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**VILLAGE OF HINSDALE  
ZONING BOARD OF APPEALS  
MINUTES OF THE MEETING  
December 15, 2021**

**1. CALL TO ORDER**

Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, December 15, 2021 at 6:30 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

**2. ROLL CALL**

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

**Absent:** None

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

**3. APPROVAL OF MINUTES**

a) **November 17, 2021**

There being no changes or corrections to the draft minutes, Member Giltner **moved to approve the draft minutes of November 17, 2021, as presented.** Member Podliska 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 OR FINDINGS OF FACT**

a) **V-07-21, 31 Blaine Street**

There being no changes or corrections to the draft Final Decision, Member Podliska **moved to approve the Final Decision for V-07-21, 31 Blaine Street, as presented.** Member Giltner seconded the motion.

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

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** None

Motion carried.

1  
2 **5. RECEIPT OF APPEARANCES**

3 The Court Reporter administered the Oath to all persons intending to speak at  
4 the public hearings.

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

8  
9 **7. PRE-HEARING AND AGENDA SETTING – None**

10  
11 **8. PUBLIC HEARING**

12 **a) V-09-21, 332 and 328 North Oak Street** *(Item taken out of order)*

13 *(A transcript of the following proceedings is on file with the Village Clerk.)*

14 Chairman Neiman called the public hearing to order. Mr. Eric Johnson,  
15 architect for the applicants, addressed the Board to request a variation to  
16 combine two adjacent lots, resulting in one property with a 112' foot front yard.  
17 They intend to keep their existing home, but add an addition extending to the  
18 north of the property.

19 Mr. Blake Geoffrion, property owner, addressed the Board stating he has  
20 spoken to his neighbors to make sure they have no issues. His neighbor to the  
21 south provided a written statement, which Mr. Geoffrion read, indicating support  
22 for the proposed variation. He also read the written statement from the  
23 neighbor to the north that also indicates support of the zoning variation.

24 Mr. Johnson reviewed the approving criteria for the Board. He believes that  
25 over the years Hinsdale setbacks have become more stringent. However, in  
26 this case, even though the one side yard will be only about 6' feet, there will be  
27 more room on the other side of the lot for this addition. The addition will not  
28 look out of place. The owners purchased the two lots in good faith that they  
29 could do something interesting. The combination of the two lots would enhance  
30 the neighborhood, and provide living space for the owners that is more in  
31 keeping with Hinsdale standards. The owners are not interested in any special  
32 treatment for what they are planning to do; they just want the ability to build an  
33 addition to accommodate their growing family. This variation will not be  
34 detrimental to the public welfare or injurious to the enjoyment, use,  
35 development or value of property currently permitted in the vicinity, nor will it  
36 impair an adequate supply of light and air in the vicinity, nor increase  
37 congestion in the public streets or tax public utilities. There is no other remedy  
38 that will allow the existing structure to remain.

39  
40 Member Podliska moved to **close the public hearing for V-09-21, 332 and**  
41 **328 North Oak Street.** Member Giltner seconded the motion.

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

45 **NAYS:** None

46 **ABSTAIN:** None

47 **ABSENT:** None

1  
2 Motion carried.

3  
4 **DELIBERATIONS**

5  
6 Member Podliska began deliberations stating he would be in favor of granting the  
7 variance. It accomplishes the purpose of larger lot size, and is the kind of  
8 development the code encourages to expand the size of lots in the Village. The idea  
9 that in order to meet the side yard code requirements they would have to tear down  
10 the existing home to move it 12' feet from the lot line is unreasonable. All other Board  
11 members concur.

12  
13 Member Murphy moved to **approve the variation known as V-09-21, 332 and 328**  
14 **North Oak Street.** Member Giltner seconded the motion.

15  
16 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman  
17 Neiman

18 **NAYS:** None

19 **ABSTAIN:** None

20 **ABSENT:** None

21  
22 Motion carried.

