

VILLAGE OF HINSDALE  
SPECIAL MEETING OF THE  
ZONING BOARD OF APPEALS  
October 21, 2009

**1. Call to Order – Administer Oath of Office**

Vice-Chairman Haarlow called the special meeting of the Zoning Board of Appeals to order on Wednesday, October 21, 2009 at 6:37 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

Deputy Clerk Christine M. Bruton administered the Oath of Office to newly appointed member of the Zoning Board of Appeals, Robert K. Neiman and to newly appointed Chairman, William Haarlow.

**2. Roll Call**

Present: Chairman William Haarlow, Members Gary Moberly Debra Braselton, Keith Giltner

Absent: Members Marc Connelly and John Callahan

Also Present: Village Manager Dave Cook, Building Commissioner Robb McGinnis, Staff Secretary Christine Bruton and Court Reporters Janice Heinemann and Kathy Bono

**3. Approval of Minutes**

There being no corrections or additions to the minutes, Ms. Brazelton **moved approval of minutes of the Regular Meeting of September 16, 2009.** Member Moberly seconded the motion.

**AYES:** Members Moberly, Brazelton, Giltner and Chairman Haarlow

**NAYS:** None

**ABSTAIN:** Member Neiman

**ABSENT:** Members Connelly and Callahan

Motion carried.

**4. Receipt of Appearances**

All persons expecting to testify in any of the public hearings before the Board were sworn in by the Court Reporter Bono.

**5. Receipt of Requests, Motions, Pleadings, or Requests to make Public Comment of a General Nature - None**

**6. Pre-Hearing and Agenda Setting - None**

## 7. Public Hearings

Chairman Haarlow pointed out that due to the fact that there are five Board members present as opposed to a full Board of seven, in order to approve a variance, the applicant must receive four affirmative votes. In a sense, this means the bar is set higher, however, each applicant has the option to defer their hearing to the next scheduled meeting. He also pointed out that future attendance cannot be guaranteed.

### a) **643 S. Lincoln, V-04-09** (*A transcript of these proceedings is on file*)

The hearing was opened and Mr. Groenewald opted to continue. He apologized to the Board and the community for his ignorance regarding the fact that he should have obtained a permit before he completed the construction on the side of his house. With regards to hardship, he stated his is a corner lot; the front of the house faces Lincoln Street and was built in the 1890's. There have been two subsequent additions resulting in a long, skinny house. He thought about tearing the house down, but decided to maintain the look and integrity of the home. He removed the old deck that was to the rear of the house and put it on the side of the house because it afforded more privacy. He built the patio on the side, too, and it is too close to Seventh Street by 3' feet. However, if they had maintained the proper setbacks it would be a less-functional long, skinny patio. Mr. Groenewald stated that comments from fellow residents have all been positive. He described the high quality, tasteful materials used to construct the patio and service walk. Further, he doesn't believe the fireplace is in a dangerous location and, in any event, he is careful.

Mr. Giltner asked Mr. Groenewald when he learned about the setback requirement. Mr. Groenewald explained that after the work was almost complete, it was red flagged by the building department. He was instructed by Village staff to request a permit for the work, it would be denied and he could take it up with the ZBA. Mr. Neiman said the work looks terrific, but he is struggling with the fact that the work was done without a permit and if the ZBA approves this request a signal is sent to others to try to get away with building without a permit. He is concerned about setting precedence in this type of matter. Ms. Brazelton suggested an alternative location for the patio, discussion followed, and Chairman Haarlow remarked that while they can be sensitive to the aesthetics, it is not one of the standards the ZBA is charged with upholding. Mr. Groenewald said the layout of the house and the lot are not a self-created hardship. He also noted the expense of reconfiguring the patio at this time. The contractor on the project, Mr. Goss, stated that if the fireplace is moved to the east, a 20 year old maple tree would be removed because of the proximity to the chimney. Discussion followed regarding the possible locations of the fireplace and the resulting effect on the trees.

1 Mr. Neiman moved to close the public hearing for V-04-09. Ms. Braselton  
2 seconded the motion.

3  
4 **AYES:** Members Moberly, Braselton, Neiman, Giltner and Chairman Haarlow

5 **NAYS:** None

6 **ABSTAIN:** None

7 **ABSENT:** Members Connelly and Callahan

8  
9 Motion carried.

10  
11 b) **707 S. Bodin, V-05-09** (*A transcript of these proceedings is on file*)

12 Mr. Jeff Spirek, the senior engineer on the project, on behalf of the homeowners,  
13 Darius & Greta Filmanaviciute, elected to proceed despite the reduced number of  
14 Board members present. He proceeded to provide history to the Board regarding  
15 the homeowners situation and their purchase of the vacated alley in the rear of  
16 the property in order to place a detached garage as far from the residence as  
17 possible. On March 6, 2009 the preliminary plans were completed for the garage  
18 and submitted to the homeowner who was surprised to notice that the garage was  
19 not in the back of the lot because of a 42" inch easement located in the back of the  
20 property. He recapped the time line, as he understood it, of the purchase of the  
21 vacated alley and other communications. He stated that the house is partially  
22 framed at this time, as they are waiting for this matter to be resolved before  
23 continuing.

