existing house, not to include the front porch, and a modest side entry to get the front entry away from the front of the street and bring it to the side of the house. The entry does not run up the full second floor. He said they would keep the first floor how it is except for removing some of the walls for an open plan. The purpose of the addition on the second floor is to introduce more bedrooms.

Mr. Zinni stated that they intended to keep the character of the scale of the house to the existing character and the neighborhood. He said the first story would retain its overhang with a setback roof, with the second story set back a bit with a hip roof with some dormers. The height of the project is five feet below the maximum permitted height of 35 feet.

Mr. Zinni stated that they were trying to keep the addition away from the lot line and the neighbor to the south, since the southern neighbor's house was built within three feet of the lot line. The neighbor to the south's sidewalk covers their lot line, so he is taking into account the watershed between the two properties, and trying not to adversely affect the drainage of water by maintaining a distance between the properties. He stated the neighbor to the south endorses this project.

Mr. Zinni stated they intend to retain the existing roofline around the whole house, with the addition added to the top of it. He stated that they are keeping the dormers, similar overhangs, and a similar scale.

Mr. Zinni drew attention to the fact that they received three letters of support for the project and showed said letters to the Chair *Pro Tem*.

Mr. Zinni explained that, in addition to being below the height requirement, the project is in compliance with zoning sight coverage, as it is about 10% below the maximum allowed. He stated the plan is also approximately 10% below the maximum allowed in floor area ratio. He underscored that the project is proportionately below the scale that is permitted.

Mr. Zinni stated that the physical surroundings and the conditions create a specific hardship and that the second-story addition is the best solution for the living space to meet the needs of a growing family. It also eliminates the need for additional foundation and roof work, and thus does not create an overdeveloped property with more impervious surfaces. Drainage to the neighbors has been taken into account, and they are trying not to adversely affect the neighbors in that regard.

Mr. Zinni further stated that the physical condition existed prior to the present owner: the property was there before and it is an unusually narrow site. He noted that it is a 42-foot lot rather than the standard 50-foot lot, which he said made for an unusual physical condition. He noted that there is a typo in the application, where they had stated that the lot size is 45 feet, when it is actually 42 feet. He stated this lot size is unusual.

Mr. Zinni stated that the petition is not applicable to other properties.

Mr. Zinni stated that the houses on the block are all shifted to the north, and so they all have a larger space to the south. He stated that the proposed variation respects the spatial rhythm that is set up between the different houses on the block.

Mr. Zinni further stated that the addition is not based on the desire for economic gain. Instead, the addition is based on trying to keep the character of the house while also making the house more habitable for the residents.

Mr. Zinni stated that the proposed addition will not be detrimental or injurious to the public welfare, because it is a single-family residence that will remain a single-family residence. The water service and sewage line will not be increased. He noted that the utilities will be increased modestly. Mr. Zinni stated the public utilities will not be taxed.

Mr. Zinni stated the addition will not impair the supply of air and natural light to the adjacent properties, and that the proposed plan was created specifically so as not to impair natural light to the neighbors.

Mr. Zinni stated that there are no other means to request this variance by which alleged hardship or difficulty can be avoided. He stated that there is an existing footprint, drainage situation, and adjacent properties that cannot be moved. Therefore, he believes the request for the variance is the best plan.

Mr. Zinni summarized that they are primarily requesting leniency on the secondary side yard setback, and a little bit on the front to match the existing setback, because it creates a residence that is more in keeping with the existing residence, textures, and intent of the community in that area.

Public Comment with Regard to the Request

Chair *Pro Tem* O'Brien asked if there were any questions.

Richard Schneider was sworn in. He stated that he lives at 246 Park, which is directly across the street from the house in question. He testified that he has known the family since they moved into the property and that they are the most favorite neighbors he and his family ever had. He opined that the Plywaczys bring a lot to the community and that their project would only bring value to the community and not harm it in any way.

Ms. Scheiner stated that she has a question. She noted that the application states that "although the combined side yard setback requirement probably should not apply to a corner lot, this has not been formerly codified in the Zoning Ordinance. The applicant wishes for a formal verification of this opinion." She stated they were not prepared to give an opinion on that specific matter. She noted that there was no zoning variation requested or included in the legal notice for a combined side yard setback. She asked whether a variation to the combined side yard setback would be needed, assuming those regulations apply to the property.

Mr. Zinni answered that a variation to the side yard setback would be required if the property was held to the same side yard setback standard required of an interior lot. He said right now corner lots do not adhere to that side yard setback requirement. He stated that for an interior lot, the side yard setbacks have to be 10 feet each and 25% of the total lot when added together. He said the standard does not usually apply to corner lots, but that they were trying to verify whether the lot in question will be held to that standard. He stated that Building Official Cliff Radatz requested they put the request for a formal verification into their application.

