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**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING
April 21, 2021**

1. 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, April 21, 2021 at 6:34 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.

2. ROLL CALL

Present electronically: Members Gary Moberly, Joseph Alesia, Keith Giltner, Tom Murphy, Leslie Lee (arr. 7:05 p.m.), John Podliska, and Chairman Bob Neiman

Absent: None

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

3. APPROVAL OF MINUTES – None

4. APPROVAL OF FINAL DECISIONS & FINDINGS OF FACT – None

5. RECEIPT OF APPEARANCES

Court reporter, Ms. Kathy Bono, administered the oath to all persons intending to speak during the proceedings.

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

7. PRE-HEARING AND AGENDA SETTING

a) **V-05-21, 218 West Ogden Avenue**

Mr. Patrick McGinnis, representing the applicants, addressed the Board. The property is located in the R4 zoning district, and located on the south side of Ogden Avenue between Vine and Grant Streets. The applicant is requesting relief from the minimum lot width requirement of 70' feet to 63' feet, to subdivide the property into three buildable lots. Two of the proposed lots would be code

1 compliant, the third lot is the interior lot on Grant Street. He pointed out that
2 even with the relief, this lot would still be larger than most of the other lots to
3 the south of the property

4 Member Podliska pointed out that the sign on the property says there are two
5 lots. Mr. Robb McGinnis confirmed it is two lots without a variance, by right.
6 Member Moberly asked for confirmation that the applicant is a developer, not
7 three separate owners for each lot. Member Alesia asked the applicant to
8 identify for the public hearing those nearby lots that are only 50' feet wide.
9 Chairman Neiman reminded Mr. Patrick McGinnis that support from neighbors
10 can be a factor, and informative for the Board.

11 The public hearing was set for the next meeting of the Zoning Board of Appeals.
12

13 8. PUBLIC HEARING

14 a) **V-03-21, 505 South County Line Road** (*A transcript of these proceedings is* 15 *on file with the Village Clerk.*)

16 Chairman Neiman opened the public hearing. Attorney Robert O'Donnell,
17 representing the Krehbiel Trust, addressed the Board. He explained the
18 hearing was continued to address one of the two variations requested to allow
19 a structure to remain as is. The structure is a parking area. At the last hearing
20 on March 17, there was clear concern as to the extent of the variance
21 requested. At the time, the area was designated as a patio area, and as such
22 requires a 10' foot setback. At the time the application was made, it was
23 debated whether to call it a patio or a parking area, that requires only a 6' foot
24 setback. Given comments from Board members about the 8.5' feet of relief
25 necessary to preserve a patio, Mr. O'Donnell addressed this issue with the
26 Village, and got a zoning interpretation. He has received a written response
27 that determines this a parking area, and as such requires a 6' foot setback.
28 Therefore, relief to allow the structure to remain is reduced to 4.5' feet. The
29 purpose of requesting an interpretation was to lessen the relief sought. The
30 parking area is located between two large planters, to the west of the stairs.
31 The required 6' foot setback cuts through the parking space and planters. The
32 impact on the subject property, if they have to remove to comply, diminishes to
33 some extent the function of the motor court and driveway. There is no present
34 impact to the future 526 Woodside property, because it is owned by the
35 applicant. A future owner is protected because a covenant will be recorded to
36 require the stairs to be removed. Any future owner would either accept this, or
37 it would be the subject of negotiation between parties.

38 **Mr. Dennis Parsons**, architect, addressed the difficulty of taking a masonry
39 wall apart and having it look as good as it does today. He described the
40 difficulty of restoration work, and does not think this is a good idea. The parking
41 area is not intrusive, is well-maintained, and in good condition. This is not
42 detrimental to the property to the east, as a purchaser could decide if it is a
43 deal breaker. Discussion followed regarding new construction, and the wall as
44 an amenity. Mr. Parsons said the brick wall has a custom cap and great patina.
45 The edge of the wall is a foot off the lot line. Discussion followed about what a
46 future owner might do. Member Podliska pointed out a substantial redesign of
47 the existing driveway will have to take place to accommodate Lot #7. An

1 opportunity will exist to correct the loss of a parking space in the area in dispute.
2 The driveway that now exists to County Line Road will need to be re-done, too.
3 He believes this is an opportunity to move it back the required distance to meet
4 the code. Mr. Parsons believes the cure is worse than the disease. Member
5 Podliska thinks because the new lot will be lower, the wall will be imposing. Mr.
6 O'Donnell added that even if the parking area is pulled back the 4.5' feet, there
7 will still be a retaining wall, and it would be a solid wall since the stairs will be
8 gone. Member Giltner commented the wall can be as formidable as it wants, if
9 it is code compliant.

