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3 **VILLAGE OF HINSDALE**
4 **ZONING BOARD OF APPEALS**
5 **MINUTES OF THE MEETING**
6 **October 17, 2018**

7 **1. CALL TO ORDER**

8 Chairman Bob Neiman called the regularly scheduled meeting of the Zoning
9 Board of Appeals to order on Wednesday, October 17, 2018 at 6:34 p.m. in
10 Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.
11

12 **2. ROLL CALL**

13 **Present:** Members Gary Moberly, Keith Giltner, Tom Murphy, Kathryn Engel, and
14 Chairman Bob Neiman
15

16 **Absent:** Members Joseph Alesia, and John Podliska
17

18 **Also Present:** Director of Community Development/Building Commissioner Robb
19 McGinnis, Village Clerk Christine Bruton and Court Reporter Kathy Bono
20

21 **3. APPROVAL OF MINUTES**

22 a) **Regular meeting of September 26, 2018**

23 Following changes to the draft minutes, Member Moberly moved to **approve**
24 **the draft minutes of September 26, 2018, as amended.** Member Engel
25 seconded the motion.
26

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

28 **NAYS:** None

29 **ABSTAIN:** None

30 **ABSENT:** Members Alesia and Podliska
31

32 Motion carried.
33

34 **4. APPROVAL OF FINAL DECISIONS**

35 a) **V-07-18, 336 East Ogden Avenue, recommendation to Village Board for**
36 **signage**

37 There being no changes to the final decision, Member Giltner moved to **approve**
38 **the final decision for V-07-18, 336 East Ogden Avenue, a recommendation to**
39 **Village Board for signage, as presented.** Member Engel seconded the motion.
40

41 **AYES:** Members Moberly, Giltner, Murphy, Engel and Chairman Neiman

42 **NAYS:** None

43 **ABSTAIN:** None

44 **ABSENT:** Members Alesia and Podliska
45

46 Motion carried.
47
48

- 1 b) **V-07-18, 336 East Ogden Avenue, final approval of building addition**
2 There being no changes to the final decision, Member Engel moved to approve the
3 final decision for **V-07-18, 336 East Ogden Avenue, final approval of building**
4 **addition**. Member Moberly seconded the motion.

5
6 **AYES:** Members Moberly, Giltner, Murphy, Engel and Chairman Neiman
7 **NAYS:** None
8 **ABSTAIN:** None
9 **ABSENT:** Members Alesia and Podliska

10
11 Motion carried.

- 12
13 c) **V-08-18, 321 S. Garfield**
14 There being no changes to the final decision, Member Moberly moved to **approve**
15 **the final decision for V-08-18, 321 S. Garfield**. Member Engel seconded the
16 motion.

17
18 **AYES:** Members Moberly, Giltner, Murphy, Engel and Chairman Neiman
19 **NAYS:** None
20 **ABSTAIN:** None
21 **ABSENT:** Members Alesia and Podliska

22
23 Motion carried.

- 24
25 d) **V-10-18, 536 The Lane**
26 There being no changes to the final decision, Member Engel moved **to approve**
27 **the final decision for V-10-18, 536 The Lane**. Member Giltner seconded the
28 motion.

29
30 **AYES:** Members Moberly, Giltner, Murphy, Engel and Chairman Neiman
31 **NAYS:** None
32 **ABSTAIN:** None
33 **ABSENT:** Members Alesia and Podliska

34
35 Motion carried.

36
37 **5. RECEIPT OF APPEARANCES**

38 The Court Reporter administered the oath to all those intending to speak during
39 these proceedings.

40
41 **6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE**
42 **PUBLIC COMMENT OF A GENERAL NATURE – None**

43
44 **7. PRE-HEARING AND AGENDA SETTING – None**
45
46
47

1 **8. PUBLIC HEARINGS**

2 a) **V-06-18; 330 Chestnut**

3 Chairman Neiman opened the public hearing. Mr. Dave Habiger, property
4 owner, addressed the Board, stating he has met with neighbors multiple times
5 to clarify misinformation about what he is proposing for the property. He
6 stated when people understood what he wanted to build they were okay with
7 it, with the exception of Mr. Wance.

