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**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING
MARCH 17, 2021**

1. ROLL CALL

Present electronically: Members Gary Moberly, Joseph Alesia, Keith Giltner, Tom Murphy, Leslie Lee, John Podliska, and Chairman Bob Neiman

Absent: None

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

2. CALL TO ORDER

The regularly scheduled meeting of the Hinsdale Zoning Board of Appeals (conducted electronically via Zoom) was called to order by Chairman Bob Neiman on Wednesday, March 17, 2021 at 6:31 p.m., roll call was taken.

Chairman Neiman - Opening Remarks:

Due to the ongoing public health emergency, and consistent with the Governor's most recent emergency declaration, various Executive Orders entered by the Governor, and the recent amendments made to the Open Meetings Act in Public Act 101-640, the Village President has been determined that an in-person meeting is not practical or prudent at this time, and this meeting will therefore be conducted electronically.

Public comment is permitted during the public hearing portions of the meeting. I will ask persons wishing to make public comment to identify themselves before speaking, spelling their last name and stating their address.

3. APPROVAL OF MINUTES

a) **Meeting of February 17, 2021**

Following changes to the draft minutes, Member Podliska **moved to approve the draft minutes of February 17, 2021, as amended.** Member Moberly seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

4. APPROVAL OF FINAL DECISIONS & FINDINGS OF FACT

a) **V-07-20, 425 & 417 Elm Street**

Following changes to the draft final decision, Member Podliska **moved to approve the draft final decision for V-07-20, 425 & 417 Elm Street, as amended.** Member Murphy seconded the motion.

- 1 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman
2 Neiman
3 **NAYS:** None
4 **ABSTAIN:** None
5 **ABSENT:** None
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7 Motion carried
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9 b) **V-01-21, 428 East 55th Street**
10 There being no changes to the draft final decision, Member Podliska **moved to**
11 **approve the draft minutes of V-01-21, 428 East 55th Street, as presented.**
12 Member Giltner seconded the motion.
13
14 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman
15 Neiman
16 **NAYS:** None
17 **ABSTAIN:** None
18 **ABSENT:** None
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20 Motion carried
21
22 c) **V-02-21, 33 South Garfield Avenue, Final Decision**
23 There being no changes to the draft final decision, Member Podliska **moved to**
24 **approve the draft final decision of V-02-21, 33 South Garfield Avenue, as**
25 **presented.** Member Murphy seconded the motion.
26
27 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman
28 Neiman
29 **NAYS:** None
30 **ABSTAIN:** None
31 **ABSENT:** None
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33 Motion carried
34 d) **V-02-21, 33 South Garfield Avenue, Findings of Fact**
35 There being no changes to the draft findings of fact, Member Podliska **moved**
36 **to approve the draft findings of fact for V-02-21, 33 South Garfield Avenue,**
37 **as presented.** Member Murphy seconded the motion.
38
39 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman
40 Neiman
41 **NAYS:** None
42 **ABSTAIN:** None
43 **ABSENT:** None
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45 Motion carried
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1 **5. RECEIPT OF APPEARANCES**

2 Court Reporter Kathy Bono administered the oath to all persons intending to
3 speak at the following proceedings.
4

5 **6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE**
6 **PUBLIC COMMENT OF A GENERAL NATURE – None**
7

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

9 a) **V-04-21, 120 East Fifth Street**

10 Ms. Kate Duncan, attorney representing homeowners Peter and Tina Verros,
11 addressed the Board. She explained the owners constructed a new home on
12 their property that is a through lot. The primary front faces Fifth Street, the
13 secondary front faces Sixth Street. All zoning requirements were met when the
14 house was constructed. She said the nature of a through lot creates two front
15 yards, no rear yard. The secondary front functions as their rear yard. They are
16 proposing a 6' foot cedar fence along this side of the property, but because the
17 code restricts a solid fence in a front yard, they need a variation to install the
18 fence.

19 Mr. Peter Verros, homeowner, stated there are three reasons they are
20 requesting this variation: 1. the security and safety of their children; 2. To
21 address some privacy concerns; and 3. To create continuity with neighboring
22 fences, providing an aesthetic benefit. A cedar fence would match the existing
23 fence on the rest of the property. They have planted mature yews extending
24 the full lot line on Sixth Street, that are as dense as possible for a solid hedge.
25 Mrs. Verros added they will grow to 15' feet in height, and the existing fence
26 will not be visible.

27 Mr. Verros added the neighbors to the east and west both have rear lots on
28 Sixth Street, and the neighbor to the east has the same type of fencing. It was
29 confirmed that the proposed fencing will replace the existing metal fence
30 located behind the landscaping.

31 Member Podliska asked if the neighbor to the east got a variance for his fence.
32 Ms. Duncan did not have that information. It was pointed out the existing fence
33 on the Verros property is compliant, because of the open nature of the 5' foot
34 aluminum fence.