24  
25 Mr. Spirek stated that the hardship lies in the fact that if the variance is not  
26 granted the resulting driveway will severely limit turning movement.  
27 Additionally, it will result in more impervious surface and he described the  
28 current drainage path. Mr. Neiman asked did Village staff know when the alley  
29 was purchased, why it was being purchased. The homeowner, Mr. Darius  
30 Filmanaviciute said he explained the purpose of the purchase and the Village knew.  
31 He doesn't believe it will be possible for two cars to use the garage if the 6' foot  
32 setback is required. Mr. Neiman wondered if the garage could be built on the  
33 easement with the caveat that it would have to be torn down if necessary. Village  
34 Manager Cook said he wouldn't recommend this, but given the circumstances the  
35 repurchase of this vacation would have some merit with the Board of Trustees.  
36 There was discussion about moving the sewer line, and exhausting all other  
37 alternatives. Mr. Spirek said that sewer line couldn't support the garage over it,  
38 and he would think the cost of moving the sewer would be enormous. Mr. Spirek  
39 outlined the proposed downspout location and stated that he does not believe it  
40 will excaserbate the drainage problems. He also noted that the homeowner has  
41 not netted any benefit from the purchase of the land in terms of FAR. Chairman  
42 Haarlow mentioned the letters received from neighbors that speak to stormwater  
43 and drainage concerns.  
44

1 **Mr. Paul Miller of 702 S. Monroe** lives to the east of the property being built.  
2 He pointed out that the new garage will be a two-car garage where there is only a  
3 one-car presently. He believes that this larger building will adversely impact  
4 stormwater drainage. He doesn't believe the existing sewers can handle the  
5 increased run-off.

6  
7 **Ms. Diane Griffin of 711 Bodin** is the property owner immediately to the south.  
8 She stated that there are water issues and that she was never noticed of any of  
9 the construction on this property. She believes stormwater will flow into her  
10 backyard, because there will be more concrete. She thinks the house should have  
11 been smaller.

12  
13 Member Moberly asked if the Village is aware of the water issue. Mr. Cook  
14 confirmed that there is no question there are stormwater issues in that part of  
15 town.

16  
17 Ms. Griffin asked if the house or garage need the easement to be the size it is.  
18 Building Commissioner McGinnis said the house is fully code compliant.

19  
20 Chairman Haarlow suggested that the Board hear from Community Development  
21 Director Tim Bleuher on how all of this came about. In order to do that, we would  
22 have to continue this matter to the next meeting. If the applicant is serious about  
23 approaching the Village to buy back the property, he would have the opportunity  
24 to pursue this avenue, but this is his choice. Member Neiman commented that  
25 Mr. Bleuher's comments could affect his vote. Chairman Haarlow explained that  
26 Mr. Filmanaviciute would have to formally request a continuance. Mr.  
27 Filmanaviciute elected not to continue the matter to a later date.

28  
29 Ms. Braselton moved to close the public hearing for V-05-09. Mr. Neiman  
30 seconded the motion.

31  
32 **AYES:** Members Moberly, Braselton, Neiman, Giltner and Chairman Haarlow

33 **NAYS:** None

34 **ABSTAIN:** None

35 **ABSENT:** Members Connelly and Callahan

36  
37 Motion carried.

38  
39 c) **240 S. Bruner Street, V-06-09** (*A transcript of these proceedings is on file*)

40 Ms. Tracy McArdle and her contractor Mr. Chuck Forsythe elected to continue with  
41 the hearing, despite the number of ZBA members present. Mr. Forsythe explained  
42 that this variation request is for a second floor addition. He commented that the  
43 house is tight now, and that the planning for this addition began a year ago, much  
44 time and money was spent in the effort. This design keeps all bearing loads



1 stacked with the first floor, resulting in the most affordable and easily achieved  
2 addition. He noted that it is difficult to comply with zoning laws on a 100 year old  
3 house. To comply with the code would result in a substantial loss of inside space,  
4 if they could get architect approval.

5  
6 It was confirmed that the addition would maintain the existing side footprint, but  
7 the five foot addition to the back would run the full width of the house. Discussion  
8 followed regarding increasing nonconformities and maintaining an existing  
9 nonconformity as it pertains to the rear five feet of the addition. Mr. Forsythe  
10 stated that he saw no problem with making the back addition conforming.