23  
24 **b) V-08-21, 5515 and 5517 South Elm Street**

25 *(A transcript of the following proceedings is on file with the Village Clerk.)*

26 Chairman Neiman called the public hearing to order. Mr. Matthew Klein,  
27 attorney representing Alan and Joan Berger, introduced himself stating that the  
28 applicant is not trying to add something to a house, and are not trying to build  
29 something on a lot that is too small. They own a lot that is grossly in excess of  
30 the district requirement. The Village interprets there are two existing lots of  
31 record, each of which substantially exceed all of the required parameters of the  
32 district, except for lot width. However, the lot width of each lot is 60' feet as  
33 are all the other lots on the block.

34 Mr. Alan Berger addressed the Board stating he owns the two lots he purchased  
35 in 1971 in hopes of creating a better future for his children. At that time, the  
36 properties were located in unincorporated Downers Grove Township. He  
37 described the rural nature of the area at that time. They lived in the two-story  
38 house built in the 1920's on the north lot. He noted that they have paid real  
39 estate taxes on two lots for 50 years. In the late 1970's, Hinsdale annexed the  
40 area south of 55<sup>th</sup> Street. When his father passed away in 2009, he and his  
41 wife bought and moved to a ranch style home to care for his invalid mother.  
42 His son occupied the house on Elm Street until 2015, when the house was  
43 demolished. The two lots were cleared so that each could have a single-family  
44 residence built on them as was consistent with the vast majority of the  
45 properties in the area. He said he is not asking for special treatment in this  
46 matter, just equitable treatment.

47 Mr. Klein explained that the R-2 Zoning District requires 15,000' square foot

1 lots and a 70' foot lot width. The two lots on Elm are 60' feet wide, but exceed  
2 the required R-2 lot square footage and are 296' feet in length. These were  
3 legal nonconforming lots of record under the prior ordinance from the 1960's.  
4 He referenced the study conducted by Camiros, a planning consultant hired  
5 when the Village was considering rewriting the zoning code that indicates there  
6 are more nonconforming lots in this district than conforming lots, which in their  
7 opinion indicates the current regulations should be reevaluated. On the east  
8 side of Elm Street, there are 18 lots that are 60' x 296' feet, identical to these  
9 lots. Mr. Klein believes there are two purposes of the zoning ordinance; to  
10 preserve the existing scale of development in the Village and to protect  
11 justifiable reliance on existing established land use patterns. Homes have been  
12 rebuilt on the nonconforming lots of record, but his clients were caught because  
13 there had been an additional garage on the southern lot. This was legal at the  
14 time of annexation, and until 1981 under the prior zoning ordinance. His client  
15 is in a unique situation because had there been no garage, the Village would  
16 allow two homes to be built.

17 Mr. Klein reviewed the standards for variation, beginning with the uniqueness  
18 of these properties because the two lots in question constitute one of the largest  
19 lots in the Village at 37,800' square feet, and if divided they are still larger than  
20 most in the area. Homes on other nonconforming lots of record in this district  
21 can be rebuilt, many of which are on smaller lots than these two.

22 This is not self-created. The lots were created in the 1920's, they were  
23 permitted after the annexation, and they were permitted when purchased in the  
24 1970's. It was only after 1981 that the Village determined that the removal of  
25 the garage on the southern lot would not be sufficient to restore these two  
26 independent legal nonconforming lots of record. There is no information on  
27 why there was a second garage on the southern lot.

28 No special privilege would result in the granting of the variance as the two  
29 resulting lots would be identical to the development of almost every other  
30 property on the east side of Elm.

31 As far as code plan and purpose, he believes the variation to allow the two lots  
32 would be consistent with the zoning code and planning permitted for other  
33 nonconforming lots in the Village.

34 The character of the area is set by the existing homes in the area, two homes  
35 on these properties is consistent with the trend of development in the area, with  
36 no negative impact as a result.