8 He explained this was a derelict lot; when he bought it he offered to give it to
9 the Village, but Village staff told him at the time that was not possible. Six
10 years ago he spent a year and a half in a collaborative effort with the Village
11 to address the sewer system, easements and cleaning up associated legal
12 issues. He built the smallest structure he could with only the required
13 parking. He is asking for relief to build an accessory structure, a garage,
14 since the property is now 87% rented. He wants to reestablish the 1' foot
15 setback previously approved. He thought about a green roof, but it is not part
16 of the request any more. Finally, he hadn't designed anything specific, but in
17 general the Village likes the same building materials on the accessory as on
18 the main structure. He explained that a letter had been distributed to
19 neighbors with misinformation that included a rendering of an industrial style
20 pole barn. He said nothing about the site was created by him; he cleaned up
21 the easements and addressed the infrastructure. The letter included
22 concerns about loitering, graffiti, and rodent risk. He doesn't know why these
23 are concerns as there is no food preparation or restaurant in the building. Mr.
24 Habiger stated he did a sound study that indicated there isn't any increased
25 sound with the garage. He met with neighbors and came up with four
26 different renderings for the garage, but he is still not sure there will be
27 consensus. Mr. Bartelli, architect on the project, confirmed the height of the
28 proposed structure is per code.

29 Mr. Habiger explained the purpose of the garage would be to store ladders,
30 maintenance materials, snowblowers, paint materials and office furniture.
31 Additionally, the garbage receptacles would be housed there. He does not
32 want to keep these types of things in the basement of the building, because it
33 is rentable space. The basement currently provides for Village access to a
34 tunnel for infrastructure maintenance, and a furnace.

35 Chairman Neiman asked if there is any way when the building was originally
36 designed it could have included an accessory structure. Mr. Habiger
37 explained they asked for it at the time, and were approved, but Village staff
38 said it would be a problem to build at the same time as the main structure.
39 He explained he changed the parking layout with the original submittal to
40 include open space in this area for a future garage.

41 Chairman Neiman said he is struggling with the self-created criteria, and read
42 the requirements in the code. Mr. Habiger further explained that the Village
43 had advised against building the garage initially because of truck traffic, the
44 area was owned by BNSF, and there was an agreement between the Village
45 and Flagg Creek Water Reclamation.

46 Member Giltner asked about the landscape buffer. Mr. Habiger addressed
47 this and noted one of Mr. Wance's concerns was what he would be able to

1 see from his home. They discussed ivy walls, and berms with evergreens, but
2 added it can't be 15' feet off the wall, because then the building would only be
3 three feet wide. He commented he has no incentive to do anything less than
4 something attractive. Mr. McGinnis confirmed the site plan and exterior
5 review will go to the Plan Commission. Chairman Neiman asked Mr. McGinnis
6 if he agreed the Village had asked the applicant not to build the accessory
7 structure at the time of the initial construction. Mr. McGinnis explained there
8 were a lot of 'movable parts'; the Village's main concern was the access to
9 the Flagg Creek 96" interceptor pipe under the property. It was noted that the
10 staff member who worked most closely with Mr. Habiger at the time was no
11 longer with the Village.

12 Mr. Bartelli stated that with the required setbacks, they could not build the
13 building; variations were necessary for the rear setback, they are asking for
14 the re-granting of what was approved the first time. The only new request is
15 side yard relief. With respect to lot coverage, even with this new structure,
16 only 58% of the 90% allowable is used. The applicant reviewed each of the
17 approving criteria as outlined in their application.

18
19 Member Engel asked if the materials for the garage would be the same metal
20 as the office building. Mr. Habiger said not necessarily, he will be happy to
21 work with the neighbors and the Plan Commission to use something suitable.

22
23 **Mr. Bruce Wance, 122 S. Clay Street**, addressed the Board stating he is a
24 licensed architect practicing for 40 years. He said he agrees with much of the
25 timeline as outlined by Mr. Habiger, but disagrees with some of the details.
26 He believes the code never intended that something be built on this property.
27 On August 26 he met with four of his neighbors who came up with a bullet
28 point list of their concerns that include elevation and screening. There were
29 40 names, from 25 residences that signed the petition to deny the variation.
30 He said no one has asked to have their name removed from the petition. He
31 has consulted a horticulturalist whose opinion it is that the landscaping
32 proposed by Mr. Habiger is not sustainable, although Mr. Habiger's
33 horticulturalist says it is. He went on to express his concern that at some
34 point the building located at 410 Chestnut would be torn down and granting
35 this variance would diminish the value of that property. He is concerned that
36 a developer will buy both properties and tear down the existing buildings and
37 redevelop. He said the proposed design of the building is nice, but it is the
38 setback that he objects to. He asked the Board whether variations were a
39 right or a privilege. He is worried about what will happen in five years.