11  
12 Mr. Neiman moved to close the public hearing for V-06-09. Ms. Braselton  
13 seconded the motion.

14  
15 **AYES:** Members Moberly, Braselton, Neiman, Giltner and Chairman Haarlow

16 **NAYS:** None

17 **ABSTAIN:** None

18 **ABSENT:** Members Connelly and Callahan

19  
20 Motion carried.

21  
22 *Chairman Haarlow called a short recess before beginning deliberations. The Board*  
23 *reconvened at 8:35 p.m.*

24  
25 **DELIBERATIONS**

26  
27 **V-04-09, 643 S. Lincoln**

28  
29 Mr. Neiman started discussion stating his concerns about ignoring the permit  
30 process, therefore he would have to vote no. Mr. Giltner added that based on  
31 hardship this matter would not pass. Ms. Braselton concurred with the precedent  
32 concerns as did Mr. Moberly who also suggested there may be a way to reconfigure  
33 the project. Chairman Haarlow stated there are standards to be met and  
34 unfortunately this matter falls short.

35  
36 There being no further discussion, Ms. Braselton moved to **deny approval of the**  
37 **variation request know as V-04-09.** Mr. Moberly seconded the motion.

38  
39 **AYES:** Members Moberly, Braselton, Neiman, Giltner and Chairman Haarlow

40 **NAYS:** None

41 **ABSTAIN:** None

42 **ABSENT:** Members Connelly and Callahan

43  
44 Motion carried.

**V-05-09, 707 S. Bodin**

Mr. Moberly began discussion by stating that he comes back to the fact that if the homeowner had not purchased the alley, the garage would be in essentially the same location, however, he does not want to trivialize the water issues. Chairman Haarlow cautioned that the ZBA has always been mindful of neighbors comments, but they are not the determining criterion.

There being no further discussion, Mr. Moberly moved to **approve the variation request know as V-05-09**. Mr. Neiman seconded the motion.

**AYES:** Members Moberly, Braselton, Neiman, Giltner and Chairman Haarlow

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** Members Connelly and Callahan

Motion carried.

**V-06-09, 240 S. Bruner Street**

Chairman Haarlow began discussion by noting that the issue of increasing the non-conformity can be taken off the table and must focus on the merits as presented by applicant, however, we could decide to make the back adhere to existing code. Mr. Moberly thinks density would thereby be reduced, and leans toward approving the second story request and having the five feet to the rear conform resulting in a one foot offset. Mr. Neiman agreed.

There being no further discussion, Mr. Moberly moved **approve the variation request known as V-06-09**. Ms. Neiman seconded the motion.

**AYES:** Members Moberly, Braselton, Neiman, Giltner and Chairman Haarlow

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** Members Connelly and Callahan

Motion carried.

d) **26-32 E. First Street, APP-02-09** *(A transcript of these proceedings is on file)*

Chairman Haarlow opened the public hearing by stating that all parties have agreed not to have attorneys speak on their behalf so as to keep fees down and avoid a chilling effect on someone filing an appeal with the ZBA. Mr. John Bohnen will speak on behalf of the Alliance for Hinsdale and Village Manager Cook will speak on behalf of Village.

Mr. Neiman stated that Mr. Bohnen has been represented by Attorney Bob O'Donnell in this matter and that Mr. O'Donnell was his attorney in the Hinsdale Club case. He made the disclosure in order to avoid the appearance of impropriety.

Chairman Haarlow reminded Mr. Bohnen that he has the option to continue the matter to a later date if he wanted to try to garner a greater attendance of ZBA members; Mr. Bohnen opted to present at this time.

Mr. John Bohnen of 230 E. First Street stated he is before the Board as an individual and a director of the Alliance for Hinsdale and has filed an appeal of Village Manager Cook's issuance of a Certificate of Zoning Compliance as it related the Garfield IV project at 26-32 First Street. He reiterated the absence of attorneys to avoid additional escrow fees.

He said there are complex issues before the Board tonight regarding the height of the proposed building and the horizontal expansion of a noncompliant building and parking. It is his contention that the Certificate of Zoning Compliance was issued in error because the Village Manager did not determine that Mr. Gammonley was code compliant before the issuance in terms of height, grade and horizontal expansion. He said the parking deficiency is the 'elephant in the room'; he outlined the number of spaces required and the calculations he proposes that would result in about \$30,000/per space cost. Mr. Neiman conjectured that even if the Village Manager had included an amount as part of the certificate, does not the final decision ultimately lie with the Village Board of Trustees and if so why does this render Mr. Cook's certificate defective? Mr. Bohnen responded that the ultimate decision rests with the Board of Trustees and they will listen to recommendations made by the ZBA and/or the Plan Commission. It is his opinion that the parking matter needs to be addressed early on as it could make the project cost prohibitive for the developer. He referenced §11-401 in support of his argument and assertion that a companion application identifying the parking deficiency should have accompanied the application which resulted in the Certificate of Zoning Compliance.

