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**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING
April 19, 2017**

1. CALL TO ORDER

Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, April 19, 2017 at 6:33 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

2. ROLL CALL

Present: Members Marc Connelly, Gary Moberly, Joseph Alesia, John Podliska and Chairman Bob Neiman

Absent: Members Kathryn Engel and Keith Giltner

Also Present: Director of Community Development/Building Commissioner Robb McGinnis and Village Clerk Christine Bruton

3. APPROVAL OF MINUTES

a) **Regular meeting of March 15, 2017**

Corrections were made to the draft minutes. Member Connelly moved to **approve the minutes of the regular meeting of March 15, 2017, as amended.** Member Alesia seconded the motion.

AYES: Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

NAYS: None

ABSTAIN: None

ABSENT: Members Engel and Giltner

Motion carried.

4. APPROVAL OF FINAL DECISION

a) **V-01-17, 26 East Sixth Street**

b) Corrections were made to the final decision. Member Podliska moved to **approve the final decision for V-01-17, 26 East Sixth Street, as amended.** Member Alesia seconded the motion.

AYES: Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

NAYS: None

ABSTAIN: None

ABSENT: Members Engel and Giltner

Motion carried.

1 **5. RECEIPT OF APPEARANCES** - All persons intending to speak during the
2 public hearing were sworn in by the court reporter.
3

4 **6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO**
5 **MAKE PUBLIC COMMENT OF A GENERAL NATURE** – None
6

7 **7. PRE-HEARING AND AGENDA SETTING**

8 a) **V-05-17, 117 South Clay Street**

9 Mr. Paul Fichter, property owner, addressed the Board on behalf of he and
10 his wife, stating they are seeking a variation from the minimum side yard
11 setback requirement to preserve a detached garage. He added that they
12 are asking for forgiveness not permission. He explained that their new
13 garage is 4.6' feet from the south property line, instead of the required 6.1'
14 feet. He explained that when the concrete was poured, the contractor
15 measured from the fence, not the property line. In addition, the contractor
16 did not do the spot survey, and he and his wife were unaware of the
17 requirement to do so. Member Moberly asked if the survey indicated that
18 the fence was not on the lot line. Mr. Fichter said he thought it did.
19 Director of Community Development Robb McGinnis added that if the
20 garage company, Danley's Garage World, had called for the spot survey, it
21 would have been turned around in a day.

22 Chairman Neiman stated he has sympathy for the homeowners, but not for
23 Danley's Garage World, and it may be that some of the criteria for approval
24 might be difficult to meet. He stated if the Zoning Board grants retro-active
25 variances, we would encourage people to do this, on the other hand it is an
26 absurdity to deny the request causing the garage to be torn down and
27 rebuilt inches from where it is now.

28 Mr. Dave Krecek, from Danley's Garage World, addressed the Board. He
29 said he is partly to blame. There is a signed letter of agreement with the
30 Village that calls out the spot survey requirement; unfortunately the
31 concrete foreman didn't read the letter. He said the company goofed, and
32 the mistake was caught at the final inspection. He is hoping for a good
33 outcome, and added mistakes happen, but it doesn't make sense to rip
34 down a garage that cost \$30,000 to build, and a year to get permits
35 because of the flood zone.

36 Mr. Fichter added that the neighbors have all been notified, and Mr. Krecek
37 said this will never happen again.

38 Chairman Neiman set the public hearing for the next meeting of the Zoning
39 Board of Appeals.
40

41 **8. PUBLIC HEARINGS**

42 a) **V-04-17, 435 Woodside** (*Item taken out of order*)

43 Chairman Neiman opened the public hearing; he explained that the
44 applicant missed the mailing and has asked that the hearing to be
45 continued. The Board agreed to postpone the hearing.

46 Member Podliska moved **to close the public hearing for V-04-17, 435**
47 **Woodside**. Member Alesia seconded the motion.