35 Chairman Neiman recommended the applicant provide a fuller, more detailed
36 explanation for each of the approving criteria.

37 The public hearing was set for the next meeting of the Zoning Board of Appeals.
38

39 **8. PUBLIC HEARING**

40 a) **V-03-21, 505 South County Line Road** (*Transcript on file with the Village*
41 *Clerk*)

42 Chairman Neiman opened the public hearing. Mr. Robert O'Donnell, attorney
43 representing Mr. Fred Krehbeil and the Fred Krehbeil Trust, addressed the
44 Board to request minimum rear yard setback relief. This property is comprised
45 of four lots of record, designated as #6, #7, #8, and #9. There are only three
46 PIN numbers, Lots #7 and #8, where the current house resides, are single PIN.
47 The purpose for the request is to create and separate Lots #6 and #9 from the

1 current property. Mr. Krehbeil will donate to Landmarks Illinois a preservation
2 easement that includes the exterior on three elevations, and designated areas
3 on the interior of the home. This donation is purely for preservation purposes,
4 there is no tax consequence. There are no utility lines on Lot #9, and a gas
5 line only on 526 Woodside, but this would be addressed at such time as the
6 lots may be separated. He explained that he had previously requested and
7 received a zoning interpretation from the Village with respect to Lots #6 and
8 #9, to confirm that they could be separate buildable lots. He referenced exhibits
9 in the application, to illustrate specific relief requests. The existing attached
10 garage includes living space above, and is located 21' feet off the east property
11 line. Therefore, a 29' foot variance is requested. The second variance applies
12 to the patio; the specific measurement of the patio structure being 1.5' feet off
13 the property line from the portion of the patio wall that sticks out the furthest.
14 So, the request is for 8.5' feet of relief from rear yard setback. The patio stairs
15 encroach into 526 Woodside, but a document will be recorded against both
16 properties to say the owner of 505 County Line will remove the stairs and
17 restore to grade. Mr. O'Donnell addressed the standards for approval:

18 Unique physical condition: As a result of separating Lots #6 and #9, as part of
19 the process of preservation easement, the side yard becomes the rear yard,
20 and the existing garage encroaches. This condition results as part of a process
21 to preserve the existing historic structure. The front yard is 130' feet which is
22 more than three times the required front yard setback, yet the property has a
23 limited rear yard setback.

24 Not self-created. The garage is a pre-code structure.

25 Denied substantial rights – If the variance were not granted, the property owner
26 would be confronted with the prospect of removing the existing patio area, and
27 would have to replace the existing attached garage with a new garage. Further,
28 because of the historic preservation easement that will be created on the north
29 elevation, only a detached garage would be permitted. That garage would not
30 have a living element on second floor as is currently enjoyed. Attached garages
31 are commonly enjoyed by residents in Hinsdale.

32 Not merely special privilege – The separation of the two lots do not require a
33 variance be granted, the owner has the right to do so. The need for the variance
34 lies in the ability to retain the existing attached garage and patio. This variance
35 is not requested to create an opportunity to make money, and is not
36 accompanied by a favorable tax treatment. This request is driven solely by
37 preservation.

38 Purposes of the code, consistent with essential character of area – They are
39 not changing anything, not adding structures, or replacing elements. That
40 which has existed will remain as is. He noted the affidavit of the neighbor
41 adjacent to Lot #9, 531 E. Sixth Street, is fully supportive of the request, and
42 understands that Lot #9 will be the future site of a single family home.

43 Another remedy – There is none, they are just looking to keep what exists in
44 place.

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1 **Ms. Suzanne German, from Landmarks Illinois**, addressed the Board stating
2 they are a State wide nonprofit organization advocating for historic preservation
3 for 50 years. She manages the easement program. An easement is a legal
4 agreement between the property owner and the organization: a partnership to
5 agree to preserve the property in perpetuity. The home cannot be demolished
6 or altered without permission. Often, this is the only protection for these
7 properties. Mr. Krehbiel is donating the easement, and not seeking any tax
8 benefit. She outlined the history of the property, and noted exterior and interior
9 changes since it was built, specifically those done by renowned architect, Mr.
10 David Adler. This is the only property of record Mr. Adler worked on in the
11 western suburbs.

12 **Mr. Dennis Parsons, architect**, addressed the Board to discuss the
13 alternatives of what could be built if the variation is not successful. He
14 illustrated where a detached garage could be constructed. There is 2,400'
15 square feet of floor area ratio (FAR) remaining, and the garage could be built,
16 by code, with a 2' foot setback as an accessory structure. It can only be 15'
17 feet high, and would therefore, not be in context with the existing home.