Mr. Karl Weber of 219 E. First Street and a member of the Alliance for Hinsdale addressed the Board on the matters of height and grade, but first reiterated the seriousness of the parking issue. He began his remarks by

1 stating that the height limit in the B-2 district is 35", however there are  
2 exceptions made if a building is built into a slope. After determining the  
3 average slope, it can be added to the 35" height. In this matter, the  
4 measurements should be taken from the footprint of the existing building, not  
5 the whole lot as were used in the Garfield III iteration. He believes the wrong  
6 corners were used to calculate the average slope and therefore the calculations  
7 are incorrect. Additionally, the south elevations were taken from the top of a  
8 retaining wall which is not on the property. He stated that the lot is level,  
9 there is no slope and every square foot of the existing building is at an altitude  
10 of 706.6 feet. He read the section of the code that supported his position and  
11 described the method by which he arrived at his numbers.

12  
13 Upon receipt of this appeal, Mr. Cook went back into the Garfield file and found  
14 another drawing with elevations, but his calculations with this drawing are  
15 still incorrect. The Alliance for Hinsdale had a surveyor there yesterday, and  
16 while the drawings are not yet available, his measurements corroborated the  
17 Alliance numbers.

18  
19 Mr. Neiman commented that it seems reasonable engineers might agree on how  
20 to calculate these numbers. Mr. Weber stated that's why they hired one. Mr.  
21 Bohnen commented that the developer didn't follow the code and the Village  
22 Manager used erroneous information from a drawing that is not properly  
23 authenticated. There is no slope, the building is level.

24  
25 Mr. Weber noted the existing building and the proposed building back up on the  
26 pedestrian alley which cuts from First Street through to the parking lot and if  
27 you go up a series of steps you wind up on the level of the parking lot of the  
28 middle school. This is where the elevations were shot that were used by Mr.  
29 Gammonley and the Village Manager, but this is not on the property in  
30 question, it is the property next door.

31  
32 Mr. Bohnen then introduced the matter of horizontal expansion and pointed out  
33 that the developer disregards the fact that the building is not code compliant  
34 and is increasing the noncompliance because, despite the Village Manager's  
35 answer, the front of this building is 26-32 First Street. As such, it has no 20'  
36 setback at the rear. He cited §10-104(B)(1) to support his position that the  
37 deficiency is being increased. The Village Manager and the developer are  
38 saying Garfield is the front of the building; he can find no evidence in the code  
39 that allows this. However, on the east façade facing Garfield is a loading dock,  
40 a loading dock can not be located on the front of a building, this, therefore,  
41 reestablishes the fact that the front is on First Street. The building is not code  
42 compliant extending to the south on all floors.



1 Mr. Bohnen then reiterated his concerns about the parking and the associated  
2 cost and that when Mr. Cook issued his Certificate of Zoning Compliance there  
3 should have been a companion certificate regarding this matter. Mr. Neiman  
4 asked what in the code requires the Village Manager to provide guidance on the  
5 parking issue. Mr. Bohnen believes that 11-401(D) requires an application for  
6 certificate be accompanied by all other applications required and allows the  
7 Village Manager to act as gatekeeper and determine deficiencies in the  
8 application. He asserted that Mr. Cook does not understand the purpose of a  
9 certificate of zoning compliance.

10  
11 Chairman Haarlow invited Mr. Cook to address the Board and state his  
12 position.

13  
14 Village Manager Cook addressed the Board and began by stating that he  
15 instituted the use of a Certificate of Compliance four years ago and completely  
16 understands the process. He explained that §11-401 does, in fact, state that  
17 site plan appearance and plan development documents are all required as part  
18 of an application. However, §9-104(D) regarding parking deficiencies makes no  
19 reference to a required application. It is a procedure that is set, controlled and  
20 determined by the Board of Trustees, with standards set in the code. In no way  
21 is it an accompanying application. Further, §9-104(D)(3) states the manager  
22 shall support any conditions in the code in connection with approval granted  
23 pursuant to this code. Hinsdale Zoning Code §11-606 states that an exterior  
24 appearance plan is required and §11-604 requires a site plan review. The  
25 Certificate of Compliance, on those two components, are a recommendation for  
26 review by the Plan Commission, who will send their recommendations to the  
27 Public Safety Committee, who send their recommendation to the Village Board.  
28 In the matter of parking deficiencies, he correctly referenced the entire section  
29 of the code for this procedural question §9-105(A) through §9-104(D).  
30 Compliance to the code clearly states that the applicant must satisfy the Board  
31 of Trustees on the matter of parking, not the Village Manager, using the  
32 following standards: effect on purpose, effect on adjacent property, effect on  
33 traffic congestion and compliance.

