

ZONING BOARD OF APPEALS/PLAN COMMISSION

MEETING MINUTES

Thursday, November 21, 2019, at 7:30 PM  
Village Hall, 1 N. Prospect Avenue, Clarendon Hills, Illinois

I. **CALL TO ORDER.** Chairman Kuhn called the Zoning Board of Appeals/Plan Commission meeting to order at 7:30 pm.

II. **ROLL CALL.**

Present: Chairman Greg Kuhn, Martha Kanter, Karin Hanke, and Andriy Striltschuk

Absent: Tom Szurgot and Jeff Keiner

Others Present: Community Development Director Dan Ungerleider

III. **APPROVAL OF MINUTES.**

- a. **October 17, 2019** – Ms. Hanke noted that the motion to adjourn referenced her as a “Mr.” Mr. Ungerleider apologized. Ms. Hanke made a motion, seconded by Mr. Striltschuk, to approve the minutes from the ZBA/PC meeting held on October 17, 2019, as corrected. The motion unanimously passed by a voice vote.

IV. **NEW BUSINESS.** None

V. **OLD BUSINESS.**

**Case No 492 / 108 Eastern Avenue – Building Coverage Variation.** Chairman Kuhn introduced the case, opened the public hearing, and asked Mr. Ungerleider to summarize the Staff Report. Mr. Ungerleider confirmed that notice was posted, mailed and published for this case. He presented a for a variation request from Section 20.4.3 of the Zoning Regulations to increase the maximum building coverage from 1,521 square feet to 1,726 square feet for an accessory structure (deck) to be constructed at 108 Eastern Avenue. He explained that the owner recently renovated the existing home on the property. During renovation of the home, the project architect, Jason Thakor of Michael Abraham Architecture, and the property owner, Tim Thompson, identified that both the house and the property were considered legal-nonconforming, and by ordinance could only be improved subject to 1) no alteration could increase any non-conformities; 2) alterations had to be limited value and in scope; and 3) alterations had to comply with current building, safety and stormwater requirements. Upon completion of his home, Mr. Thompson began to install a wood deck between the house and the detached garage without first receiving a building permit. The proposed deck, considered a structure as defined by the zoning regulations, placed the property 256 square feet above the maximum lot coverage for a property of this size. Mr. As a result, the petitioner is now seeking a variation to increase the maximum building coverage to accommodate the new deck.

Mr. Ungerleider explained the differences in regulation of maximum impervious service and maximum building coverage on a single-family lot. By design, the recent home improvements complied with both standards, and in fact, left enough room to accommodate another 257 square feet of impervious service. Instead of installing a solid, impervious patio behind the home, the petitioner is proposing a raised wood deck. By definition, decks are considered structures and are therefore included when calculating building coverage, rather than impervious surface. As a result, the deck placed the property 205 sf above the maximum building standards for a lot of this size.

Mr. Ungerleider explained that one of the reasons the village has lot coverage standards is to set aside land for open space and absorption of stormwater. Under the provisions of the village stormwater management regulations,

the village can set conditions and collect fees in-lieu of providing small stormwater collection systems. The Village Engineering has reviewed the proposed raised deck and recommended the following conditions be put in place if the variation is approved.:

1. The ground beneath the new deck shall be maintained as a pervious surface to mitigate the impact of additional stormwater runoff.
2. Prior to the issuance of a building permit, the petitioner shall pay a fee in lieu of the installation of \$760.50, or \$0.50 per sf of new impervious surface from the renovation project (1,268 sf) and the proposed deck (253 sf).

Mr. Ungerleider concluded that the proposed and continued use of the subject property is consistent with the comprehensive plan designation for the property. He offered a set of findings of fact that could be used to support the petitioner's request.

Chairman Kuhn swore in the petitioner and anyone planning to speak during the remainder of the public hearing. Mr. Jason Thakor of Michael Abraham Architecture (148 Burlington Ave, Clarendon Hills) representing the owner, the project architect representing the owner of the property, introduced himself. He reviewed the exhibits provided with the petitioner's application. He first presented the plat and site plans illustrating the existing conditions of the home and property and reviewed the non-conforming conditions of the property. He also noted that the proposed wood deck is placed between the house and the detached garage, matching the first floor of the home. He reviewed the negative results of providing an impervious patio vs. a pervious wood deck.

Mr. Thakor reviewed the standards for variations in that the proposed variation and the deck will not alter the character of the neighborhood.

Ms. Kanter asked if the deck had been included in the original permit documents for the renovation project. Mr. Thakor confirmed that the deck had not been included but had been in mind when considering the original project. Ms. Hanke asked how the grass under the deck would be maintained. Mr. Thakor explained that the 3 ft clearance below the deck would allow the area to be mowed. Ms. Kasper asked if the Village would monitor the area under the deck to ensure long term compliance. Mr. Ungerleider explained the Village, by ordinance, can inspect this area on a bi-annual basis.

Chairman Kuhn asked if the petitioner concurred with the content of the staff report and the copy of the application included in the agenda packet. Mr. Thakor answered in the affirmative.