1 **AYES:** Members Connelly, Moberly, Alesia, Podliska and Chairman
2 Neiman
3 **NAYS:** None
4 **ABSTAIN:** None
5 **ABSENT:** Members Engel and Giltner

6
7 Motion carried.

8
9 b) **V-02-17, 724 North York Road** (Hinsdale Animal Hospital)

10 Chairman Neiman opened the public hearing. Mr. Jason Sanderson from
11 RWE Management Company, and Dr. Tony Kremer, owner of Hinsdale
12 Animal Hospital, addressed the Board. Mr. Sanderson explained that their
13 architect, Mr. Mike Mathys, is ill and unable to attend tonight's meeting.

14 Chairman Neiman inquired regarding evidence of a contingency agreement
15 to purchase the property. Last month, he was told this information would
16 be provided. Mr. Sanderson said he would get that information to the
17 Board tomorrow. Chairman Neiman said he is concerned because he does
18 not want the Board to rule on a matter that is hypothetical in nature. Mr.
19 Sanderson assured him Dr. Kremer is heavily vested in this project and
20 absolutely committed. He distributed new exhibits prepared by Mr. Mathys.
21 Regarding the setback of the building, he explained the original intention
22 was to save a portion of the building. Although the building is not in the
23 best shape, they would keep two walls and maintain the existing location of
24 the building. They met with the Village Board, and feedback was they
25 would prefer a new building. As a result, there is a front yard setback
26 issue. The Village Board also asked that the building provide some
27 architectural interest. It was noted that if the new building were moved to
28 the original setback, potential parking would be eliminated, and a variance
29 for parking would be required.

30 Mr. Sanderson stated they are seeking variances for building height from
31 25' to 30', front yard setback, maximum Floor Area Ratio (FAR), parking
32 setback in the required front yard, and the landscape buffer. Chairman
33 Neiman noted that FAR and landscape buffer variations are
34 recommendations to the Village Board only.

35 Mr. Sanderson discussed the height variation request. This is for the
36 entrance tower, which is 35' feet tall instead of the allowed 30" feet. He
37 confirmed it is an architectural detail only and serves no other function. Dr.
38 Kremer noted the original proposal was for a 37' foot tower, however, at the
39 recommendation of the Village Board it was reduced. The other matter
40 relevant to this variation request is that several years ago the current owner
41 successfully had the property rezoned from the O-2 district which allows for
42 40' foot building height. The current surrounding area to this property
43 remains O-2. The arched windows are a design element to match the
44 details found in the overlay district. Mr. McGinnis confirmed that these
45 details will be reviewed by the Plan Commission. Mr. Sanderson reviewed
46 the criteria for approval with respect to the height request. He noted that
47 there are other taller buildings in the area, and speculates that future

1 development in this area will push the height to the maximum for financial
2 reasons.

3 The second request is for front yard setback relief from the required 25"
4 feet to 15" feet. The existing building is 15.38" feet from the property line.
5 The proposed setback allows them to maximize parking. He addressed
6 each of the approval criteria. He noted the new building footprint is slightly
7 smaller than the old building. Mr. Sanderson explained that parking is
8 really important to the business, and the safety of the dogs.

9 The third request is for FAR relief from the required .40 to .35, which is less
10 than the maximum .50 in the surrounding area. Mr. Sanderson addressed
11 each of the criteria for approval. Chairman Neiman asked about sound-
12 proofing for the neighbors. Mr. Sanderson outlined the steps taken to
13 ensure noise containment. It was noted the closest residents at the new
14 location are further away than at the current location, and there have been
15 no noise complaints from neighbors.

16 The fourth request is to allow parking in the required front yard, which will
17 result in a reduction of the setback from the required 25' feet to 15' feet.
18 The approval criteria is the same as for the front yard setback relief.