10 There were no further questions from the Board.

11 Member Podliska moved to close the public hearing for **V-03-21, 505 South**
12 **County Line Road**. Member Murphy 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

19
20 Motion carried.
21
22

23 **DELIBERATIONS**

24
25 Member Murphy began discussion stating he believes it is okay to leave the
26 structure as is. He hears the concerns, but it could be assumed the new buyer will
27 build a fence anyway. Since the structure already exists, he believes it is too
28 speculative to determine what a future buyer will require. Member Giltner is trying
29 to balance the cost of removal, with agreeing to the variance. He is troubled with
30 letting the market determine the outcome, but having to move it is a significant
31 effort, a fence will make it a non-issue. This is a unique situation, and he is leaning
32 in favor.

33 Member Podliska said the anomaly is that the lot to the east is not owned
34 separately, and the Board has no input from a homeowner. He believes this puts
35 a heavier burden on the Zoning Board to comply with the code. The ZBA stands
36 in the place of a future owner. The 6' foot requirement is there for a reason. He
37 acknowledges it would be a big job to remove the wall, but the driveway
38 reconfiguration will also be a big job.

39 Member Alesia concurs with Member Podliska's arguments.

40 Member Moberly agrees, and added there is still 60,000' square feet of land left
41 on Lots #7 and #8. This will allow plenty of room to accommodate any reasonable
42 number of cars. He hates to see the wall removed, but the potential new owner is
43 not here.

44 Member Lee agrees that without the owner of the property to make a counter
45 discussion, it is up to the Board, and the encroachment is still significant. She
46 believes it is difficult to expect this to play out in a real estate situation. Chairman
47 Neiman says he leans toward the historic preservation aspect, and the request is

1 only 4' feet.

2 Member Moberly moved to approve the variation known as **V-03-21, 505 South**
3 **County Line Road**. Member Giltner seconded the motion.

4
5 **AYES:** Member Murphy and Chairman Neiman

6 **NAYS:** Members Moberly, Alesia, Giltner, Lee, and Podliska

7 **ABSTAIN:** None

8 **ABSENT:** None

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10 Motion denied.

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12 b) **V-04-21, 120 East Fifth Street** (*A transcript of these proceedings is on file*
13 *with the Village Clerk.*)

14 Chairman Neiman opened the public hearing. Mr. John George, attorney
15 representing the applicants, addressed the Board. Peter & Tina Verros have
16 built a new single family home, with a privacy fence. This is a unique property
17 as it is a through lot, there are two 'front' yards, Fifth Street is the primary front,
18 and Sixth Street is the secondary front. The home is code compliant R1 zoning,
19 but the code restricts fences in the front yard to 24' inches or 4' feet, the owner
20 wants 6' feet. He noted the fence cannot be a solid construction.

21 Mr. Verros explained there are three reasons they are making this request; 1.
22 the safety and security of the family; 2. privacy, there is a pool in the yard; and
23 3. this would improve the aesthetics of their fencing, as a portion of the existing
24 fence is a 6' foot solid fence. The existing east and west boundary fence is 6'
25 foot solid cedar. A 5' foot aluminum fence currently exists on Sixth Street, and
26 they want to replace it with cedar. He described the dense hedge of 7' foot
27 yews they have installed to shield the fence from view. Mrs. Verros added they
28 planned with their landscaper to find plantings that would be higher than the
29 fence, and green all year long. The yews will grow to 15' feet, and the fence
30 would not be visible behind the shrubbery. Mr. Verros pointed out that the
31 property to the east on Sixth Street has a similar through lot, and have a 6' foot
32 solid cedar fence, painted a darker grey color. He added that the owners to the
33 east and west have no objection to the fence. And although the owners on the
34 south side of Sixth Street object, the fence will be covered by evergreens. Mr.
35 George confirmed his client wants a totally secure back yard. Mrs. Verros
36 reported three separate instances where the police have been called because
37 of random dogs in the yard. She is fearful for the safety for children.

