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**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING
November 15, 2017**

1. CALL TO ORDER

Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, November 15, 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, John Podliska and Chairman Bob Neiman

Absent: Marc Connelly

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

3. APPROVAL OF MINUTES

a) **Regular meeting of September 20, 2017**

There were no changes or corrections to the draft minutes. Member Engel moved to **approve the draft minutes of September 20, 2017, as presented.** Member Podliska seconded the motion.

AYES: Members Moberly, Giltner, Alesia, Engel, and Podliska

NAYS: None

ABSTAIN: Chairman Neiman

ABSENT: Member Connelly

Motion carried.

4. APPROVAL OF FINAL DECISION

a) **V-06-17, 19 Lansing Street**

The Board suggested edits to the draft final decision; Member Podliska moved to **approve the final decision for V-06-17, 19 Lansing Street, as amended.** Member Engel seconded the motion.

AYES: Members Moberly, Giltner, Alesia, Engel, and Podliska

NAYS: None

ABSTAIN: Chairman Neiman

ABSENT: Member Connelly

Motion carried.

5. RECEIPT OF APPEARANCES – All persons intending to testify in any public hearing were sworn in by the court reporter.

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

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

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

7 Mr. Peter Coules, on behalf of homeowners Jason & Allison Hanson,
8 addressed the Board. The Hanson's home is 67' feet from the street; they
9 are requesting a variation to move the house forward to conform to that of
10 the neighbors next door, and the other homes on the block. He discussed
11 block averages, and this request to move it to about 28'. He noted the
12 home has been vacant for some time. He confirmed that the intention is to
13 locate the home in line with the others in the neighborhood, with the
14 exception of one.

15 It was also confirmed there are no water issues in the area.

16 Chairman Neiman set the public hearing for the next scheduled meeting of
17 the Zoning Board of Appeals.
18

19 **8. PUBLIC HEARINGS**

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

21 Chairman Neiman opened the public hearing. Homeowners, Paul and Vida
22 Chenier, addressed the Board. Mrs. Chenier began stating the certified
23 mailing certificates and petitions in favor of the variation have been
24 submitted for the record. She explained they are seeking a 2,500' square
25 foot reduction in the minimum lot area requirement of 10,000' square feet;
26 and a 10' foot reduction in the required lot width of 70' feet in order to allow
27 the divisions of lots 20 and 21 into two buildable lots. She said their home
28 currently sits on lot 21 and complies in all respects with the requirements of
29 the zoning code. They are requesting the variation so they can sell the
30 south vacant lot 20 to their son, so that he can construct and reside in a
31 house on that lot. Mr. Chenier travels extensively, which leaves Mrs.
32 Chenier alone for extended periods of time. She needs to have their adult
33 child next door to provide care for her due to existing health issues. She
34 referenced a letter provided to the Board from her physician detailing the
35 health issues. She noted that her doctor has said she would qualify under
36 the American Disability Act.

37 Mr. Chenier explained their request meets the standard for all the variations
38 set out in the zoning code. The Village has taken the position that lots 20
39 and 21 are considered a single zoning lot under the provisions of the
40 zoning code because prior to the purchase of their home in 2002, there was
41 a home that straddled the two lots. The lots have two separate pin
42 numbers, and their home is located on one of the lots and conforms to all
43 zoning requirements for a single lot. For the other lot to be a separate
44 buildable lot, both lots must meet the applicable zoning code requirements
45 for lots size and width. Since they do not, they are seeking relief from
46 those requirements to allow for the subdivision of the lots. Before there
47 was a residence spanning both lots, each lot was considered a legal non-
48 conforming lot, and each could have been developed with a home.

1
2 Mr. Chenier pointed out that these lots abut I-294, and the tollway authority
3 has plans to expand which will likely negatively impact their property
4 values. Any tollway expansion will move closer to their property. He feels
5 this highlights the unique nature of their property, and illustrates their goal
6 with the subdivision is not to enhance or create personal gain.

7 Chairman Neiman commented that his initial reaction was that the 25%
8 request was a lot, but Mr. McGinnis has since provided the Board with an
9 aerial view of the lots in the area, and they are the identical size. This
10 provides visual clarification and has alleviated his concerns.

