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3 **VILLAGE OF HINSDALE**
4 **ZONING BOARD OF APPEALS**
5 **MINUTES OF THE MEETING**
6 **October 16, 2019**

7 **1. CALL TO ORDER**

8 Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of
9 Appeals to order on Wednesday, October 16, 2019 at 6:30 p.m. in Memorial Hall of
10 the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.
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12 **2. ROLL CALL**

13 **Present:** Members Gary Moberly, Joseph Alesia, Keith Giltner, Tom Murphy, John
14 Podliska, and Chairman Bob Neiman
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16 **Absent:** Members Kathryn Engel
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18 **Also Present:** Village Manager Kathleen A. Gargano, Village Attorney Michael
19 Marrs, Director of Community Development/Building Commissioner Robb McGinnis
20 and Village Clerk Christine Bruton
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22 **3. APPROVAL OF MINUTES**

23 a) **Meeting of September 18, 2019**

24 Following corrections to the draft minutes, Member Alesia moved to **approve the**
25 **minutes of the regular meeting of September 18, 2019, as amended.** Member
26 Giltner seconded the motion.
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28 **AYES:** Members Moberly, Alesia, Giltner, Murphy, and Chairman Neiman

29 **NAYS:** None

30 **ABSTAIN:** Member Podliska

31 **ABSENT:** Member Engel
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33 Motion carried.
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35 **4. APPROVAL OF FINAL DECISIONS**

36 a) **V-03-19, 400 S. Pamela Circle**

37 b) There being no changes or corrections to the draft final decision, Member
38 Giltner moved to **approve the final decision for V-03-19, 400 S. Pamela**
39 **Circle, as presented.** Member Moberly seconded the motion.
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41 **AYES:** Members Moberly, Alesia, Giltner, Murphy, and Chairman Neiman

42 **NAYS:** None

43 **ABSTAIN:** Member Podliska

44 **ABSENT:** Member Engel
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46 Motion carried.
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1 **5. RECEIPT OF APPEARANCES**

2 The Court Reporter issued the oath to all those persons intending to speak
3 during public hearing proceedings.
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5 **6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE**
6 **PUBLIC COMMENT OF A GENERAL NATURE – None**

7 Mr. Steve Treadwell of 609 S. Lincoln addressed the Board regarding the fact
8 that there are no sidewalks on 6th Street between Washington and Grant Streets.
9 There is two-way traffic, lots of pedestrians and bike riders. There are bushes
10 over 13' feet tall that obstruct visibility.

11 Since Mr. Treadwell's remarks relate to the public hearing on the agenda,
12 Chairman Neiman asked him to defer his comments till later when the case is
13 being addressed.
14

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

16 a) **APP-01-19, 336 East Ogden Avenue**

17 Chairman Neiman asked all parties to step up to the podium to provide an
18 overview of all issues. Present were Mr. Michael Stick of 802 Franklin Street,
19 Village Attorney Mr. Michael Marrs, and Mr. Scott Selfridge, Chief Financial
20 Officer for Land Rover.

21 Mr. Stick said there are two issues regarding the Land Rover development
22 that are problematic; 1) the location of the wall on the south side of the
23 property; and, 2) the landscaping. Both of these are covered in the ordinance
24 approved by the Village Board on February 8, 2018. The fence was to be
25 placed on the property line at the highest point. In May, neighbors objected
26 because they believe the fence was not properly located. Ultimately, the
27 Village Attorney was asked for an interpretation. Mr. Marrs agreed the fence
28 should be placed at the top of the berm, and in June Land Rover said they
29 would comply. In August, the Village issued a Certificate of Zoning
30 Compliance, and construction began. Since filing the appeal, neighbors have
31 met with Village staff and Land Rover representatives, who again have
32 agreed to put the barrier fence at the top of berm. Residents are skeptical.

33 Chairman Neiman suggested continuing the matter to the next meeting of the
34 Zoning Board to give both parties time to reach an agreement. Rather than
35 prepare for evidentiary argument, both parties would have 30 more days to
36 resolve the issues. Mr. Stick said this makes sense, but they don't want to
37 dismiss the appeal, and want to keep it pending.

38 With respect to the landscaping, Mr. Stick explained that Land Rover had
39 proposed planting 83 10' foot arborvitae primarily on the south side, but
40 residents want a mix of arborvitae and other trees. The ordinance says Land
41 Rover will provide landscaping consistent with the proposed arborvitae to
42 achieve a budget neutral mix. Mr. Stick asserts no landscape plan was
43 provided, and the Certificate of Zoning Compliance was issued without the
44 landscape plan. Since filing the appeal, neighbors got the budget, and the
45 residents have provided a proposal for a budget neutral mix of landscaping.
46 The problem now is Land Rover may not be able to find a vendor to provide
47 the arborvitae this season. From the resident's point of view, the certificate

