

**VILLAGE OF RIVER FOREST
ZONING BOARD OF APPEALS MEETING MINUTES
March 14, 2019**

A meeting of the Village of River Forest Zoning Board of Appeals was held at 7:30 p.m. on Thursday, March 14, 2019 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, Members David Berni, Gerald Dombrowski, Ronald Lucchesi, Tagger O'Brien, and Joanna Schubkegel
Absent: Member Michael Smetana
Also Present: Secretary Clifford Radatz, Village Administrator Eric Palm, Village Attorney Michael Marrs

II. APPROVAL OF FEBRUARY 14, 2019 ZONING BOARD OF APPEALS MEETING MINUTES

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

Ayes: Members O'Brien, Dombrowski, Schubkegel, and Chairman Martin
Nays: None.
Motion passed.

III. APPROVAL OF FINDINGS OF FACT FOR THE VARIATION REQUESTED FOR 1427 JACKSON AVENUE

A MOTION was made by Member O'Brien and SECONDED by Member Schubkegel to approve the Findings of Fact and recommendation regarding the Lot Coverage variation related to a garage at 1427 Jackson Avenue

Ayes: Members O'Brien, Dombrowski, Schubkegel, and Chairman Martin
Nays: None.
Motion passed.

IV. VARIATION REQUEST FOR 559 ASHLAND AVENUE – SIDE YARD SETBACK AND HEIGHT OF AN ACCESSORY STRUCTURE

Chairman Martin announced that the next matter on the agenda were two variations requested for 559 Ashland Avenue.

Secretary Radatz swore in all parties wishing to speak.

Paul Harding, owner of the property at 559 Ashland Avenue, presented the variations requested for the construction of a detached garage in the rear yard of the property, which include the encroachment of the roof eave into the required setback from the south property line by a variable distance from 0 (zero) up to 1'-0", and to increase the maximum height up to 20 feet.

Mr. Harding explained that the existing home on the property is the E. Arthur Davenport House, the first Prairie School home designed by Frank Lloyd Wright in the Chicago area; and that the home is of national historic significance.

Mr. Harding stated that the proposed garage is designed to be compatible with the aesthetic of the house, with broad roof overhangs. He noted that there is a large existing tree at the northeast corner of the property that conflicts with the location of the garage. Even with the use of a special foundation design to avoid damage to the root system of the tree, the proposed garage cannot be moved any further north, leaving a small tapered encroachment of the roof eave into the south side yard setback.

Mr. Harding continued that the objective is to maintain the fidelity of the design of the garage to that of the house, duplicating the roof pitch. Mr. Harding noted that since the Zoning ordinance requires building height to be measured from the elevation of the public walk, and that there is a general slope in the Village downwards toward the Des Plaines River, properties on the east side of north-south streets are at a natural disadvantage. He also noted that the neighbor to the east had improved their property by raising the grade of their rear yard, resulting in water being trapped in his rear yard. As a result, he must raise the elevation of the garage slab to keep it above the flood level. Mr. Harding noted that his proposed improvements for the garage project includes a dry well to retain rainwater on site. All of which push the height of the roof ridge of the proposed garage above the 18 foot building height allowed by the Zoning ordinance for accessory buildings.

Mr. Harding noted that the hardship of complying to the strict requirements of the Zoning ordinance is that the garage could not be constructed with a design that is complementary to the historic Davenport House.

Chairman Martin asked Secretary Radatz to explain the requested variations to the Board, which he did.

Chairman Martin asked for clarification as to which of the variations currently requested was the same as the variation requested in 2016. Secretary Radatz stated that it was the variation for relief

from the side yard setback requirement. Chairman Martin asked if the current submission for the Side Yard Setback variation was different in any way from the request that had been previously reviewed and acted upon by the Village Board. Secretary Radatz stated that there was no difference between the current and previous requested variation.

Chairman Martin asked the applicant why the variation for the height of the garage had not been requested with the earlier application. Mr. Harding stated that it was an unusual practice to regulate the height of buildings at the rear of the lot by elevation of the public walk and that it had been an oversight on his part. Chairman Martin asked what the height of the building was relative to the grade immediately adjacent to the proposed garage. Mr. Harding indicated that it was 18'-7½".