34  
35 On the matter of height, Mr. Cook conceded that it is a more subjective matter  
36 and that in Hinsdale, the calculation of height, slopes and grade in elevation is  
37 not easy. He agreed that staff used the wrong document to calculate height.  
38 He went to the current file to look at the information to determine whether or  
39 not it was correct. He believes it is prudent to do so, and using in-house  
40 information, and recalculating the height indicated it was still compliant with  
41 the zoning code. He asked the developer to provide a new survey before this  
42 hearing, and that document is before the Board. It clearly indicates that the  
43 property line goes right down the middle of the retaining wall. The  
44 authenticated survey before the Board indicates that the average grade is

1 712.03. Mr. Cook emphasized that in the calculation of grade, one must use the  
2 grade prior to reshaping of the natural contour—this is key, natural contour. If  
3 you stand on the south of the building on the school property and look north  
4 you can determine what the natural contour was. It goes down towards  
5 Garfield Street. It is a common mistake to use the excavated grade of the  
6 building, but this would have an adverse effect all through Hinsdale. This is  
7 the way our code reads and the way the Village has always interpreted it.  
8

9 Mr. Neiman asked how this Board is supposed to determine which numbers are  
10 correct and which should be used when two parties have two different views  
11 and surveys to support them. Mr. Cook replied that, historically, the Village  
12 has always relied on an outside independent third party agency, and that is  
13 what the survey before the Board, certified by Mr. Steven P. Fessenbecker  
14 represents. Mr. Cook cautioned that it is easy to confuse grade, height and  
15 elevation. Height is calculated by the vertical distance measured from grade to  
16 the highest point of the roof, per our zoning code. He confirmed for Ms.  
17 Braselton where the grades were taken at each corner.  
18

19 In the matter of the side setback or front yard setback he explained that the  
20 zoning code definition of front yard says it is the shorter lot line separating  
21 such lots from a street shall be considered the front lot line. Clearly, the  
22 survey indicates that the Garfield frontage is the shorter lot line, and by code is  
23 the front yard.  
24

25 Chairman Haarlow stated, for the sake of argument, if the front of the building  
26 faces Garfield, east, then a loading dock would not be permitted on this side of  
27 the building. Mr. Cook explained that it is a precode structure. Ms. Braselton  
28 confirmed in the existing building the loading dock faces the side yard, but in  
29 the proposed plan the loading dock faces the front yard. Mr. Cook stated that  
30 the developer is leaving the door in the same location, so his initial  
31 determination is this is a precode, but he would reserve judgment on that.  
32 Discussion followed regarding loading spaces and public right-of-way, Mr.  
33 Neiman interjected that, in fairness, this is not an issue that had been  
34 considered prior to Chairman Haarlow's question and suggested that perhaps  
35 Mr. Cook should be given the opportunity to make this determination. Ms.  
36 Braselton commented that with a variation, only the applicant can request a  
37 continuance. Building Commissioner McGinnis offered more information  
38 regarding the front/side yard distinction, but Ms. Braselton pointed out that  
39 the direction of the loading dock now faces residences. She asked about  
40 attached plans to the certificate. Mr. Cook confirmed that there is a second  
41 page to the certificate that apparently had not been provided to the Board. He  
42 provided the document to the Board and explained its contents.  
43

1 In the matter of horizontal expansion, Mr. Cook explained the project extends  
2 the front yard to the south and the side yard to the west. Both of those front  
3 and side yard setback requirements per the code are zero. So, there is no  
4 nonconformity by extending that building on the second and third floors.  
5

6 With no further questions from the Board for Mr. Cook, Chairman Haarlow  
7 noted that unless Mr. Cook or Mr. Bohnen wish to respond further, we could  
8 entertain a possibility of closing the hearing. Discussion followed regarding  
9 closing or continuing the hearing. Mr. Bohnen considered continuing the  
10 hearing if all ZBA members would walk over to the site and walk around the  
11 building so we could take up the subject of grade, because he still believes  
12 grade is established by the four corners of the existing building and that Mr.  
13 Cook is not able to attest to the original grade on that property. Discussion  
14 followed Mr. Bohnen's assertion that the surveyor used by the Village was not a  
15 third party, but was the surveyor used by Mr. Gammonley. Mr. Cook clarified  
16 the Village requires an applicant to provide a survey, stamped and dated by a  
17 professional who is attesting to the information he is providing. Mr. Neiman  
18 asserted that if the Village Manager always uses the calculations of a surveyor  
19 paid for by the applicant then his representation that he relied on those  
20 calculations should satisfy the Board at this point. The calculations should be  
21 challenged at the Plan Commission level.