Ms. Scheiner summarized that the building official made a preliminary determination and does not believe the standard applies to corner lots and, for that reason, no variation for the combined side yard setback was requested nor included in the legal notice. She stated that if a public hearing was needed that they would have to come back to the Zoning Board of Appeals and go through the process again, so as to provide some clarification before the matter goes to the Village Board.

Village Attorney Carmen Forte, Jr. stated that, based on the Building Official's recommendation, and based off previous hearings for similar requests for variances of corner lots, he did not believe the variance request for the side yard setback would be needed.

Village Attorney Carmen Forte, Jr. stated that the applicant was correct in that there was no request for a lot coverage variation.

Ms. Scheiner stated that it was a mistake in the legal notice and that it does not nullify the legal notice.

Village Attorney Carmen Forte, Jr. concurred, stating that so long as nothing is missing from the legal notice, there is no issue.

Village Attorney Carmen Forte, Jr. summarized the requested motion for a recommendation to approve a variance or a variation to Section 10-8-7 to allow a front yard setback of 31 feet, 3.5 inches, and a secondary front yard setback of 3 feet, 1.25 inches.

Member Smetama noticed that the eaves were indicated to be a different distance on the variation. He asked if it was excluded from the secondary setback requirement.

Village Attorney Carmen Forte, Jr. replied that the vote is for the wall line itself, and that there is always an allowance for the eaves.

Chair *Pro Tem* O'Brien asked how close the proposed new entry was to the south side lot line.

Mr. Zinni responded that it was 5 foot, 2.75 inch from the property line.

Chair *Pro Tem* O'Brien noted there were no other comments or questions forthcoming and closed the public hearing.

Discussion and Deliberation of the Request

Ms. Scheiner explained that this means the public can stay but that there would be no further testimony taken.

Member Lucchesi stated that he thought the plan was a good one and fits with the neighborhood and existing house. He thought it was reasonable and stated his vote would be for the plan.

Member Smetana noted that almost half the existing house is setback, and that there were similar other instances where there were slight variations of setbacks when the plan was to build up. He noted the property is next to the street.

Chair *Pro Tem* O'Brien noted that this has come up before in variations where additions are to be made to a non-conforming location, and that the lot being a forty-two (42) feet in width lot makes it even tighter. She stated that there are many corner lots that are built toward one street, and that it is not unique to a corner lot.

Member Dombrowski stated that the proposed variance covers the existing footprint of the building and that it looks like a nice addition. He did not see any reason not to vote for the proposed variance.

A MOTION was made by Member Lucchesi and SECONDED by Member Dombrowski to recommend that the variations be granted.

Ayes: Members Dombrowski, Lucchesi, and Smetana.
Nays: Chair *Pro Tem* O'Brien

Motion Failed.

Lisa Scheiner, Assistant Village Administrator for the Village of River Forest, explained that the vote was 3 to 1. She explained that means that, without four votes in favor of approval, the case will go to the Village Board as a recommendation not to grant the variation. The Zoning Board of Appeals will meet again in February and adopt their findings of fact, which is a written document that memorializes the recommendation that they are making to the Village Board. She explained that the recommendation would go to the Village Board at their second meeting in February. She stated she will follow up with Mr. Zinni as to meeting dates and times.

Ms. Scheiner explained that the Village Board has the ability to modify or amend the recommendation, but that it is going to them as a vote of 3-to-1 and not four votes, and it is therefore not in favor of the proposal.

Mr. Plywacz noted that there were two board members missing and one recused.

Ms. Scheiner stated that they could ask the Village Board to remand the case back to the Zoning Board for a public hearing to reopen the case for a time when there are additional members present.

Ms. Plywacz asked for clarification on the basis for Chair *Pro Tem* n O'Brien's vote for nay.

Chair *Pro Tem* O'Brien replied that she did not believe Standards 1, 3, and 8 have been met.

Ms. Scheiner stated that she did not have anything else for the Board.

VII. ADJOURNMENT

A MOTION was made by Member Lucchesi and SECONDED by Member Dombrowski to adjourn the meeting at 8:12 p.m.

Ayes: Chair *Pro Tem* O'Brien, Members Dombrowski, Lucchesi, and Smetana.
Nays: None
Nays: None

Motion passed.

Respectfully Submitted:



Lisa Scheiner, Secretary



Frank Martin, Chairman
Zoning Board of Appeals

Date: 3/12/2020