Chairman Martin and Mr. Harding discussed the hardship of not constructing a garage which was faithful to the design considerations of a house with national historic significance.

Daniel Lauber, resident at 7215 Oak Avenue, spoke in favor of proposed variations. Mr. Lauber stated that he was a friend of the previous owners of this house, he was familiar with the house and the extreme efforts of the previous owners to maintain its architectural integrity. He stated that his opinion was that it was incumbent upon the Village to allow these variations to maintain the architectural integrity. He noted that the hardship to the Village would be the loss of architectural integrity for a historic home of national significance if the variations were not granted. Further, he did not see any negative effects on the neighboring properties if the variations are granted.

The public portion of the hearing was closed.

Member David Berni expressed support for the variations citing the need to maintain the integrity of a Frank Lloyd Wright property and the requested variations are minimal.

A MOTION was made by Member Dombrowski and SECONDED by Member Berni to recommend to the Village Board of Trustees that the requests for the variation to the Side Yard setback and to the Building Height requirements for the proposed detached garage be granted.

Chairman Martin asked if there was any discussion regarding the matter.

Chairman Martin called the motion.

Ayes: Members Berni, Dombrowski, Lucchesi, O'Brien, Schubkegel, and Chairman Martin (citing the testimony of Mr. Lauber in regard to the hardship).
Nays: None.

Chairman Martin announced that the Zoning Board has voted 6 to 0 in favor of the motion to recommend the variations be granted by the Village Board.

V. TEXT AMENDMENTS TO THE ZONING ORDINANCE

Chairman Martin announced that the next matter on the Agenda was the Text Amendments which had been proposed by the Village Board. He asked that the case for all of the amendments be presented together and that the Zoning Board would discuss and vote on the proposed amendments separately.

Village Administrator Eric Palm presented an overview of the proposed text amendments.

The first text amendment presented was for an addition of language to the standard for Planned Development in section 10-19-3 (K) which will add accessibility for persons with disabilities as a consideration for approval. The proposed amendment stems from the concern of the Village Board that in a recent application for an amendment to the Planned Development at Concordia University Chicago, the applicant did not take an additional step to make the improvement more accommodating for individuals with disabilities. Rather than increase the requirements of Federal and State disability codes, the Board believes that this addition to the standards for review is a more expedient approach.

The second text amendment is to add Child Daycare Center to the Land Use Chart of section 10-21-3, Appendix A, and to designate Child Daycare Center as a Special Use in the PRI Zoning District. Mosaic Montessori School, which operates out of a leased space at the River Forest United Methodist Church, has approached the Village about expanding their operation to operate a Daycare facility within their present school. Currently, the Zoning ordinance defines Child Daycare Center, but does not allow the use. After discussions with the Village Attorney and the Village Board, it was suggested that Child Daycare Center should be allowed as a Special Use, but not as a Permitted Use. There is a concern with the implications for traffic during pick-up and drop-off times that warrants additional review of a proposed facility. Further, the use should be focused, and only allowed for consideration in the PRI District.

The final proposed text amendment concerns Side Yard setbacks, and the allowance for additions to walls of existing buildings which maintain non-conforming side yard setbacks. Mr. Palm summarized the history of side yard requirements in the Village and the last time the matter was reviewed in 2012. The current regulation allows walls maintaining a non-conforming side yard to be extended horizontally for 20 feet, but does not allow that wall to be increased in height. Since the last review, requests for variations to increase the height of non-conforming walls continue to be filed; therefore, the Village Board has asked for the matter to be revisited. Additionally, there is a proposed change to allow the continuation of a non-conforming roof eave as of right. For the record, Mr. Palm read the proposed changes to the text. Chairman Martin clarified that this proposed change would allow a wall with a non-conforming setback to be increased in height to the maximum building height allowed in the Zoning District, as of right, and without any notice. Mr. Palm concurred with the Chairman's assessment.

Mr. John Houseal, resident and Planning Consultant for the Village, reviewed the proposed text amendments.

Mr. Houseal agrees with the Village Board's approach for the modification of the standard for Planned Development to address concerns about accessibility. This approach allows the Development Review Board and the Village Board to ask the applicant questions regarding accessibility, and the applicant will need to answer carefully and thoughtfully in order to gain approval.

