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**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING
December 20, 2017**

1. CALL TO ORDER

Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, December 20, 2017 at 6:33 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

2. ROLL CALL

Present: Members Gary Moberly, Keith Giltner, Joseph Alesia, Kathryn Engel and Chairman Bob Neiman

Absent: Members Marc Connelly and John Podliska

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

3. APPROVAL OF MINUTES

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

There were no changes or corrections to the draft minutes. Member Moberly moved to **approve the draft minutes of November 15, 2017, as presented.** Member Engel seconded the motion.

AYES: Members Moberly, Giltner, Alesia and Engel and Chairman Neiman

NAYS: None

ABSTAIN: None

ABSENT: Members Connelly and Podliska

Motion carried.

4. APPROVAL OF FINAL DECISION

a) **V-07-17, 640 Mills Street**

There were no changes or corrections to the Findings of Fact and recommendation to the Village Board. Member Engel moved to **approve the Final Decision for V-07-17, 640 Mills Street, as presented.** Member Giltner seconded the motion.

AYES: Members Moberly, Giltner, Alesia and Engel and Chairman Neiman

NAYS: None

ABSTAIN: None

ABSENT: Members Connelly and Podliska

Motion carried.

b) **V-08-17, 348 Canterbury Court**

There were no changes or corrections to the draft final decision. Member

1 Engel moved to **approve the draft final decision for V-08-17, 348**
2 **Canterbury Court, as presented.** Member Giltner seconded the motion.
3

4 **AYES:** Members Moberly, Giltner, Alesia and Engel and Chairman Neiman

5 **NAYS:** None

6 **ABSTAIN:** None

7 **ABSENT:** Members Connelly and Podliska

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9 Motion carried.

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12 **5. RECEIPT OF APPEARANCES** – The court reporter administered the oath to
13 those intending to speak at the public hearing.

14
15 **6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE**
16 **PUBLIC COMMENT OF A GENERAL NATURE** - None

17
18 **7. PRE-HEARING AND AGENDA SETTING**

19 a) **APP-03-17, 504 S. Oak Street & 422 S. Oak Street**

20 Mr. Bob O'Donnell, attorney representing the applicant and Ms. Susan
21 Overbey representing the property owners and Bayitt Builders, addressed the
22 Board.

23 Mr. O'Donnell began stating this is an appeal of the Village Manager's zoning
24 decision that this is not a single zoning lot. He contends that it is, having
25 been used as such for more than 25 years, and because he believes it is a
26 single zoning lot as defined in the code. Therefore, he concludes only a
27 single family home can be constructed on those properties. The definition he
28 is relying on states 'a tract of land consisting of one or more lots of
29 record...and occupied by a principle building and its accessory buildings' is
30 one lot. The 504 S. Oak Street property contains a building that is an
31 accessory to the 422 S. Oak Street single family home. It is a coach house
32 with an apartment. Under the zoning code, the use of the property as
33 accessory is what can and does create a single zoning lot. Mr. McGinnis's
34 memo establishes the 504 S. Oak Street use was accessory; the owner of the
35 property at 422 Oak used the 504 Oak property for an accessory structure.
36 Mr. O'Donnell directed the Board to look at the photographs; 422 S. Oak has
37 a house, 504 S. Oak has a garage. They share a motor court, they share a
38 sidewalk. There is a walkway from the swimming pool to the sport court. This
39 matter was presented to the Village in 1993, the then Assistant Village
40 Manager agreed with this position. Irrespective of pin numbers or tax bills, he
41 correctly analyzed how the properties are used.

42 Chairman Neiman added that the 1993 drawings were amended to maintain
43 the owner's ability to treat the property as two zoning lots.

44 Ms. Susan Overbey, representing the owners of the property, believes this
45 interpretation can lead to an absurd result. If an owner owns two properties
46 next door to each other and used one property as a closet, and one as living
47 space, that doesn't turn the properties into a single zoning lot. When the then

1 owner submitted plans, and asked if he could make changes to 504 S. Oak to
2 be a garage and a recreation room, and could this then at some future time
3 be sold as a separate lot, the Village responded it could not. Therefore, he
4 didn't do that, but submitted a different plan. Although these properties had
5 been sold together over the years, they maintained their separate status.
6 When her client bought the two lots, they thought they had two lots. The
7 coach house maintains all the features of a single family home. Mr. Girsch's
8 intention in 1994 was to maintain this status, and her client should not now be
9 punished.

10 Chairman Neiman commented that since this matter turns on how the
11 property was used, he suggested affidavits or sworn testimony be provided
12 from the owners as to how they used the property.

13 Mr. Dugan, applicant, addressed the Board stating his is the home to the
14 south of the subject properties; and faces the Bayitt Builder's property. He
15 stated when he purchased his home in 2009, he was told the Oak Street
16 property was one property. He is concerned for his property value and quality
17 of life.

18 Ms. Overbey explained the existing 'accessory' structure is over 2,000 sq.
19 feet and has a four car garage; the proposed new building is larger, but not
20 that much. The house at 422 S. Oak will remain, the single family home
21 proposed for 504 S. Oak would require no variances. Ms. Overbey clarified
22 that in 1993 Mr. Girsch wanted to tear down and rebuild, the Village said that
23 was ok, but that will make the properties one zoning lot. He resubmitted
24 different plans which included a kitchenette, a bedroom and separate living
25 area. The Village approved them as single family residences. They used it
26 as a separate place to stay, paid separate taxes and utilities. The property
27 has been conveyed together since that time.