38 Mr. George summarized the approving criteria. He said the unique nature of
39 a through lot creates a hardship. Village code does not address fencing codes
40 for through lots. The proposed fence is permitted on a normal lot. The
41 proposed fence is in harmony with neighborhood, in fact, the property to the
42 east has the same type of fencing in their secondary front yard. Mr. McGinnis
43 explained that this owner was allowed to rebuild their existing legal non-
44 conforming fence in 2004, noting the code was changed in 2006 and would no
45 longer be permitted. Mr. George asserted it is still in harmony as the fence
46 exists. He said this owner is not setting a precedent. They spent time and
47 energy to do the landscaping correctly to shield the fence from neighbors. The

1 Verros thought the aluminum fence would be temporary. Chairman Neiman
2 suggested the installation of a 3' foot fence, but Mr. George said they want a
3 better barrier, and a solid 3' foot fence is also not allowed under the zoning
4 code. He went on to explain there is no adverse impact to the surrounding
5 community. There is separate criteria for fences, and these have been met.

6 Member Podliska confirmed a fence could be no higher than 5' feet, and cannot
7 be solid, but an open fence could be backed up with chicken wire to prevent
8 animals from getting in the yard. Mr. Verros said they were not aware of the
9 through lot fence requirement, so they ordered the solid fencing for the other
10 part of the yard and wanted it fully enclosed, and to match the existing fence.
11 Mr. McGinnis explained there is no problem with a cedar fence if it is 33% open.
12 Discussion followed about the permitted height of the fence.

13 **Mr. Bill Trader of 118 E. Sixth Street**, addressed the Board. He lives across
14 the street from the applicant and believes the property can be secured with
15 wrought iron or aluminum fencing that would not be onerous to neighbors. He
16 believes the fence would be visible.

17 There were no further questions.

18 **DELIBERATIONS**

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21 Member Podliska said he is looking at the criteria of any other remedy, and thinks
22 that since a wrought iron fence can go to 5' feet, and that kind of fence with chicken
23 wire is a barrier and obstruction for safety. With respect to the landscaping in front
24 of the fence, the ZBA is not in a position to require landscaping. If there was a change
25 in the owner's thinking about landscaping, there would be no recourse. In light of
26 objections, and alternatives, he cannot approve. Member Alesia agrees, there are
27 multiple neighbors objecting, there are other remedies. The applicant must meet all
28 criteria. Member Lee agrees. Member Murphy said you cannot see the fence, why
29 not condition approval on screening on the street side. He is not offended by the solid
30 fence, it will be difficult to see any time of year, and matches the existing fence.
31 Member Moberly added the owner already has privacy and there are other avenues
32 available to increase safety. Member Giltner says the owner has done a lot to mitigate
33 the impact of fence, but having a row of trees that go to 15' feet have an impact, and
34 is not like what would be in a front yard. He understands the aesthetics aspect, but
35 that is not a hardship we can consider. Chairman Neiman agrees with the majority of
36 the Board, all criteria are not met, and there are alternatives.

37 Member Murphy moved to approve the variance known as **V-04-21, 120 East Fifth**
38 **Street**. Member Moberly seconded the motion.

39
40 **AYES:** Member Murphy

41 **NAYS:** Members Moberly, Alesia, Giltner, Lee, Podliska and Chairman Neiman

42 **ABSTAIN:** None

43 **ABSENT:** None

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45 Motion denied.

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1 **9. NEW BUSINESS**

2 Member Podliska asked if the Board will continue to meet by Zoom. Chairman
3 Neiman said we meet in compliance with the Governor's orders that allow meeting
4 remotely, and it seems the best practice to accommodate everybody who might
5 like to attend.
6

7 **10. OLD BUSINESS – None**

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9 **11. ADJOURNMENT**

10 With no further business before the Zoning Board of Appeals, Member Podliska
11 made a motion to **adjourn the regularly scheduled meeting of the Zoning**
12 **Board of Appeals of April 21, 2021.** Member Murphy 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
19

20 Motion carried.
21

22 Chairman Neiman declared the meeting adjourned at 8:19 p.m.
23
24

25 _____
26 Christine M. Bruton
27
28

Approved: _____