Mr. Houseal stated that he also supports the change to the Land Use Chart to allow Child Daycare Center as a Special Use in the PRI Zoning District. He noted that although this change is for the propose of allowing one user to apply for this use in one location, it will allow anyone to apply for this use in any other location in the PRI District. He noted that there are a variety of activities which occur in the PRI District, and that Child Daycare Center is compatible as an accessory to other uses within that district. Further, the additional review required by for a Special Use permit is right approach.

Mr. Houseal noted that this is the third time that the requirements for side yard setbacks have been reviewed in the 20 years that he has been a resident of the Village. He reviewed the various iterations of this requirement. Currently the ordinance allows a wall maintaining a non-conforming setback to be extended horizontally for 20 feet, but does not allow the wall to be increased in height. Mr. Houseal indicated that he had reviewed the requirements for similar Villages. He found the following:

- Oak Park allows non-conforming walls to be extended horizontally and vertically.
- Riverside allows non-conforming walls to be extended vertically, but not horizontally.
- Evanston and Glen Ellyn do not allow non-conforming walls to be extended either horizontally or vertically without a Zoning Variation.

Next, Mr. Houseal reviewed the history of the variations requested in River Forest. In the last 10 years, 12 variations had been requested to increase the height of a wall with a non-conforming side yard setback. Mr. Houseal did not feel that this number of requests was a burden to the Village. Of those 12 variations requested, 11 had been approved. It seems that the applicants have been able to make a compelling case in most instances to obtain the requested variation.

Mr. Houseal explored the concept of "fair certainty", where a resident has a fair idea of what can be done with his property, and also what can be done with a neighboring property. Mr. Houseal notes that variety of ways that this issue is regulated in other communities lends credence to the idea that there is no right or wrong way to do it. The relatively low frequency of requests is not a burden to the variation process and it provides an important safeguard to the neighbors. For the above reasons, Mr. Houseal does not support the proposed change to the side yard setback requirement.

Member Berni expressed his opposition to the proposed change to the side yard setback regulation.

Dan Lauber, 7215 Oak Avenue, addressed the Board as a professional Planner. He noted that one of the purposes of the Zoning Ordinance is to protect the neighbors. He does not think it is remotely fair that the extension of a wall with a non-conforming setback should

be inflicted on a neighbor without a review process. Mr. Lauber then quoted extensively from the Findings of Fact from the review of this regulation in 2012, noting that there was no contradicting testimony. He concluded that just as there was no evidence was presented 7 years ago to justify this change, and no evidence has been supported now. He further recommended “fact-based zoning”, where the neighbors adjacent to properties which are granted a variation are surveyed after construction is completed to determine what the impact of the variation has been. Mr. Lauber also commented that the number of variation requests was not burdensome. Mr. Lauber does not favor a change to the side yard setback regulations.

Tim Beckman, 550 Thatcher Avenue, stated his support for the proposed change to the Land Use Chart to include Child Daycare Center as a Special Use in the PRI District.

Susan Veazie, 517 Keystone Avenue, stated her support for the proposed change to the Land Use Chart to include Child Daycare Center as a Special Use in the PRI District.

Maria Carandang-Ramos, director of Mosaic Montessori school, expressed her support for the proposed change to the Land Use Chart to include Child Daycare Center as a Special Use in the PRI District.

Shaun Krueger, 346 Park Avenue, indicated that he was in favor of protecting the interest of the neighbors. Mr. Krueger suggested that the regulation should allow either a vertical extension of a non-conforming wall, or a horizontal extension, but not both. Also, he disputes the contention that prospective residents actually consider the Zoning regulations when they move into a community.

Mr. Palm commented that the change in the setback requirement from 3 feet to 5 feet is not much of a concern when a new home is being built, but the challenges faced when adding onto an existing home are considerable. Further, he noted that 12 variation requests in the last 10 years may not be a high frequency in an absolute sense, but it is a large percentage of the requests in River Forest, which does not have a high frequency of requests in total.

Chairman Martin asked Mr. Palm if he thinks that the zoning variation process was “overly time consuming”. Mr. Palm stated that it was not “overly time consuming”, but that it is time consuming and that there is an expense to it. Chairman Martin asked if the \$650 application fee was a big expense compared to the cost of construction for a second floor addition. Chairman Martin noted that the cost is probably less than 1% of the cost of the typical project.