22 Ms. Braselton suggested that information acquired after the issuance of the  
23 certificate, in her mind, is irrelevant. Mr. Bohnen contends that had the  
24 Alliance for Hinsdale not challenged the issuance of the certificate, it would  
25 have gone forward with the erroneous information and it is not a citizen's  
26 responsibility to do due diligence in these matters. Mr. Cook said that three or  
27 four times in the last three years a Certificate of Zoning Compliance has been  
28 challenged, but this is the first time it's become a formal appeal to the ZBA.  
29 When this happens, he goes back to the file and reviews the material, and twice  
30 he has revoked the Certificate of Zoning Compliance based upon new  
31 information. In this case, with which ever information he uses, the project is  
32 still code compliant—in either scenario, the building is under 35 feet. He  
33 explained that the difference in the surveyor's averages are a result of how one  
34 interprets the code in terms of natural grade and slope.  
35

36 Upon the questioning of Mr. Neiman, Mr. Weber stated that even if this  
37 certificate is rescinded and Mr. Cook reissues a new certificate using the  
38 correct information they would still challenge the certificate as it relates to  
39 height. Ms. Braselton confirmed that Mr. Bohnen also challenges the location  
40 of the loading dock.  
41

42 Mr. Weber noted §11-402(H) that states any Certificate of Zoning Compliance  
43 issued in violation of the provisions of this code, whether intentionally,

negligently or innocently, shall be void ab initio and shall give rise to no rights whatsoever.

Ms. Braselton noted that on the application the developer makes no note of parking spaces. Mr. Cook explained that his was addressed in a cover memo to the Plan Commission dated June 10, 2009. Mr. Bohnen asserted that Mr. Gammonley could have provided parking information and Mr. Cook could have asked him to do so.

Mr. Neiman moved to close the public hearing for APP-02-09. Ms. Braselton seconded the motion.

**AYES:** Members Moberly, Braselton, Neiman, Giltner and Chairman Haarlow

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** Members Connelly and Callahan

Motion carried.

#### **Deliberation - APP-02-09**

Chairman Haarlow began deliberation by stating that the Zoning Board can choose to address the matter as broadly or as narrowly as it wishes. The Board can take up each of the issues brought up in appeal or supplement, but for the appeal to be successful only one issue needs to be found wanting. The Board discussed how best to proceed. Mr. Neiman suggested it would be expeditious to take the easiest issue, the loading dock, first. Ms. Braselton recommended that the Board not second guess elevations. If the front of the building is Garfield, it can't have been code compliant. Chairman Haarlow opined there is no way around the stipulation that no loading space shall open on a public right-of-way. Mr. Cook asked for seven days to provide supplemental information on that issue, but Mr. Bohnen does not consent to that. Chairman Haarlow agrees it is a reasonable request, Mr. Cook stated that § 11-502(D)(4) illustrates that he has 30 days to provide more information. Mr. Bohnen argued that any subsequent information has no bearing on the decision of the ZBA in this appeal. Mr. Neiman said there is enough concern among the Board because of incorrect survey information used, that even if something else was submitted on the loading dock, it would still have to go back. The developer may as well address the loading dock issue.

Mr. Neiman moved to grant the appeal know as APP-02-09. Mr. Moberly seconded the motion, and noted this in not a reflection on Mr. Cook. The Board agreed.



1       **AYES:** Members Moberly, Braselton, Neiman, Giltner and Chairman Haarlow

2       **NAYS:** None

3       **ABSTAIN:** None

4       **ABSENT:** Members Connelly and Callahan

5  
6       Motion carried.

7  
8       Mr. Cook asked the Board for direction so as not to end up back before the  
9       ZBA. Chairman Haarlow commented that he didn't think they were qualified  
10      to make a decision about grade and elevation, the parking is irreconcilable and  
11      the location of the loading dock requires a change in the plans; a new set of  
12      plans. Mr. Neimen suggested that if the Plan Commission hires an  
13      independent surveyor, then we should let that happen as it normally does.

14  
15      **8. New Business - None**

16  
17      **9. Unfinished Business - None**

18  
19  
20      **10. Adjournment**

21      With no further business coming before the Zoning Board of Appeals, Member  
22      Braselton made a motion to **adjourn the meeting of the Zoning Board of**  
23      **Appeals of October 21, 2009.** Member Moberly seconded the motion.

24  
25      **AYES:** Members Moberly, Braselton, Neiman, Giltner and Chairman Haarlow

26      **NAYS:** None

27      **ABSTAIN:** None

28      **ABSENT:** Members Connelly and Callahan

29  
30      Motion carried.

31  
32      Chairman Haarlow declared the meeting adjourned at 11:25 p.m.