Mike VanZandt, 88 Park Avenue, noted that the notice referred to a shed, not a deck. Mr. Ungerleider agreed that the mailed notice incorrectly noted that the structure was a shed, but otherwise correctly described the variation request. The notice published in the newspaper correctly indicated the improvement as a deck. Mr. VanZandt asked if the space above the garage, being a conditioned space, was included in the FAR for the property. Mr. Ungerleider answered in the affirmative. Mr. VanZandt concluded that the deck should have been included in the original application; his justification is not a hardship, but rather a convenience.

Chairman Kuhn closed the public hearing portion of the meeting.

Ms. Hanke expressed that the home is beautiful and sees no problem with the deck as proposed.

Ms. Kanter agreed that the home is beautiful. She explained that the nature of the subject property presents challenges that are so unique to this property that approving the variation for the deck would not set a precedent.

Mr. Striltschuk asked Staff to explain the origin of the fee-in-lieu. Mr. Ungerleider explained that the Village stormwater management ordinance allows the Village to collect a fee-in-lieu of stormwater detention. In accordance with this ordinance, anytime impervious surface is increased by more than 300 square feet, the property must provide on-site stormwater detention, ie drywell, rain garden, etc. If this isn't reasonably possible,

the Village Engineer can require a fee-in-lieu of this provision. This alternative was applied to this case. Mr. Thakor noted that the property owner voluntarily provided stormwater detention as part of his original renovation project in the form of a dry-well.

Chairman Kuhn revised the proposed finding #1 to note that the petitioner "is able to provide a level surface for recreation behind their home." He expressed that he agreed with many of the comments voiced, including Mr. VanZandt's comments, and that these concerns had been adequately addressed. Whether or not the deck was initially conceived during the renovation project is relevant and should be noted. The main issue is that the property is a legal nonconforming lot, having a lot size substantially below village standards. It would be difficult to make this a usable property under the provisions of the ordinance. The degree of the variation is reasonable.

Chairman Kuhn noted that any additional requests for variation for this property would be strongly discouraged.

Ms. Hanke made a motion, seconded by Mr. Striltschuk, to APPROVE the request for a variation from Section 20.4.3 of the Zoning Regulations to increase the maximum building coverage from 1,521 square feet to 1,726 square feet for an accessory structure (deck) to be constructed at 108 Eastern Avenue based on the Findings of Fact and subject to the Conditions, as follows:

**Findings of Fact.**

1. The strict application of the terms of this Ordinance will result in undue hardship unless the specific relief requested is granted. **By building a raised deck, instead of an at-grade patio, the petitioner is able to provide a level surface for recreation behind their home.**
2. The particular physical surroundings, shape, or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out. **The subject property does not comply with the standard minimum lot size and dimension standards set for lots in the R-1 Single Family Residential District.**
3. The plight of the owner is due to unique circumstances inherent to the subject property and not from the personal situation of the owner and has not been created by any person presently having a proprietary interest in the property in question. **The lot is unique in size and shape, a condition that was not caused by the current owner of the property.**
4. The variation requested represents the least deviation from the applicable regulation needed. **The proposed deck is minimal in size and in keeping with the character of the development of the property.**
5. The variation will not materially:
  - a. Impair an adequate supply of light and air on adjacent properties;
  - b. Increase the hazard from fire and other public safety dangers;
  - c. Diminish the value of adjacent property;
  - d. Impede the flow of traffic or create traffic hazards in the public streets; and
  - e. Otherwise impair the public health, safety, comfort, morals or general welfare.

**Conditions:**

1. The ground beneath the new deck shall be maintained as a pervious surface to mitigate the impact of additional stormwater runoff.
2. Prior to the issuance of a building permit, the petitioner shall pay a fee in lieu of the installation of \$760.50, or \$0.50 per sf of new impervious surface from the renovation project (1,268 sf) and the proposed deck (253 sf).

There was no further discussion. The motion passed by a vote of 5-0.

Mr. Tim Thompson thanked the ZBA/PC and informed them that he and his wife have adopted Clarendon Hills, and have made this one-bedroom house their retirement home. Mr. Kuhn thanked him for his comments.

VII. **COMMENTS FROM THE AUDIENCE. None.**

Chairman Kuhn noted that there were many students in the audience attending for a high school civics class. He encouraged them to participate and get involved with their local government. He thanked them for their attendance.

VIII. **DISCUSSION ITEMS.**

Ms. Hanke asked what the status was with the barbershop on S Prospect Avenue. Mr. Ungerleider explained that he was attempting to assist them with finding a location having appropriate zoning for a barbershop.

Mr. Ungerleider explained that there are several cases scheduled for the December 19, 2019 meeting, including a conditional use for a whiskey distillery, a plat of subdivision, and a text amendment. Mr. Ungerleider promised hot cider and honey for during the December meeting.

Mr. Ungerleider announced that on Tuesday, November 26, 2019, at 7:00 p.m., the Village will be holding a public meeting relative to the Village's intent to proceed with designating a Redevelopment Project Area and preparing a Redevelopment Plan, for the proposed Downtown Tax Increment Financing District. All are welcome.

The Christmas Walk will be on December 6.

Invitations to the Train Station Groundbreaking will be distributed soon.

IX. **ADJOURNMENT.** A motion was made by Ms. Hanke and seconded by Ms. Hanke to adjourn the meeting at 8:24pm. The motion passed unanimously by a voice vote.

Respectfully Submitted,



Dan Ungerleider, Community Development Director