Mr. Houseal reviewed the history of the change in the setback requirement from 3 feet to 5 feet, noting that in that time house sizes were growing unrestrained. Also, the previous 3-foot setback was measured at the closest point of the building to the property line, typically the roof eave; therefore, the walls of the house needed to move further away from the property line to achieve the desired architectural style. He opined that it is impossible to write a zoning ordinance that works for 100% of the properties. The writes of zoning ordinances assume that the standard will work for 90% to 95% of the properties. The

Zoning variation process is available for the 5% to 10% of the properties where the zoning standards don't work, and relief is granted where it is appropriate.

Member Berni asked Mr. Houseal if the regulation in Riverside, which allowed vertical extension of the non-conforming wall but not horizontal extension, worked better than the current regulation in River Forest. Mr. Houseal stated that it was a matter of personal preference, but he believes that River Forest's regulation is better.

Chairman Martin asked Mr. Houseal if he thought that the Zoning Variation process discourages re-investment in properties. Mr. Houseal stated that he did not think so.

The public portion of the hearing was closed.

Member O'Brien expressed support for the proposed change to section 10-19-3 (K). Chairman Martin expressed concern that the term "disabilities" is not defined and it may result in delays to the Planned Development process. Village Attorney Marrs stated that there were various definitions of disability in state and federal law which could be referenced if the issue is ever raised.

A MOTION was made by Member O'Brien and SECONDED by Member Schubkegel to recommend to the Village Board of Trustees that the section 10-19-3 (K) be amended to read "The design of the proposed use or combination of uses promotes a safe and comfortable environment for pedestrians and individuals with disabilities".

Chairman Martin asked if there was any discussion regarding the matter.

Chairman Martin called the motion.

Ayes: Members Berni, Dombrowski, Lucchesi, O'Brien, Schubkegel, and Chairman Martin
Nays: None.

Chairman Martin announced that the Zoning Board has voted 6 to 0 in favor of the motion to recommend that the Village Board adopt of the proposed text amendment to section 10-19-3 (K).

A MOTION was made by Member Lucchesi and SECONDED by Member Berni to recommend to the Village Board of Trustees that the section 10-21-3, Appendix A be amended to add Child Daycare Center and to establish it as a Special Use in the PRI Zoning District.

Chairman Martin called the motion.

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

Nays: None.

Chairman Martin announced that the Zoning Board has voted 6 to 0 in favor of the motion to recommend that the Village Board amend the Land Use Chart by adding Child Daycare Center and to establish it as a Special Use in the PRI Zoning District.

A MOTION was made by Member Berni and SECONDED by Member Lucchesi to recommend to the Village Board of Trustees that the section 10-8-7 (C) (2) (a) be amended to read: "Eaves: The eaves of a structure shall be required to maintain a minimum three-foot side yard setback. The eave of an addition, where the eave of the existing structure does not meet this standard, may be constructed with a side yard equal to the existing nonconforming side yard of that eave."

Chairman Martin called the motion.

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

Nays: None.

Chairman Martin announced that the Zoning Board has voted 6 to 0 in favor of the motion to recommend that the Village Board adopt of the proposed text amendment to section 10-8-7 (C) (2) (a).

A MOTION was made by Member O'Brien and SECONDED by Member Lucchesi to recommend to the Village Board of Trustees that the proposed amendment to section 10-8-7 (C) (2) (b), to allow the wall of a building which maintains a non-conforming side yard setback to be increased in height, should NOT be adopted.

Chairman Martin called the motion.

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

Nays: None.

Chairman Martin announced that the Zoning Board has voted 6 to 0 in favor of the motion to recommend to the Village Board that the proposed text amendment to section 10-8-7 (C) (2) (b) should NOT be adopted.

VI. PUBLIC COMMENT

None.

VII. ADJOURNMENT

A MOTION was made by Member Berni and SECONDED by Member O'Brien to adjourn the meeting at 9:05 p.m.


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

Nays: None.

Motion passed.

Respectfully Submitted:


Clifford Radatz, Secretary


Frank Martin, Chairman
Zoning Board of Appeals

Date: 4/11/2019