1 was improvidently entered without an approved landscaping plan. They are
2 concerned the business will open without a wall and without landscaping.
3 Mr. Marrs and Mr. Selfridge agree a continuation is the appropriate way to
4 proceed. Mr. Marrs explained the Village told Land Rover to stop working on
5 the south of the property, as is consistent with the zoning code when an
6 appeal is filed, but he would like work to continue given the meeting of minds
7 between both parties. He confirmed that all parties agree to allow work to
8 continue pursuant to the agreements reached by the neighbors and Land
9 Rover. The landscaping plan is still the subject of back and forth, but all
10 agree in principle to the plan; this issue should be closer to resolution in the
11 next 30 days. Mr. Stick said they anticipate Land Rover will begin
12 construction; and reiterated they want the wall and landscaping completed.
13 Mr. Marrs confirmed that no vote of the Board was necessary to continue the
14 pre-hearing, and added a major adjustment is being considered by the Village
15 Board on November 5. He anticipates a landscape plan will be agreed upon
16 by that time.
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19 **8. PUBLIC HEARING**

20 a) **V-02-19, 11 West Sixth Street** *(continued from September 18, 2019)*

21 Chairman Neiman opened the public hearing. Applicant Mary Jawor came to
22 the podium. Chairman Neiman clarified that procedurally, the Board heard
23 arguments on the circular driveway last month. That matter will not be
24 reopened; the public hearing is continued solely for the purpose of addressing
25 the alternative solution. Mrs. Jawor confirmed there is no ambiguity about
26 that.

27 Chairman Neiman referenced a letter received a couple days ago from Mr.
28 Panoff, who had a family emergency that prevents him from being at this
29 meeting. If Mrs. Jawor is willing, the Board can continue this hearing, the
30 neighbors can sit down together, everybody can explain their position, work
31 together, and reach an agreement. The Board can then vote on both issues
32 at that time. Mrs. Jawor stated she went to the Panoff's before the last
33 meeting, and they were against anything she proposed. The variation is
34 important to her, and she would like the case heard this evening.

35 A brief recess was taken to allow the applicant an opportunity to review Mr.
36 Panoff's opinion as contained in his most recent letter.
37

38 *The meeting reconvened at 7:06 p.m.*

39 Mr. Panoff's letter references the driveway turnaround code. Chairman
40 Neiman read the section of the code, but it was concluded 6th Street is not an
41 arterial street, and therefore the provision does not apply. Mr. McGinnis
42 explained the applicant needs the variation because parking is not allowed in
43 a required front yard.

44 Mrs. Jawor addressed the criteria for approval as follows:

- 45 1. Unique physical condition – there is no parking allowed on the street in
46 front of the home, but when they bought the house there was, and it was
47 important to them. She believes there is a lack of public safety investment

1 that would include sidewalks or the widening of the street. Her driveway
2 backs into the alley that serves Washington and Lincoln Street, basically
3 backing into what amounts to a four-way stop. She wants the pad so that
4 drivers can turn around and exit forward. She explained that 6th Street is
5 only 18' feet wide; Lincoln Street, for example is 25.5' feet wide. The drive
6 aisle is much smaller than others; there are enormous volumes of traffic,
7 several schools in the area, and no sidewalks.

- 8 2. Denied substantial rights – She believes the inability to have safe access
9 to their vehicles is a denial of their substantial rights.
- 10 3. Not merely special privilege – She said public safety is a right. Installation
11 of the pad is an expense they will incur, and still likely lose property value
12 because there is no on-street parking.
- 13 4. Code and Plan Purposes – She does not believe this pad would be
14 disharmonious. Hers is the only home fronting 6th Street on her block, there
15 are two other driveways and an alley.
- 16 5. Essential character of the area – it could be said that providing more
17 parking is a benefit to her neighbors, since her family and guests would
18 not have to park in front of their homes. There is no change to the
19 landscaping; drainage has been addressed in the past. The request is
20 under the allowable percentage for lot coverage, will not increase danger
21 of fire, nor tax public facilities or utilities.
- 22 6. Not self-created – They did not develop the property, the Village removed
23 the parking.

24
25 Mr. McGinnis confirmed the specific code provision from which this variance
26 requests relief is §9-1-4(F)(3)(eiii). The issue is the location of the pad in the
27 front yard, not the size of the pad. Mrs. Jawor explained the rationale for the
28 proposed size of the pad. Mr. McGinnis noted the required front yard is a
29 function of block average, and therefore, sometimes there is room for a
30 permitted turnaround. Prior to 2007 there was no prohibition.

31 Mr. Treadwell addressed the Board stating he is a friend and neighbor of the
32 Jawors. Their children are friends, and he has used their driveway. He had
33 written a letter in support of the circular driveway, but the reasons to approve
34 the parking pad are the same. Given the intersection, the narrow road, and
35 the lack of sidewalks, to exit facing forward is safer and provides better
36 visibility. He believes approval of this variation is a reasonable
37 accommodation to provide an improvement to the safety situation for this
38 home.

39 Member Alesia moved to **close the public hearing for V-02-19, 11 West**
40 **Sixth Street**. Member Moberly seconded the motion.

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42 **AYES:** Members Moberly, Alesia, Giltner, Murphy, and Chairman Neiman

43 **NAYS:** None

44 **ABSTAIN:** Member Podliska

45 **ABSENT:** Member Engel

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47 Motion carried.