19 The fifth request is to eliminate the required 10' foot landscape buffer to
20 allow for parking. Mr. Sanderson reviewed the criteria, making note of the
21 oddly shaped property. It is difficult to obtain the required parking and still
22 allow for appropriate sized spaces and drive aisles. He reported a traffic
23 study had been done, and there are no expected problems. He explained
24 they are open a lot of hours and business traffic is spread out over a 13
25 hour period. Saturday and Sunday are the peak business hours, and this
26 eliminates any rush hour concerns. Dr. Kremer added 44 spaces are
27 required, this proposal will provide for 45 spaces; employee parking is in
28 the back.

29
30 Member Podliska moved to **close the public hearing for V-02-17, 724**
31 **North York Road**. Member Moberly seconded the motion.

32
33 **AYES:** Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

34 **NAYS:** None

35 **ABSTAIN:** None

36 **ABSENT:** Members Engel and Giltner

37
38 Motion carried.

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41 **DELIBERATIONS**

42
43 The Board elected to address each of the five variation requests individually.

44 #1 - Building height

45 Chairman Neiman began discussion stating his only major concern is the height
46 request because it is merely an architectural element. He is concerned when any
47 application comes forward for five variances; but on the other hand, the Village

1 Board wasn't wrong with the increased height, it looks very nice. Member
2 Moberly confirmed the Village Board asked Dr. Kremer to 'dress up' the building,
3 which was the impetus for the architectural element. Mr. McGinnis provided his
4 recollection of the reasons for the map amendment that changed this parcel from
5 O2 to B2.

6 Member Moberly moved **to approve the request for the height variation, from**
7 **30' feet to 35' feet, a 5' foot increase.** Member Connelly seconded the motion.

8
9 **AYES:** Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

10 **NAYS:** None

11 **ABSTAIN:** None

12 **ABSENT:** Members Engel and Giltner

13
14 Motion carried.

15
16 #2 - Front yard setback

17 Member Podliska recommended the building be shifted by two feet, so that the
18 variation request is reduced. Discussion followed regarding the possible impact
19 to the architectural feature; however, Mr. McGinnis confirmed that the building
20 can be shifted by two feet and still maintain this element. Member Podliska also
21 asserted that this would be a benefit in terms of parking lot safety, providing more
22 turning space at the corner of the building. He also believes this is a way to
23 minimize the degree to which we are deviated from the code requirement without
24 doing harm to the applicant. The Board concurred this is a reasonable
25 compromise.

26 Member Podliska moved to approve the front yard setback variance from 25' feet
27 to 17' feet, an 8' foot decrease. Member Alesia seconded the motion.

28
29 **AYES:** Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

30 **NAYS:** None

31 **ABSTAIN:** None

32 **ABSENT:** Members Engel and Giltner

33
34 Motion carried.

35
36 #3 Floor Area Ratio (FAR)

37 Chairman Neiman reminded the Board this is a recommendation to the Village
38 Board only. This is a variation request for an increase in the allowable FAR from
39 .35 to .40. The Board had no issues with this request, particularly since the
40 requested FAR is still less than the allowable in the surrounding O2 district.

41 Member Moberly moved **to recommend approval to the Village Board of the**
42 **requested increase in FAR from .35 to .40.** Member Alesia seconded the
43 motion.

44
45 **AYES:** Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

46 **NAYS:** None

47 **ABSTAIN:** None

1 **ABSENT:** Members Engel and Giltner

2
3 Motion carried.

4
5 #4 - Parking in required front yard

6 Chairman Neiman began discussion restating the request to reduce the required
7 setback from 25' feet to 15' feet to match building setback variations. He said he
8 has no issue with this request, as it makes sense given the other buildings in the
9 area. Mr. McGinnis clarified this request is strictly to allow parking in the required
10 front yard, so regardless of whether the building is moved back two feet, there are
11 still cars parking in the required front yard. Member Connelly moved **to approve**
12 **the variation request to reduce the parking lot setback in the front yard from**
13 **25' feet to 15' feet.** Member Moberly seconded the motion.

14
15 **AYES:** Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

16 **NAYS:** None

17 **ABSTAIN:** None

18 **ABSENT:** Members Engel and Giltner

19
20 Motion carried.