37 Mr. Podliska confirmed that there was a structure on the other nonconforming  
38 lots and the new ordinance was designed to protect those homeowners should  
39 their house be burned down, for example, they could rebuild. However, the  
40 Bergers are free to build on the lot, but they are asking for an exception  
41 because there was no house on the southern lot. He pointed out that the Village  
42 is trying to make lots larger, and there is a mechanism to do so.

43 Mr. Klein believes the ability to reuse each of those properties is a matter of  
44 right in the code. The combination of the two lots into one gigantic lot creates  
45 a property that is out of character for that area, the development of each of  
46 these two lots individually is more in character with the neighborhood than  
47 developing the lot as one large lot. He noted that Mr. Berger has received

1 offers for the lots individually if he can separate them, but there is no interest  
2 in one very large lot with one house. The inability to designate these as two  
3 separate lots is a significant detriment to the Bergers. Mr. Berger added that  
4 he bought the two properties with the anticipation that at some point he could  
5 build two houses, one for himself and for one of his children.

6 Mr. Klein illustrated several other homes in the area on lots equal to or smaller  
7 than the proposed lots. Member Podliska asked if any of these homes were  
8 the result of a variance as being requested. Mr. Klein did not think so, but still  
9 asserts that the important consideration is the existing lot size in the area and  
10 that the Village anticipates and deems it reasonable for a new house to be built  
11 on a 15,000' square foot lot in this zoning district. Mr. Podliska believes the  
12 Village is not advocating it, they are allowing it, but would prefer larger lots.  
13 Mr. Klein does not think it is realistic that in the foreseeable future that many of  
14 these lots will be combined. It does happen when a lot is vacant from time to  
15 time. This is the platting that the Village inherited, that goes back to the 1920's,  
16 and was appropriate under the zoning code until 1981. Member Podliska  
17 reiterated the Village's intent to increase the lot sizes in Hinsdale. Discussion  
18 followed to clarify the width of other lots in the area.

19 **Mr. Casy Zubek of 5526 S. Elm Street** stated he sees no problem with the  
20 variation requested. Every house is the same on this block, and a large house  
21 will not match. He thinks the Board should help Mr. Berger.

22 **Mr. Nirav Thakkar of 5830 S. Washington Street** explained he was one of the  
23 people that offered to purchase the property if it is two separate lots. He is  
24 concerned that if someone bought the lots as one, they would build a basketball  
25 court or some such separate structure that would be like a sore thumb for the  
26 neighborhood. He believes it would be better to be uniform and have two  
27 houses on the street that are like all the others. He had hoped that one of his  
28 brothers that is moving to town could build on one of the lots, and find a second  
29 owner for the second lot.

30  
31 Member Podliska moved to close the Public Hearing for **V-08-21, 5515 and**  
32 **5517 South Elm Street**. Member Giltner seconded the motion.

33  
34 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman  
35 Neiman

36 **NAYS:** None

37 **ABSTAIN:** None

38 **ABSENT:** None

39  
40 Motion carried.

## 41 42 **DELIBERATIONS**

43  
44 Member Podliska began deliberations expressing concern that this may be special  
45 privilege and that there are lots of record that are determined that way because of  
46 code changes that would have required larger lots, once a building on a property was  
47 destroyed. Legal nonconforming lots was a concept by which the homes were

1 protected that already existed when the new zoning code went into effect. It was a  
2 way to protect homeowners so they would not lose the value of the improvement they  
3 had on the property. This is not the circumstance with this petitioner. They are asking  
4 for a variance to allow them to take advantage of the protection of a legal  
5 nonconforming use that was there for a purpose that does not exist here. He can  
6 build on this property; he does not need to be protected. There are other large  
7 properties in Hinsdale, so it does not follow that building one home on these two lots  
8 would be atypical to the rest of the community.

9 Chairman Neiman thought the Bergers made a good point in their explanation of why  
10 they were being denied substantial rights when they noted the zoning code and  
11 planning purposes of the Village will allow a new home to be built on a nearby R-3 lot  
12 of smaller size.