18 Member Moberly asked if easements can be withdrawn. Ms. German said no
19 easement has ever been withdrawn.

20 Mr. McGinnis clarified code definitions for legal non-conforming lots, the
21 required lot size in the R-1 district, and the possible orientation of any future
22 homes.

23 Ms. German explained that, with respect to the patio, the easement donation
24 offers no protection. Mr. O'Donnell said it is possible to move the patio, but it
25 is cohesive and consistent with the current property. Discussion followed
26 regarding the impact of moving the patio, and the impact on the request if it
27 were considered a driveway, motor court, or parking pad. Mr. O'Donnell does
28 not know if architect David Adler had anything to do with the patio structure,
29 but it has existed for decades. He added he is struggling as to why this is
30 problematic, because a new owner of 526 Woodside will know about the patio
31 impact to that property before a final sale.

32 Chairman Neiman recalled that last month's pre-hearing discussion indicated
33 the motivating factor for the variation request was to be able to sell off the other
34 lots for estate planning purposes. However, the motivation tonight is historic
35 preservation. Mr. O'Donnell said this has not changed, part of making this
36 decision about the property is for the future. The process of the preservation
37 easement donation has been ongoing for more than two years; there is nothing
38 new with that donation being part of estate planning. The decision to preserve
39 the existing structure is in part driven by the fact there will be a new, different
40 owner. Mr. Krehbiel wants to set up the new property owner to do what they
41 should with the historically significant property. This variation request is not
42 motivated by the opportunity to make money by selling buildable lots, but to
43 preserve the existing structure on Lots #7 and #8.

44 **Mr. Matt Bousquette, of 448 East Fourth Street and 445 Woodside**,
45 addressed the Board stating he lives four doors down from the subject property.
46 He reminded the Board that he tried to split his lot to renovate and landmark
47 the historic Zook house. The Zook home encroached by 1.5' feet, so the

1 second lot was not buildable by code, and required a variance. Mr. Krehbeil
2 was part of the group that objected to this effort, but he is making the same
3 arguments now that he opposed then. Mr. Bousquette said he hopes the code
4 applies equitably to all residents.

5 Mr. O'Donnell said he has general familiarity with Mr. Bousquette's issue, but
6 does not think his client is asking that the standards be considered differently
7 or favor one resident over another.

8 Chairman Neiman commented that it is important to remember that Mr.
9 Bousquette's case was approved by ZBA, unfortunately it was a
10 recommendation only, and the Village Board of Trustees overruled the
11 recommendation. So, personally, he is struggling with the idea the ZBA might
12 apply a different standard, when this body approved Mr. Bousquette's request.
13 Whether the applicant in this case was involved in any way of defeating the
14 Village Board approval, there is no evidence before us on that issue, and he
15 struggles with how to take that into consideration. He added that what the
16 Village Board did was tragic, but it is water under the bridge. Discussion
17 followed regarding the extent to which the ZBA should consider the actions of
18 the Village Board when making their determinations. It was noted that the ZBA
19 is not bound by precedent from other cases, and that the ZBA has final authority
20 in this particular matter.

21 Member Podliska moved to **close the public hearing for V-03-21, 505 South**
22 **County Line Road**. Member Giltner seconded the motion.

23
24 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman
25 Neiman

26 **NAYS:** None

27 **ABSTAIN:** None

28 **ABSENT:** None

29
30 Motion carried.

31 **DELIBERATIONS**

32
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34 Member Podliska began deliberations saying he would be in favor of the request,
35 in part because his questions about the patio are satisfied by the unique physical
36 condition. Those structures that are close to the lot line have been there a
37 considerable length of time, and not disqualifying for the owner to keep them
38 there. Regarding reducing the variation request to the minimum needed, he would
39 like to see it moved back from the lot line because setbacks are in place for
40 aesthetic and safety issues. He described possible vehicular safety issues.
41 However, it has been there a long time, and it would be an extreme request to
42 move it.

43 Member Moberly commented that being the landscape architect and the
44 construction manager on private property is beyond the purview of the Zoning
45 Board. He said he hates to see Lots #6 and #9 built up because there are very
46 few of these fine estates left in Hinsdale. However, the owner has a right to divide
47 the property. It is a shame, but it is their right. He would be in favor of granting

1 the variance.

2 Trustee Giltner struggles with the parking pad being so close to the lot line.
3 Obviously, the current owner has no objection to this structure because it is in his
4 back yard, but a different owner might object. This Board cannot forecast an
5 outcome, but in the spirit of reducing the variance request, he suggested imposing
6 a condition to make the lot line more consistent with the setback requirements.
7 Otherwise, he is comfortable with the variation that relates to the garage.

8 Trustee Alesia agrees stating he could support the request with the condition. He
9 added he finds it hard to believe part of the motivation for the request is not being
10 done to maximize the financial value.