21
22 #5 – Landscape buffer relief

23 Chairman Neiman noted the landscape buffer variation request is a
24 recommendation to the Village Board only, not ZBA approval. The applicant is
25 asking that the required 10' foot landscape buffer be eliminated to accommodate
26 the odd shaped lot and allow for a double-loaded parking aisle to run the back of
27 the property. It seems to be the only solution to get cars in and out of the parking
28 lot.

29 Member Alesia asked about the mechanics for assuring the purchase contingency
30 documents are provided. The Board agreed that these variation approvals and
31 recommendations do not need to be contingent upon receipt. There is sworn
32 testimony from the applicant on this issue. If for any reason the ZBA does not
33 receive confirmation of contingency, and the sworn testimony is false, appropriate
34 action can be taken at the next meeting of the Zoning Board.

35 Member Connelly moved **to recommend approval to the Village Board of the**
36 **requested elimination of the 10' foot required landscape buffer.** Member
37 Alesia seconded the motion.

38
39 **AYES:** Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

40 **NAYS:** None

41 **ABSTAIN:** None

42 **ABSENT:** Members Engel and Giltner

43
44 Motion carried.

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1 c) **V-03-17, 100 South Garfield Avenue** (Hinsdale Middle School)

2 Chairman Neiman opened the public hearing. Mr. Brian Kronewitter and
3 Mr. Paul Wiese, representing the middle school, and Village Manager
4 Kathleen A. Gargano and Assistant Village Manager/Director of Public
5 Safety Brad Bloom, representing the Village, approached the podium.

6 Ms. Gargano began stating the Village is co-applicant with the Middle
7 School for the construction of a parking deck at 100 S. Garfield in
8 conjunction with the Middle School reconstruction. Following feedback
9 from the ZBA at the prehearing last month, there is a letter dated March
10 28th which describes the attempts made by the architect to reduce the
11 variation request. She assured the Board that every attempt was made to
12 be reasonable and conservative in the requests to complete this project.

13
14 Mr. Brian Kronewitter, architect, and Mr. Paul Wiese, civil engineer,
15 provided the Board with a verbal summary of the specific requests and
16 modifications before the Board in their application. Chairman Neiman
17 asked that they review each request individually.

18 The first request is for relief from Section 7-310(C)(1) to reduce the front
19 yard setback from 35' feet to 15' feet in order to maximize the size of the
20 deck for school and adjacent business district parking. The proposed deck
21 will allow for the maximum number of spaces in the limited area available.

22 The second request is for a reduction to the side yard setback, and as
23 noted in the amendment, this was adjusted from 0' feet to 7' feet when the
24 building was moved to the south. This allowed the parking deck to move,
25 too, but still only allows 7' feet. It was confirmed that students have use of
26 the green space across the street.

27 The third request, which is a recommendation to the Village Board only, is
28 to increase the floor area ratio (FAR) from the allowable .50 to .74. This is
29 a result of the fact that a parking deck is treated as a building. With
30 respect to the approving criteria, Mr. Kronewitter summarized stating the
31 site is limited, and Washington Street bisects the school property. If this
32 were not the case, no FAR relief would be required. This is not self-created
33 as the unique physical condition of the property is an existing condition.
34 Given the unique physical conditions of the site, carrying out the strict letter
35 of the provision would deny the substantial rights of the Village to develop
36 the parking deck to address the needs of the school and the community.
37 This is not a special privilege, and the variation would not result in use or
38 development of the site that is not in harmony with the purposes of this
39 provision. The variation sought would not result in use of the site that
40 would be materially detrimental to the public welfare, or the use or value of
41 properties in the vicinity. There is no other remedy; the deck is designed to
42 meet the needs of the school and the business district.

43 The fourth request is for relief from 7-330(E)(11) to allow an accessory
44 structure to occupy more than 30% of the required interior side yard. The
45 original request was for 71%, but has been reduced to 53% due to the fact
46 that the building has been moved to the south. This is better, but they still
47 cannot meet the 30% requirement.