13 Member Murphy agreed with Chairman Neiman, however, Member Podliska reiterated  
14 that it is not about the size of the lots, the difference is there was no residential  
15 structure on the second lot.

16 Member Moberly stated he agrees with both the pros and the cons. He spoke with  
17 the neighbor at 5519, who would be most closely affected, and they are not opposed  
18 to the variance. Member Moberly stated he does not like granting variations that  
19 increase density, but he is struck by all of the 60' foot wide lots on Elm. They do not  
20 look shoehorned onto the lots. He referenced other similar cases before the ZBA. In  
21 one case, the house would have been crammed onto a lot, and in another, there were  
22 legitimate safety issues, as well as a large variation percentage of the overall lot size.  
23 These lots are so large even as subdivided; they are still 17,500' square feet. There  
24 would still be conformity with the neighbors. However, there is the density, and that  
25 financial considerations not part of an approval. The other remedy is one house.  
26 Weighing the pros and cons, the most important thing to him is that almost every other  
27 house on Elm is 60' by 296'.

28 Finally, he noted that this is a recommendation to the Board of Trustees, and the final  
29 decision is theirs.

30 Director of Community Development Robb McGinnis explained the concern is if we  
31 throw out the definition of zoning lot we ultimately risk more houses on more lots just  
32 because they meet the width, depth or lot area restrictions under Section 10-105.

33 Member Murphy does not feel it is precedential to have two more lots that look just  
34 like the rest of the block.

35 Chairman Neiman remarked that there is a legal argument against this variance and  
36 an equitable argument for it.

37 Member Giltner said he does not disagree with the argument Member Podliska makes,  
38 but is persuaded by the equity in the sense of consistency in the area, and two homes  
39 would not change the character of the area.

40 Member Murphy added he would feel differently if there were neighbors complaining,  
41 but there are not, and he would be in favor of granting the variance.

42 Discussion followed regarding the previous request before the Board to subdivide the  
43 former Hinsdale Animal Hospital property into three parcels, which the ZBA denied.

44 Member Lee agrees and is sympathetic to the request. Two homes on these  
45 nonconforming lots would be in keeping with the neighborhood. She expressed some  
46 concern about precedence.

47 Member Alesia agreed this variation supports the conformity of the neighborhood.

1 Chairman Neiman asked Mr. McGinnis to confirm what precedential value, if any, the  
2 ZBA vote on this variation would have. Mr. McGinnis explained that legal opinion  
3 states there is some importance placed on precedent in the case of an appeal,  
4 however, with variation requests, they each stand on their own merit.

5 Chairman Neiman stated given the fact this is a recommendation to the Village Board,  
6 there is no precedence, and there are no neighbor objections, he is more comfortable  
7 with taking equitable considerations into effect.

8  
9 Member Murphy moved to **recommend the Village Board of Trustees approve the**  
10 **variation request of V-08-21, 5515 and 5517 South Elm Street.** Member Giltner  
11 seconded the motion.

12  
13 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee and Chairman Neiman

14 **NAYS:** Member Podliska

15 **ABSTAIN:** None

16 **ABSENT:** None

17  
18 Motion carried.

19  
20 **9. NEW BUSINESS – None**

21  
22 **10. OLD BUSINESS – None**

23  
24 **11. ADJOURNMENT**

25 With no further business before the Zoning Board of Appeals, Member Murphy  
26 made a motion to **adjourn the Zoning Board of Appeals of November 17, 2021.**  
27 Member Giltner seconded the motion.

28  
29 **AYES:** Members Moberly, Alesia, Giltner, Murphy, Lee, Podliska and Chairman  
30 Neiman

31 **NAYS:** None

32 **ABSTAIN:** None

33 **ABSENT:** None

34  
35 Motion carried.

36  
37 Chairman Neiman declared the meeting adjourned at 8:02 p.m.

38  
39  
40  
41 \_\_\_\_\_  
42 Christine M. Bruton

Approved: \_\_\_\_\_