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D E L I B E R A T I O N S

Circular Driveway

Chairman Neiman said the Board should begin with the circular driveway first. Member Moberly is in support of either one of these variances because of the safety issue. The driveway would look nicer, and landscaping would be easier. He agrees it takes up more of the front yard, but if the Board doesn't approve the circular driveway, then he's in favor of the pad.

Member Alesia said with respect to the circular driveway, he believes the essential characteristics of the neighborhood would be compromised because the circular driveway allows for more than one car. This could endanger the public health and safety. It would be right up to the lot line without a fence, and there are small children next door. His vote would be no. Member Giltner said this is difficult. Originally the issue was convenience, which he empathizes with because it is a unique street and there is no sidewalk, but the hardship is around safety. There is a safety concern, but he doesn't believe all the criteria has been met, and is not convinced that this is a hardship. Member Murphy believes the Board should vary from the rules as little as possible, and he defers a lot to neighborhood objections. He believes the Board should be careful about setting precedent, too, but given the level of objection, he is against both options. Member Podliska stated he will abstain from voting on the circular driveway because he was absent. He was asked by the Chair whether he had had a chance to watch the hearing, and he said he had not. Chairman Neiman doesn't believe the approving criteria has been met. He is troubled particularly by the focus last month and at pre-hearing being on the need for parking for vendors and convenience, and has now shifted to a safety issue.

Member Moberly moved to **approve the variation request for a circular driveway known as V-02-19, 11 West Sixth Street.** Member Alesia seconded the motion.

AYES: Member Moberly

NAYS: Members Alesia, Giltner, Murphy and Chairman Neiman

ABSTAIN: Member Podliska

ABSENT: Member Engel

Motion failed.

Parking Pad

Member Moberly said it is to the applicant's benefit that this is not an arterial street. However it is a 'super street' in terms of traffic, much like Monroe or Madison or Eighth Streets. There is no other section in town that has this volume of traffic and is this narrow. This is the only house fronting 6th Street. The Village took away the parking and created the safety issue. The homeowner has a right to pull out of their property in a safe fashion. He described his

1 perception of the driving problems in the area because of the traffic at certain
2 times of the day. He also noted Police reports that indicate there have been two
3 accidents on this stretch of road. He contradicted Mr. Panoff's assertion that he
4 is downhill from the subject property, but he is, in fact, uphill. Member Moberly
5 does not believe there would be a flooding issue as a result of granting this
6 variation. He believes allowing a remedy for safety reasons is appropriate.

7 Member Alesia stated he has no objection to the pad. He confirmed accident
8 information had been provided by Deputy Chief Tom Lillie for the past five years;
9 there were only two accidents, and he is shocked there haven't been more. With
10 respect to increased congestion, 3-4 cars could be added with a circular
11 driveway next to the lot line, but the parking pad is not by the lot line and would
12 only allow one more car. He would approve the improved safety provided by this
13 remedy.

14 Member Giltner remarked it is unfortunate the neighbor is not here to walk the
15 Board through his concerns. He thinks the pad might be difficult to use, but is
16 still struggling with this other remedy.

17 Member Murphy reiterated his concerns expressed with respect to the circular
18 driveway. Discussion followed regarding whether parking should have ever been
19 allowed. The neighbor reaction is significant, he knows it is busy, but is not
20 persuaded by the narrow street. Member Moberly pointed out that there have
21 been neighbor petitions in the past, specifically the Zook house case and the
22 shed storage on Chestnut Street. In these cases the Zoning Board voted against
23 the petitions; he added that petitions are usually driven by one family, not a
24 neighbor groundswell. There are letters both pro and con for this case.

25 Member Podliska is conflicted because he was not here for the first hearing, and
26 although the Board has bifurcated the matter into two pieces, it is still one
27 petition, and he was not privy to what was discussed at last meeting. There is
28 some impact to him on this because the applicant was asked not to repeat her
29 testimony from last month. Therefore, he will abstain. It is a single proceeding,
30 and it is not appropriate to cherry pick part of it.

31 Chairman Neiman says the applicant is closer with the pad than the driveway.
32 However, he is still troubled with the rationale that has shifted to a public safety
33 issue, from what was a convenience issue last month for guest and vendor
34 parking.

35 Moved Moberly moved to **approve the variation request for a parking pad**
36 **known as V-02-19, 11 West Sixth Street.** Member Alesia seconded the
37 motion.

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39 **AYES:** Members Moberly, Alesia, and Chairman Neiman

40 **NAYS:** Members Giltner and Murphy

41 **ABSTAIN:** Member Podliska

42 **ABSENT:** Member Engel

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44 Motion failed.

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46 **9. NEW BUSINESS** - None
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10. OLD BUSINESS – None

11. ADJOURNMENT

With no further business before the Zoning Board of Appeals, Member Moberly made a motion to **adjourn the Zoning Board of Appeals of October 16, 2019.** Member Giltner seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: Member Engel

Motion carried.

Chairman Neiman declared the meeting adjourned at 7:46 p.m.

Christine M. Bruton

Approved: _____