1 The fifth request is to permit off-street parking in the required front yard.
2 This is the same request as that which was granted for the middle school in
3 order to meet the number of required parking spaces.

4 The sixth request is a recommendation to the Village Board to reduce the
5 minimum landscape buffer from 10' feet to 5' feet along the Second Street
6 alley. Mr. Kronewitter reviewed the approval criteria. The unique physical
7 condition of the site creates constraints that led to the location of the deck
8 and the school. This is not self-created due to the unique physical
9 condition and the limits of the site. Without the variance, the Village and
10 school district would be denied their substantial right to develop the school
11 and parking deck to meet the needs of the community. This is not a special
12 privilege, merely the rights of other homeowners in similarly zoned lots.
13 The development of this site will be in harmony with the purpose of this
14 provision, and will not result in use or development of the site that would be
15 detrimental to the public welfare or injurious to the enjoyment, use,
16 development or value of properties in the vicinity. There is no other remedy
17 or alternate location for this development.

18
19 Member Moberly moved to **close the public hearing for V-03-17, 100**
20 **South Garfield Avenue.** Member Connelly seconded the motion.

21
22 **AYES:** Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

23 **NAYS:** None

24 **ABSTAIN:** None

25 **ABSENT:** Members Engel and Giltner

26
27 Motion carried.
28
29

30 **DELIBERATIONS**

31
32 Chairman Neiman began discussion stating it is his sense that the Board is in
33 agreement with the six variation requests of the applicant, and if there are no
34 objections, perhaps the Board could approve the four variances as one motion,
35 and another motion to approve the two recommendations to the Village Board.
36 He polled the Board regarding any objections to the variations. Member Podliska
37 had no concerns, and commented that the FAR is a unique situation due to the
38 Washington Street bisection of the property. Member Alesia and Moberly are
39 satisfied; Member Moberly commented he was happy the landscape buffer was
40 slightly larger than previously presented. Member Connelly said his only concern
41 was the interior yard setback, it was clarified the Board would be granting the
42 right to occupy more than 30% of the interior yard, and that the Zoning Board has
43 final authority for that request. No other concerns were raised.

44 Member Alesia moved to **approve a variation for a reduction to the front yard**
45 **setback under Section 7-310(C)(1), a reduction in the side yard setback**
46 **under Section 7-310(C)(2), to allow the structure to occupy more than 30% of**
47 **the required interior side yard under Section 7-310(E)(11)(b), and to permit**

1 **off-street parking in the required front yard under Section 9-104(G)(2)(b).**
2 Member Connelly seconded the motion.

3
4 **AYES:** Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

5 **NAYS:** None

6 **ABSTAIN:** None

7 **ABSENT:** Members Engel and Giltner

8
9 Motion carried

10
11 Member Podliska moved to **recommend to the Village Board of Trustees that**
12 **they approve the variation requests for an increase in floor area ratio (FAR)**
13 **and a decrease to the landscape buffer, for reasons set forth by the**
14 **applicant.** Member Connelly seconded the motion.

15
16 **AYES:** Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

17 **NAYS:** None

18 **ABSTAIN:** None

19 **ABSENT:** Members Engel and Giltner

20
21 Motion carried

22
23 **9. NEW BUSINESS – None**

24
25 **10. OTHER BUSINESS – None**

26
27 **11. ADJOURNMENT**

28 With no further business before the Zoning Board of Appeals, Member
29 Connelly made a motion to **adjourn the meeting of the Zoning Board of**
30 **Appeals of April 19, 2017.** Member Alesia seconded the motion.

31
32 **AYES:** Members Connelly, Moberly, Alesia, Podliska and Chairman Neiman

33 **NAYS:** None

34 **ABSTAIN:** None

35 **ABSENT:** Members Giltner and Engel

36
37 Motion carried.

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39
40 Chairman Neiman declared the meeting adjourned at 8:22 p.m.

41
42
43 _____
44 Christine M. Bruton
45 Village Clerk

Approved: _____