40 Chairman Neiman asked the Board about continuing the hearing to clarify
41 whether the Village asked the applicant to delay the construction of a garage,
42 to determine if the delay was a result of governmental action relative to the
43 self-created criteria. If there is evidence of this, the former employee could
44 sign an affidavit to that effect. He is open to suggestions from the Board.

45 Member Murphy said in his opinion the definition of the lot and extraordinary
46 conditions make this a unique situation to him. As re reads the not self-
47 created code, if the owner had bought a huge lot and sold it off and ended up

1 with this configuration, that would be self-created, but the bizarre
2 characteristics of the lot were not the result of an action of the owner.
3 Member Giltner added the Board often struggles with the self-created criteria,
4 but stated it won't change his feelings if the Village instructed Mr. Habiger not
5 to build the accessory structure. The same conditions still apply as were
6 used to approve the primary structure. Member Moberly noted there appears
7 to be some confusion about whether the neighbors are in support.
8 Additionally, he is concerned with the no other remedy criteria, and wondered
9 if the structure is necessary.

10 Mr. Wance continued stating in his opinion as an architect the lot was and is
11 an eyesore. The building site was flat and a blank canvas when Mr. Habiger
12 bought it. As an architect he knows storage and garbage are important
13 considerations, and is challenged to understand why that was not considered
14 for the basement as opposed to an accessory structure. Mr. Habiger
15 responded stating the lot demanded a difficult building, and was designed to
16 address all the easement issues. A larger building could have been built, but
17 he felt this was the best use of the space.

18
19 Member Engel moved to **close the public hearing for V-06-18; 330**
20 **Chestnut**. Member Murphy seconded the motion.

21
22 **AYES:** Members Moberly, Giltner, Murphy, Engel and Chairman Neiman

23 **NAYS:** None

24 **ABSTAIN:** None

25 **ABSENT:** Members Alesia and Podliska

26
27 Motion carried.

28 29 **DELIBERATIONS**

30
31 Chairman Neiman began deliberations, noting that if it is the consensus of the
32 Board, the public hearing could be reopened. Member Engel said it would be
33 helpful to understand what the tone of the neighbors is, as there appears to be
34 some discrepancy. Member Murphy commented this meeting was noticed, and
35 no one is here. He is not inclined to go out and poll the neighbors. Members
36 Giltner and Moberly stated they are prepared to make a decision. Member
37 Moberly added he sees merits to both sides of the issues, and that this Board
38 takes these variances seriously. Member Giltner stated he is not concerned
39 about the self-created criteria; in general, this is a unique site to do anything, and
40 variations were required for the primary building or an accessory structure, many
41 of which were originally approved. The owner is prepared to screen the building
42 to make it less conspicuous; in 5-10 years the building will blend with the
43 neighborhood. Further, the variance is not about the building, it's about the
44 setbacks. He believes the owners have gone above and beyond, they have a
45 right to an accessory building, and are not looking to exploit an opportunity. He
46 is in favor of granting the variance. Member Engel remarked that all things
47 considered, this structure will be more aesthetically pleasing than leaving it as is

1 and looking at garbage. Member Murphy agreed, the spot was unusable, the
2 building will block the tracks and other unattractive aspects of the area. He
3 believes this request makes sense. Chairman Neiman said there were some
4 questions in this mind as to whether this was self-created, but given the very
5 good faith efforts over several years of the applicant, he is inclined to take him at
6 his word about what happened previously, and will vote to approve.

7
8 Member Moberly moved to **approve the variation known as V-06-18; 330**
9 **Chestnut**. Member Giltner seconded the motion.

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

12 **NAYS:** None

13 **ABSTAIN:** None

14 **ABSENT:** Members Alesia and Podliska

15
16 Motion carried.

17
18 **9. NEW BUSINESS** – None

19
20 **10. OLD BUSINESS** – None

21
22 **11. ADJOURNMENT**

23 With no further business before the Zoning Board of Appeals, Member Moberly
24 made a motion to **adjourn the meeting of the Zoning Board of Appeals of**
25 **October 17, 2018**. Member Engel seconded the motion.

26
27 **AYES:** Members Moberly, Giltner, Murphy, Engel and Chairman Neiman

28 **NAYS:** None

29 **ABSTAIN:** None

30 **ABSENT:** Members Alesia and Podliska

31
32 Motion carried.

33
34 Chairman Neiman declared the meeting adjourned at 7:53 p.m.

35
36
37 _____
38 Christine M. Bruton
39 Village Clerk
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Approved: _____