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37      \_\_\_\_\_  
38      Christine M. Bruton  
39      ZBA Staff Secretary

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

**VILLAGE OF HINSDALE  
SPECIAL MEETING OF THE  
ZONING BOARD OF APPEALS  
November 11, 2009**

**1. Call to Order**

Chairman Bill Haarlow called the special meeting of the Zoning Board of Appeals to order on Wednesday, November 11, 2009 at 6:32 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois. He thanked the Board members for agreeing to hold the meeting a week early and an hour early to approve final decisions.

**2. Roll Call**

Present: Chairman Bill Haarlow, Members Marc Connelly, Gary Moberly, Debra Braselton, Bob Neiman and Keith Giltner  
Absent: Member John Callahan

Also Present: Village Manager Dave Cook, Building Commissioner Robb McGinnis and Staff Secretary Christine Bruton

**3. Approval of Minutes – October 21, 2009**

Chairman Haarlow explained that this matter will be forwarded to the next meeting of the Zoning Board of Appeals as these minutes are not yet complete.

**4. Receipt of Appearances – None**

**5. Receipt of Requests, Motions, Pleadings, or Requests to make Public Comment of a General Nature - None**

**6. Pre-Hearing and Agenda Setting – None**

**7. Public Hearings – None**

**8. New Business**

**a) Approval of Final Decisions**

**1.) 643 S. Lincoln, V-04-09**

There were no changes recommended to the draft decision as proposed. Member Braselton moved to approve the Final Decision for 643 S. Lincoln, V-04-09. Member Giltner seconded the motion.

1           **AYES:** Members Connelly, Moberly, Braselton, Neiman, Giltner and  
2           Chairman Haarlow

3           **NAYS:** None

4           **ABSTAIN:** None

5           **ABSENT:** Member Callahan

6  
7           Motion carried.

8  
9           2.) 707 S. Bodin, V-05-09

10          Ms. Braselton suggested it would be appropriate to add language  
11          regarding the purchase of the vacated alley and the resultant setback  
12          Chairman Haarlow agreed and noted that information belonged in  
13          the section under 'Facts'. "We note that the applicant purchased a  
14          vacated alley from the Village and that vacated alley contains an  
15          easement. If the vacated alley had not been purchased and added to  
16          the site the required side yard setback would have been 2 feet."  
17          Member Neiman **moved to approve the Final Decision for 707 S.**  
18          **Bodin, V-05-09, as amended.** Member Braselton seconded the  
19          motion.

20  
21          **AYES:** Members Connelly, Moberly, Braselton, Neiman, Giltner and  
22          Chairman Haarlow

23          **NAYS:** None

24          **ABSTAIN:** None

25          **ABSENT:** Member Callahan

26  
27          Motion carried.

28  
29          3.) 240 S. Bruner Street, V-06-09

30          There were no changes recommended to the draft decision as  
31          proposed. Member Moberly **moved to approve the Final Decision**  
32          **for 240 S. Bruner Street, V-06-09.** Member Braselton seconded the  
33          motion.

34  
35          **AYES:** Members Connelly, Moberly, Braselton, Neiman, Giltner and  
36          Chairman Haarlow

37          **NAYS:** None

38          **ABSTAIN:** None

39          **ABSENT:** Member Callahan

40  
41          Motion carried.

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4.) 26-32 E. First Street, APP-02-09

Chairman Haarlow expressed appreciation for the legal expertise of Members Braselton & Neiman and all the work done helping to draft this final decision which was made available on the Village website late this afternoon. He confirmed that the Board members have had an opportunity to consider this sufficiently to vote tonight. He asked first for additions or deletions or changes in language. Ms. Braselton said the word 'shall' on the top of Page 7 of the document should be removed; Ms. Bruton confirmed that the most recent copy of record does not contain the word.

Mr. Cook noted on Page 8, the second bullet point, regarding maximum elevation of the principle structure, in the B-2 district there is no such requirement. Ms. Braselton said this is a fact of the application. Neiman said the lead in says this is an error and we should consider Mr. Cook's comment. Mr. Cook noted Pages 235 and 236 of the Zoning Code, regarding bulk zoning that this is not a listed item. The Board silently considered this and read their zoning codes. Mr. Cook compared it to the bulk regulations of residential districts on Page 106, Item B is maximum elevation, it would be in the bulk tables if it was applicable and there was a limitation and it's not there. Mr. Neiman stated it seems correct that if that is not a requirement, we shouldn't point out that it's a defective part of the application. Mr. Cook's point is well taken, but it does not change the outcome or render the decision any different. Chairman Haarlow commented that the elevation of the building overall is an issue, and one we do not address in this final decision, but the question of the allowable elevation was argued both ways by the appellant and the Village Manager.

Member Neiman **moved to delete bullet point #2 on Page 8.**

Member Giltner seconded the motion.