11 Mr. Parsons confirmed that removal of the patio would result in a 8' foot 10" inch
12 setback.

13 Member Lee agrees, stating she has no issues with the garage. However, the
14 patio side of the property is imposing for a new owner on 526 Woodside, and
15 agrees with the suggested stipulation. She also struggles with whether or not this
16 is self-created because the need for a variation is a result of the current owner's
17 desire to separate the lots. She agrees the garage request seems reasonable, but
18 believes it would be prudent to provide more of a buffer from the patio for the future
19 owners of 526 Woodside.

20 Member Murphy would not put a condition on the approval, and believes the
21 garage is more imposing than the patio. He stated asking for the minimum makes
22 sense when you are building something new, but when it is an existing structure it
23 seems less sensible to tear it apart.

24 Chairman Neiman agreed with Member Murphy, stating if there was a neighbor, it
25 would be a different discussion, and would be perhaps more inclined to require the
26 variation come closer to the minimum standard, but given the size of the property,
27 and historic value of the home, it does not make a huge difference to him.

28 Chairman Neiman asked Mr. O'Donnell if he would like to address a possible
29 restriction as presented. If so, the public hearing would be re-opened. Mr.
30 O'Donnell stated he could address this issue, but will not say more until the hearing
31 would be reopened.

32 Chairman Neiman polled the Board regarding placing a condition on the approval.
33 Members Podliska and Murphy suggested this matter would best be negotiated by
34 the buyer and seller at the time of sale, and may impact the price of the property.
35 This is better than a condition imposed at this time. If it diminishes the value of
36 the property, then the market will drive that at the time. This Board is addressing
37 it hypothetically. Members Giltner, Alesia, Lee and Moberly agree there should be
38 a condition placed on the approval.

39 Member Podliska moved to reopen the Public Hearing for **V-03-21, 505 South**
40 **County Line Road**. Member Giltner seconded the motion.

41
42 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman
43 Neiman

44 **NAYS:** None

45 **ABSTAIN:** None

46 **ABSENT:** None

47

1 Motion carried.
2

3 Mr. O'Donnell asked the Board to keep in mind that the condition regarding the
4 stairs will be recorded for any future owner of the Woodside property, and they
5 can have the stairs removed. The wall and stairs are visible and obvious. The
6 new Woodside property owner will have the opportunity to address the stairs with
7 the seller at the time of sale, as well as the wall. He believes this should be left to
8 the future owners of both properties. Regarding the condition of moving the wall
9 back, it is not known structurally what is under the wall and patio in that area, it
10 would be relevant to determine the appropriateness of imposing that condition. If
11 it cannot be moved, that is actually a denial of the request more than a condition
12 for approval. Mr. Parsons pointed out that two thirds of that area is planted, the
13 masonry is in excellent shape, and he believes there is no harm in leaving the
14 walls as they have always been.

15 Mr. Bousquette referenced a cover letter dated August 30, 2017 for the offer to
16 buy the Zook property that was presented to the Village Board at that time. The
17 group making the offer includes Mr. Krehbiel. However, he is supportive of
18 granting the variance, as he would not like to see this house torn down.

19 Member Podliska moved to **re-close the public hearing for V-03-21, 505 South**
20 **County Line Road**. Member Giltner seconded the motion.
21

22 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman
23 Neiman

24 **NAYS:** None

25 **ABSTAIN:** None

26 **ABSENT:** None
27

28 Motion carried.
29

30 FURTHER DELIBERATIONS 31

32 Chairman Neiman began by stating the Board could either entertain a motion to grant
33 the variance outright, grant the variance with the condition discussed, or deny the
34 variance. Member Giltner suggested continuing the public hearing, to provide the
35 applicant an opportunity to gather more information regarding the patio.

36 Mr. McGinnis pointed out that if this area is a parking pad not a patio, the setback
37 requirements are reduced.

38 Mr. O'Donnell agreed it might be more helpful to the Board to provide more
39 information regarding the patio, but suggested the Board could vote tonight with
40 respect to the garage request, and continue the patio matter if necessary. Board
41 members agreed this was a reasonable suggestion.

42 Chairman Neiman added he leans toward a preservationist mentality, and it seems
43 to him that moving the wall to get it a little closer seems like a lot of work for not
44 much gain.

45 Member Podliska moved to **approve the variation request V-03-21, 505 South**
46 **County Line Road as it pertains to the garage, and to continue the hearing on**
47 **the patio variation request**. Member Giltner seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

9. NEW BUSINESS – None

10. OLD BUSINESS – None

11. ADJOURNMENT

With no further business before the Zoning Board of Appeals, Member Moberly made a motion to **adjourn the regularly scheduled meeting of the Zoning Board of Appeals of March 17, 2021**. Member Alesia seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

Chairman Neiman declared the meeting adjourned at 8:23 p.m.

Christine M. Bruton

Approved: _____