11 Mr. Chenier reviewed the criteria necessary for Board approval stating this
12 is not self-created as the home was located on one of the lots when they
13 purchased it, and they were not aware of the zoning law when they
14 purchased. Relative to denial substantial rights, both lots are the same as
15 every lot in the neighborhood, taken together lots 20 & 21 make up the
16 largest lot in the neighborhood. This subdivision would be fundamentally
17 more conforming to the neighborhood. This is not special privilege; they
18 are not asking for anything different than everyone else has, they just want
19 to restore the lot to its original buildability. The potential development of
20 the lot would be in harmony with the surrounding neighborhood and the
21 general and specific purpose of the code. They believe the construction of
22 a new home would enhance the neighborhood; it would not increase traffic
23 or congestion on the street. There is no other remedy, without zoning relief
24 there will be a vacant lot in the neighborhood forever.

25 Mr. Chenier pointed out that this is a different situation than the recent ZBA
26 Case V-04-17, 436 Woodside, as there is no financial motivation; and they
27 have the support of their neighbors.

28 Mrs. Chenier said they brought this matter forward two years ago, but
29 missed a filing deadline. She then brought the matter to a Village Board
30 meeting, and was advised by President Cauley to refile, as it should be a
31 simple matter to take care off. She took his advice and hopes to have a
32 resolution. She thanked the Board for their consideration.
33

34 Chairman Neiman commented to Mr. McGinnis that the issue of subdividing
35 lots keeps coming up, we've discussed in the past the idea of suggesting
36 the Village Board adopt a text amendment that would help to address these
37 types of issues. Mr. McGinnis explained that many of the problems come
38 from the definitions included in §12-206, primarily non-conforming lot of
39 record, legal and zoning lot. He went on to explain how staff has
40 historically interpreted the definitions and the regulations. However,
41 procedurally, if the ZBA would like to make a recommendation, it would be
42 a staff driven text amendment to the Village Board and the Plan
43 Commission.
44

45 There were no additional questions from the Board regarding the variation.
46 Member Alesia moved to **close the Public Hearing known as V-07-17, 640**
47 **Mills Street**. Member Podliska seconded the motion.
48

1 **AYES:** Members Moberly, Giltner, Alesia, Engel, Podliska and Chairman
2 Neiman

3 **NAYS:** None

4 **ABSTAIN:** None

5 **ABSENT:** Member Connelly

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7 Motion carried.

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10 **DELIBERATIONS**

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12 Member Moberly began discussion stating he is in favor of granting this request,
13 stating a hardship with this double contiguous lot is paying property taxes. This
14 relief will create two lots similar to the property sizes of the neighbors. The
15 neighbors are in support. Member Engel believes all criteria met for approval for
16 the reasons stated in the application. Member Giltner said he is in favor of
17 recommending approval to the Village Board. He commented that the Village
18 Board decided not to grant the last variation recommended by the ZBA, and he
19 wondered what can be done to strengthen the recommendation to the Board, in
20 terms of rationale and other things that might help. Member Engel suggested
21 providing the aerial photograph. Chairman Neiman agreed as it puts the
22 applicant's arguments about why they meet the criteria into context; the request is
23 completely consistent with the neighborhood. He agreed the criteria have been
24 met for the reasons stated in the submission. Member Podliska agreed for all the
25 reasons stated, he was concerned with the mathematics because the lot is so
26 shallow, and the width of the lot would have been reduced by 20' feet. The
27 schematic in the packet shows the lot size, but agreed the aerial brought home
28 the point that this is within the character of the neighborhood. Additionally,
29 Chairman Neiman pointed out, all the neighbors have supported the request. He
30 advised including the neighbors petition as part of the record to the Village Board.
31 Member Moberly added he counted there are 24 favorable neighbor signatures,
32 and none against. Member Giltner added with respect to hardship, the ZBA
33 doesn't consider medical conditions, but that could strengthen the
34 recommendation to the Board. It was noted it is obvious this isn't a request for
35 financial reasons. Chairman Neiman said the underlying details of the medical
36 condition are not our business, but it does make it clear there is a real need.
37 Member Podliska said his vote in favor doesn't turn on the personal
38 circumstances; separate and apart from the personal situation, this is well
39 founded request. Chairman Neiman agreed the criteria is met, but in addition the
40 fairness and humanitarian issue that goes with it leads us to believe this is an
41 appropriate recommendation.

