

MINUTES OF THE FEBRUARY 7, 2012 REGULAR MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF OAK BROOK APPROVED AS WRITTEN ON MARCH 6, 2012

1. CALL TO ORDER: CALL TO ORDER

The Meeting of the Zoning Board of Appeals was called to order by Chairman Champ Davis in the Samuel E. Dean Board Room of the Butler Government Center at 7:02 p.m.

2. ROLL CALL: ROLL CALL

Gail Polanek called the roll with the following persons

PRESENT: Chairman Champ Davis, Members Jeffrey Bulin, Natalie Cappetta, Baker Nimry, Steven Young and Wayne Ziemer.

ABSENT: Member Alfred Savino

IN ATTENDANCE: Mark Moy, Trustee and Robert Kallien, Jr., Director of Community Development

3. APPROVAL OF MINUTES: MINUTES

REGULAR ZONING BOARD OF APPEALS MEETING OF AUGUST 2, 2011

Motion by Member Young, seconded by Member Ziemer to approve the minutes of the August 2, 2011 Regular Zoning Board of Appeals meeting as written. VOICE VOTE: Motion carried.

4. UNFINISHED BUSINESS UNFINISHED BUSINESS

There was no unfinished business to discuss.

5. NEW BUSINESS NEW BUSINESS

- A. ZIESEMER – 94 BREAKENRIDGE FARM – VARIATION – SIDE YARD SETBACK ZIESEMER – 94 BREAKENRIDGE FARM ROAD - VARIATION

Chairman Davis swore in those that testified at this hearing.

Ben Ziesemer, 94 Breakenridge Farm said that during the permit process while applying to add a sunroom onto their home (onto an existing patio), they found

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out that there was a setback issue. The home was constructed in 1948 and is legal nonconforming because it currently encroaches about 26 feet into the required 30 foot side yard setback. The sunroom is position in a way that it will encroach about 6 feet into the 30 foot required setback. They tried to find another location to build the sunroom, but it doesn't work anywhere else due to the layout of the home. The impact would be very minor and only one neighbor may possibly see the sunroom once it has been completed. The sunroom is approximately 13 feet by 11 feet.

Chairman Davis asked if the sunroom would cover the patio.

Mr. Ziesemer responded that it would extend about 3 feet past the patio due to the style of the structure.

Chairman Davis questioned if the owner had given them permission to seek the variation, since they are the tenants.

Mr. Ziesemer responded that a letter had been submitted giving them authorization and support to pursue the variation requested.

Chairman Davis said that one of the significant standards questioned the uniqueness of their circumstances.

Mr. Ziesemer said the uniqueness is that a substantial encroachment exists on the property. The purpose of the sunroom is due to health concerns since they need to eat raw food. They grow sprouts and wheat grass for their own consumption and there isn't a good place in the house to do that.

Chairman Davis noted that relative to the existing substantial encroachment the request is minor.

Mr. Ziesemer responded to the Variation Standards as follows:

1. a. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.

RESPONSE: He said that this standard did not apply to his situation.

1. b. The plight of the owner is due to unique circumstances.

RESPONSE: The status of the property is currently legal nonconforming and a 26-foot encroachment already exists for the residence.

1. c. The variation, if granted, will not alter the essential character of the



locality.

RESPONSE: The construction of the sunroom would not alter the character of the locality. The sunroom is small and would encroach approximately 6 feet into the 30 foot required setback and it will be constructed on an existing patio. There is only one neighbor that may possible see the sunroom because between their patio and the neighbor there is a substantial stand of trees. During the spring and summer they cannot be seen at all. In the winter there is some visibility through the trees, but it faces the neighbor's garage.

Chairman Davis asked if there had ever been any complaints.

Mr. Ziesemer responded no, that they have had a very good relationship with the neighbors and that they had allowed them to grow a little garden, which was on the neighbor's property.

No one in the audience spoke in support of or in opposition to the request.

Member Cappetta noted that there wasn't a letter from the homeowner's association regarding the request.

Gail Polanek, Community Development Administrative Technician said that Breakenridge Farm did not have an architectural review committee, but noted that one call was received from Alex McClement, 82 Breakenridge Farm (his rear yard abuts the side yard of the applicant's property). A copy of the materials and a picture of the proposed sunroom and the plat of survey showing the location of the sunroom were sent to him. He said that he thought that the existing driveway encroached upon his property, but said that it had always been there. He did not voice any objections when he called and he never called back. Letters were sent to all the homeowner association presidents.

Mr. Ziesemer noted that there is an informal homeowners association and that Terry O'Malley is the President and was aware of the request. Mr. O'Malley called him today and he did not mention any concerns.

Member Cappetta questioned whether the DuPage County Forest Preserve had been sent notice.

Gail Polanek responded that a notice was sent.

Member Young asked if it was going to be used as a formal greenhouse.

Mr. Ziesemer responded that they are going to use it as a sunroom with seating,

but along the windows there will be shelves for growing plants.

Member Young questioned whether any reflection from light from the sunroom would shine onto a neighbor's home.

Director of Community Development Kallien responded that in that area it is very difficult if not impossible to see from one property to the other due to the significant vegetation. He was not concerned that the sunroom would cause a problem.

Chairman Davis noted that the standards had been sufficiently addressed to recommend approval and there were submitted in writing on page C of the case file. The plight of the petitioner is unique and testimony was given that the addition would not alter the surrounding neighborhood.

Member Nimry questioned that the request is for the new construction and has nothing to do with the prior encroachment.

Chairman Davis responded that was not being considered at this hearing. Member Cappetta asked why this property was considered legal nonconforming.

Director of Community Development Kallien responded that the use is residential; the nonconformity is the setback and was built prior to the zoning regulations that were adopted in 1966. There are situations like this in the Village that predates the zoning regulations. If the house were ever destroyed beyond 50 percent it would have to be brought into conformance with the setback or seek a variation to construct it as it was.

Motion by Member Bulin, seconded by Member Young to recommend approval of requested variation to allow the construction of the sunroom, subject to the following conditions:

1. That the proposed addition shall be constructed in substantial conformation to the approved plans.
2. Notwithstanding the attached exhibits the applicant shall meet all Village Ordinance requirements at the time of building permit application except as specifically varied or waived.

ROLL CALL VOTE:

Ayes: 5 – Members Bulin, Cappetta, Nimry, Young, Ziemer and Chairman Davis

Nays: 0

Absent: 1 – Member Savino. Motion carried.



6. OTHER BUSINESS

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There was no other business to discuss

7. ADJOURNMENT:

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Motion by Member Young, seconded by Member Nimry to adjourn the meeting at 7:24 p.m. VOICE VOTE: Motion carried

ATTEST:

/s/ Robert Kallien, Jr.

Robert Kallien Jr.

Director of Community Development

Secretary