28 Chairman Neiman reminded all parties that any further submissions to the
29 Zoning Board should comply with the ZBA rules. There is no obligation to
30 provide a submission.

31 Member Moberly asked Mr. McGinnis what the Village's position is today and
32 why. Mr. McGinnis said the Village position is they are two zoning lots, based
33 on the plans that were approved in 1994, wherein the owner tried to maintain
34 the characteristics of a dwelling lot. He added that if this happened today, the
35 Village would require consolidation.

36 The public hearing was set for the next scheduled meeting of the Zoning
37 Board of Appeals on January 17, 2018.

38 39 **8. PUBLIC HEARINGS**

40 **a) V-09-17, 15 East Fifth Street**

41 Mr. Peter Coules, attorney representing the applicant, began stating there are
42 five houses on this side of the street and the property was purchased from a
43 bank sale. He provided a Google Earth document that illustrates the
44 seclusion of the subject property and added the house cannot be seen from
45 the street at all. The zoning relief requested is to reduce the front yard
46 setback for this property from the required 39.5' feet to 28' feet, which is the
47 setback of the other homes on this street. The neighbors had asked that

1 there not be a garage at the front of the property; the proposed plans do not
2 have that feature. The neighbors, Ms. Zavickas and Mr. Cohen are pleased
3 with the new plans, and that concern is gone.

4 Chairman Neiman asked Mr. Coules to review the criteria necessary for
5 approval for the record. Mr. Coules stated the hardship in this case is the
6 location of the current home. People don't want new houses in their
7 backyards, and moving it forward on the lot will allow enjoyment of all the
8 homes on the roadway. He confirmed that this reduction in the front yard
9 setback will bring the home parallel with the neighbors on both sides. The
10 block will be uniform, other than the Victorian home on the corner lot. The
11 character of the neighborhood will remain the same; there will be no other
12 variances on the house, other than the setback. Area traffic will not be
13 increased; one single family home is being replaced with another. He
14 believes everyone wants the existing house taken down; there has been
15 illegal activity in house since it has been vacant. The unique physical
16 condition of the lot, which is unusually long, means this is not self-created.
17 To deny the variance, which would line the home up with the others in the
18 neighborhood, would deny the owner their substantial rights. This is not
19 special privilege, they are asking for nothing different than everyone else in
20 the neighborhood enjoys. This variance will not alter the essential character
21 of the neighborhood, does not impair light, there are no safety issues or
22 increased potential of flooding, this is still a huge lot with a smaller house.
23 Finally, there will be no additional taxing of public utilities.

24 Member Alesia moved to **close the public hearing for V-09-17, 15 East**
25 **Fifth Street.** Member Moberly seconded the motion.

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27 **AYES:** Members Moberly, Giltner, Alesia and Engel and Chairman Neiman

28 **NAYS:** None

29 **ABSTAIN:** None

30 **ABSENT:** Members Connelly and Podliska

31
32 Motion carried.

33 34 **DELIBERATIONS**

35
36 Member Engel began deliberations stating that she believes the applicant has
37 met the criteria necessary for approval. She added that she has driven by the
38 property and the house can't be seen; this variation makes logical sense.
39 Member Alesia commented a new home on the property would be an
40 improvement. Members Moberly, Giltner and Chairman Neiman agreed the
41 criteria for approval had been met.

42 Member Engel moved to **approve the variation know as V-09-17, 15 East Fifth**
43 **Street.** Member Giltner seconded the motion.

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45 **AYES:** Members Moberly, Giltner, Alesia and Engel and Chairman Neiman

46 **NAYS:** None

47 **ABSTAIN:** None

1 **ABSENT:** Members Connelly and Podliska

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3 Motion carried.

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6 **9. NEW BUSINESS**

7 a) **Consideration of a recommendation of a text amendment to the Village**
8 **Board of Trustees regarding zoning lots and legal non-conforming lots**
9 **of record**

10 Chairman Neiman introduced the item stating he talked with Mr. McGinnis
11 prior to the meeting and it strikes him it would be helpful to review the matter
12 in detail and to invite the village attorney assist. He added the Zoning Board
13 is comprised of volunteers, and that staff has the expertise in this area, as
14 there are public policy implications associated with this matter.

15 Mr. McGinnis explained staff does not have a recommendation at this time,
16 but pointed out there have been inconsistent outcomes in the last few years
17 which tie back to definitions in the code. Staff is struggling with the number of
18 cases of late. He, too, is concerned about unintended consequences.

19 Member Moberly commented the simpler and cleaner the code, the better.

20
21 **10. OLD BUSINESS – None**

22
23 **11. ADJOURNMENT**

24 With no further business before the Zoning Board of Appeals, Member Giltner
25 made a motion to **adjourn the meeting of the Zoning Board of Appeals of**
26 **December 20, 2017.** Member Engel seconded the motion. Voice vote taken, all
27 in favor, motion carried.

28
29 Chairman Neiman declared the meeting adjourned at 7:50 p.m.

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32 _____
33 Christine M. Bruton
34 Village Clerk

Approved: _____