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43 Member Giltner moved to recommend to the Village Board approval of the
44 variation known as V-07-17, 640 Mills Street. Member Engel seconded the
45 motion.

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

NAYS: None

ABSTAIN: None

ABSENT: Member Connelly

Motion carried.

Chairman Neiman asked if the Board wants to make a recommendation to Mr. McGinnis and his staff to recommend to the Village Board a text amendment to address the subdivision issue more globally. Discussion followed regarding this matter. The Board agreed to wait for additional information to be supplied by Mr. McGinnis. Member Moberly did, however, express concerns about making a carte blanche change, as there is a reason the code is the way it is.

b) V-08-17, 348 Canterbury Court

Chairman Neiman opened the public hearing. Homeowners, Dr. Jeffrey Weller and Ms. Tina Weller, addressed the Board, and said their architect Mr. James Pavlecic was also present to answer questions. They are seeking a variance based on the hardship as a result of their unique situation so as to build an addition to their home. They submitted a petition to the Board signed by their neighbors who are in favor of the request. The neighbor residing behind them has some concerns, and they have invited him to be here tonight so the architect can answer any questions he may have.

Dr. Weller explained that the project consists of building out the south side of the home from the front to the rear of the current structure. In most cases, this would not be a problem, but because of staff interpretation of the rear setback, they have a unique and true hardship. Referencing an illustration he provided, Dr. Weller showed the Board where the addition would be and the problems determining which is the side yard and which is the rear yard. Dr. Weller believes there is no other lot like this in Hinsdale because this one is at the end of a cul-de-sac. He said based on the Village's determination of where his house should be built to meet code, half of his existing home is non-conforming. He does not want to argue with staff about how this should be measured, he just wants a variance to establish a 35' foot reduction of setback behind his house. He reiterated that the proposed addition would be the same distance behind the house as is currently there. Member Podliska stated he looked at the definition of a rear yard line in the code, and it doesn't really help as it is drafted in terms of a traditional lot. Mr. McGinnis explained staff tries to determine front yards first on these irregular lots, and that helps determine the rear, then determine which are the interior, corner and side yards. He described further calculations in terms of what is parallel to the front yard, but also trying to balance the words against what was reasonable, but in this case they are still left with no buildable lot.

Dr. Weller confirmed that the addition would go over the existing wood deck. Mr. McGinnis said there is no record of any other variances for this

1 property. Dr. Weller continued stating they have a unique 9-sided lot. The
2 Village staff interpretation today is different from the 1983 interpretation
3 when the home was built. It was a conforming structure in 1995 when
4 permits were pulled for an addition in that year. In regards to the non-self-
5 created criteria, nothing they have done has affected the current placement
6 of the home on the lot. The problem has evolved from the difference of
7 interpretation of the codes. In regards to denied substantial rights, the
8 current code interpretation would deprive them of the right to develop the
9 property as other Village residents are allowed. He is not looking for a
10 special privilege, but a fair playing field. This proposal is in harmony with
11 the surrounding homes in scale, they plan to build something that is great
12 for the neighborhood and will strictly follow all codes. It will be in keeping
13 with the essential character of the area and be an enhancement to the
14 neighborhood. There is no other remedy.

15 Dr. Weller said the biggest concern of his neighbor is water. This will be
16 addressed in the new plans, and he added he doesn't want any water
17 issues either.

18 Chairman Neiman asked if there is a material difference between the
19 required side yard setbacks and rear yard setbacks and whether that
20 matters. Mr. McGinnis explained the direction of the house is immaterial.
21 The narrow dimension of the lot is always the front. In this case there are
22 two fronts because of the 90-degree angle of the house. They are both 33'
23 feet, so technically they are both the front. He added that in either case,
24 they still need the relief. Member Giltner said there is a potential scenario
25 where someone could come back and say they want to build in the rear
26 yard, but that would be another variance request and would have to be
27 treated uniquely.

28 Chairman Neiman asked the architect to address the water and drainage
29 issue. Mr. Jim Pavlecic with Base Ten Architects, addressed the Board.
30 He described a pit system with graded gravel to store water. None of this
31 exists now, but the size of this pit solution could be set such that it
32 addresses runoff from the addition and the existing house. The intent is to
33 improve the situation. He explained the location of the pit has not been
34 determined, but will consult with civil engineering to determine size and
35 volumes. Chairman Neiman confirmed there would be no runoff toward the
36 neighbors, and drainage would actually improve. Member Engel confirmed
37 that this is part of the overall plan for the addition. Chairman Neiman said
38 this pit system could be included as part of the variation approval.