**AYES:** Members Connelly, Moberly, Braselton, Neiman, Giltner and Chairman Haarlow

**NAYS:** None

**ABSTAIN:** None

**ABSENT:** Member Callahan

Motion carried.

Building Commissioner McGinnis asked for clarification on Page 10, wherein the draft decision states that the substitution of 10' wide dock door as opposed to doors currently there, is deemed an increase



1 in the nonconformity. Further, because they showed a 10' wide dock  
2 door and the code requires of 12' wide parking space for a semi-  
3 trailer, that the Village Manager waived the requirement. Chairman  
4 Haarlow replied there is no evidence that the Village Manager waved  
5 the requirement, assuming that building in excess of 10,000 square  
6 feet the loading door would have to be 12' wide. Either way the ZBA  
7 still sees this as increasing the nonconformity.

8  
9 Mr. Moberly commented that Mr. Cook had pointed out at the last  
10 meeting one of the purposes of the this document was to give  
11 direction, so the Village Manager could go back to the developer and  
12 get a product that can be approved. He asked if Mr. Cook has that  
13 direction. Mr. Cook said he is still struggling with space dimension of  
14 the door. Ms. Braselton said there are only service doors now, so that  
15 alone increases the nonconformity, it is a separate issue as to  
16 whether that loading dock needs to accommodate a tractor trailer and  
17 there is no evidence that that requirement was waived. Chairman  
18 Haarlow commented that no height is specified on the plans and in  
19 the absence of a waiver, the proposed door would need to be 12" for  
20 the new loading dock door on the eastern façade of the building,  
21 assuming it could be built out further to the east than it currently  
22 exists in the loading area.

23  
24 Mr. Cook asked for clarification in the decision about §9-105(C)(1)  
25 regarding nonconforming space dimensions. Ms. Braselton said there  
26 are two separate nonconformities, and even though doors already  
27 exist in the pre-code structure the proposed doors are nothing like the  
28 existing doors; they are increasing the size of the doors. Chairman  
29 Haarlow said there can be no increase in the nonconformity according  
30 to the code of a pre-code structure, the redesign makes the doors  
31 larger, in a different place and are bumped out which increases the  
32 nonconformity. They also don't accommodate a tractor trailer. Mr.  
33 Cook noted that every business abuts on public right-of-way, will not  
34 conform to this code and be very problematic moving forward.  
35 Chairman Haarlow remarked that the ZBA must interpret the code  
36 not solve it. Mr. Cook understands and agrees.

37  
38 **Member Braselton moved to approve the final decision for 26-32**  
39 **E. First Street, APP-02-09, as amended.** Member Giltner seconded  
40 the motion.  
41  
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1                   **AYES:** Members Connelly, Moberly, Braselton, Neiman, Giltner and  
2                   Chairman Haarlow

3                   **NAYS:** None

4                   **ABSTAIN:** None

5                   **ABSENT:** Member Callahan

6  
7                   Motion carried.

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9                   **9. Unfinished Business – None**

10  
11                  **10. Adjournment**

12                  With no further business coming before the Zoning Board of Appeals,  
13                  Member Moberly made a motion to **adjourn the meeting of the Zoning**  
14                  **Board of Appeals of November 11, 2009.** Member Connelly seconded the  
15                  motion.

16  
17                  **AYES:** Members Connelly, Moberly, Braselton, Neiman, Giltner and  
18                  Chairman Haarlow

19                  **NAYS:** None

20                  **ABSTAIN:** None

21                  **ABSENT:** Member Callahan

22  
23                  Motion carried.


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26                  Chairman Haarlow declared the meeting adjourned at 7:02 p.m.

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29                  \_\_\_\_\_  
30                  Christine M. Bruton  
31                  ZBA Staff Secretary

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

## MEMORANDUM

**TO:** Chairman Haarlow and Members of the Zoning Board of Appeals

**FROM:** Robert McGinnis MCP, Building Commissioner 

**DATE:** January 14, 2010

**RE:** Zoning Variation – V-01-10 415 N. Bruner Street

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In this application for variation, the applicant requests a reduction of the required setback in the secondary front yard from 40.53' to 10' to construct a swimming pool and 6' fence at their home. The request is driven by the fact that under the strict application of the zoning definitions and the provisions set forth in 3-110 I(8), this through lot has two front yards and no rear yard.

This property is located in the R-2 Residential District in the Village of Hinsdale and is located on the east side of Bruner Street north of North Street. The property has a frontage of approximately 102', a depth of approximately 201.67', and a total square footage of approximately 20,570.34. The maximum FAR is approximately 6,114 square feet and the maximum allowable building coverage is 25% or approximately 5,142.59 square feet.

cc: Dave Cook, Village Manager  
Zoning file V-01-10