39 **Mr. Ryan Reko of 427 Bonnie Brae Road**, addressed the Board stating he
40 is the resident directly south of the subject property. He pointed out that
41 the way their house is, they would be surrounded by three side yards,
42 which could impact his property value. However, he is in favor of the
43 addition to the west, as long as drainage is handled appropriately. They
44 get standing water now. The grading of the property slopes down to their
45 yard, although there is no indication that this is a result of runoff from the
46 Weller's property. He saw in their plans they plan to expand south with a
47 new deck. Mr. McGinnis explained that a deck is a permitted
48 encroachment. Mr. Reko confirmed that he has no problem with any issues

1 relative to the variance, other than concern regarding drainage. Mr. Reko
2 confirmed, and said to the extent the Zoning Board can make the approval
3 contingent on satisfactory drainage, he would be appreciative. Mr.
4 McGinnis outlined the extensive and rigorous engineering review that will
5 be required should this variation be approved.
6

7 Member Moberly moved to **close the Public Hearing known as V-08-17,**
8 **Canterbury Court.** Member Engel seconded the motion.
9

10 **AYES:** Members Moberly, Giltner, Alesia, Engel, Podliska and Chairman
11 Neiman

12 **NAYS:** None

13 **ABSTAIN:** None

14 **ABSENT:** Member Connelly
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16 Motion carried.
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19 D E L I B E R A T I O N S

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21 Member Moberly began discussion stating he is in favor of this request. He said
22 the homes and lots in the hilly Fullersburg area are different. He believes this is
23 a reasonable request, and the neighbors are in support. He is satisfied with the
24 proposed water solution. He added the full enjoyment of one's property is a right,
25 and this is a very large lot. Members Alesia and Engel agreed, and suggested
26 making a drainage solution a contingency of approval. Member Podliska said he
27 understands the rationale for adding a water restriction, but cautioned the Board
28 they may be invading areas that are well served by other agencies. Mr.
29 McGinnis pointed out that the Village engineer cannot fix all the drainage
30 problems in this area, as there is a lot of grade in this area. The approval might
31 be contingent on not increasing the drainage problems, but something greater
32 than that can't be done.

33 Member Podliska expressed concern of a potential issue that someone might ask
34 us to rescind the approval if they aren't satisfied with the water remediation.
35 Member Moberly believes a Board contingency is a redundancy. Member
36 Podliska added water is a separate issue addressed by permitting, the Board
37 should respect that.

38 Chairman Neiman addressed Mr. Reko with assurances that the permit won't be
39 issued unless the drainage issue is adequately addressed. Mr. Reko asked Mr.
40 McGinnis if there are exceptions, or if the permitting process is open to
41 interpretation for assessment. Mr. McGinnis said their engineer is going to have
42 to provide a topographical survey and a drainage study. Our engineer will also
43 review the materials. He encouraged Mr. Reko to reach out to staff, if the
44 variation is approved, so these concerns are on everyone's radar.
45

46 Member Moberly moved to **approve the variation known as V-08-17,**
47 **Canterbury Court.** Member Connelly seconded the motion.
48

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

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6 Motion carried.

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8 **9. OLD BUSINESS**

9 a) **Discussion and Approval of Proposed Rules for Written Submissions**

10 Chairman Neiman asked if the Board had any additional edits to the draft
11 provided. There being none, Member Alesia moved to approve the
12 proposed rules for written submissions to the Zoning Board of Appeals.
13 Member Engel seconded the motion.

14
15 **AYES:** Members Moberly, Giltner, Alesia, Engel, Podliska and Chairman
16 Neiman
17 **NAYS:** None
18 **ABSTAIN:** None
19 **ABSENT:** Member Connelly

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21 Motion carried.

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24 **10. ADJOURNMENT**

25 With no further business before the Zoning Board of Appeals, Member
26 Podliska made a motion to **adjourn the meeting of the Zoning Board of**
27 **Appeals of November 15, 2017.** Member Engel seconded the motion. Voice
28 vote taken, all in favor, motion carried.

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

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33 _____
34 Christine M. Bruton
35 Village Clerk

Approved: _____

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