

**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
Minutes of the Meeting
February 17, 2010**

1. Call to Order

Chairman Bill Haarlow called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, February 17, 2010 at 7:37 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

2. Roll Call

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

Absent: Member John Callahan

Also Present: Building Commissioner/Acting Director of Community Development Robb McGinnis and Staff Secretary Christine Bruton

3. Approval of Minutes – January 20, 2010

Chairman Haarlow asked the Board to review the minutes before them. Corrections and additions were suggested by Members Moberly, Neiman and Chairman Haarlow. Member Neiman **moved approval of the minutes of the Special Meeting of January 20, 2010, as amended.** Member Moberly seconded the motion.

AYES: Members Moberly, Neiman, Giltner and Chairman Haarlow

NAYS: None

ABSTAIN: Members Connelly and Braselton

ABSENT: Member Callahan

Motion carried.

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

5. Receipt of Appearances – None

6. Pre-Hearing and Agenda Setting – None

7. Public Hearings

a) V-01-10, 415 N. Bruner Street

Mr. Limparis addressed the Board stating that he is requesting a variance to install a swimming pool in the 'rear' of his thru lot.

There are approximately fourteen lots in this section of town that have a similar configuration and only in this part of the Village. Per the code, his yard facing Bruner Street and his yard facing Bruner Place are both front yards. He is requesting a variation to allow him to put a fence and pool in the Bruner Place 'front' yard. His is a 200' ft. deep yard, but because of code restrictions he can only use 80' feet, resulting in 120' feet of unusable property. He stated that he did not know this when he bought the property, the situation is not self-created, and he can't put any recreational facility for his family in his yard. He noted that all the homes on Bruner Street face west.

Member Neiman referenced three letters on file from neighbors, but noted they are not from anyone on Bruner Place facing the 'rear' yards. Mr. Limparis stated that he has spoken with his Bruner Place neighbors, and some of the people who are not in favor of this variation are present tonight to address the Board.

Mr. Limparis distributed copies of landscape plans for the property and explained various aspects of the plans for the Board. The pool is located on the east side with a fence. The house currently sits with a single drive on south side, with a proposed turnaround driveway, which is not a code problem. He noted the new parkway landscaping, which he will provide. The pool is located as is because of the grade of property; however, there will never be a water issue with the pool because it is a self contained, fiberglass shell. He noted that the pool is 20'+ from the lot line and the fence is 10' feet off the property line. He also stated that he would bury the overhead power lines.

Chairman Haarlow stated that he drove both blocks, and it appears there are no fences in the de facto back yards. Mr. McGinnis confirmed that there are three thru lots on 6th Street between Garfield and Park and fifteen on Bruner and Quincy, but he did not know if the 6th Street houses have fences. Member Braselton referenced a fireplace accessory structure in the 'rear' yard of 441 N. Quincy. Mr. McGinnis stated there was no variance granted at that address and there was no separate permit issued for the structure, but he could not find whether it was part of the original house.

Member Giltner referenced Mr. Limparis' remark that he was not aware of this restriction when he bought the house. Mr. McGinnis confirmed that staff had incorrectly assumed Bruner

Place was the rear yard, but upon further investigation into the definition sections of code, it became clear there were two front yards. This was then confirmed by the Village attorney. Mr. Limparis commented that he is the first on the block doing this; this is new for everybody. Member Moberly pointed out that Mr. Limparis is only restricted in terms of a fence and a pool, other backyard activities would be permitted. Mr. Limparis referenced the letter from the Village which clarified the back yard issue; Mr. McGinnis pointed out that that letter was written for 439 Bruner, not the subject property, however the lot size is the same and the content does apply to this property. Mr. Limparis stated that he is not asking for special privilege, he is just asking for a back yard. As a builder, he stated he has not built on any other thru lots, but he has built approximately twenty homes in Hinsdale.

Member Braselton asked about the proposed fencing material. Mr. Limparis said he is planning on using cedar, but would use any material the Board recommended.

Mr. Chuck Green of 421 N. Bruner Place stated that his house is kitty-corner from Mr. Limparis. He expressed concern about the burying of the power lines, what would be visible from the street, and excessive noise. He was happy to hear, however, that water drainage from the pool would not be a problem.

Maureen Hanson of 441 Bruner Place stated she is not in favor of this proposal and believes the water will be an issue. New building in her neighborhood has created an ice street in winter and a flooded street in the rainy season. Currently, people have the 'rear' yards as a back yard, there have been play sets and trampolines, but it has always been open. She doesn't want to look at a six foot fence and believes the planted easement will add to the flooding problems. She is concerned with setting a precedent and noted that bedrooms would be facing the pool and noise could be a problem.

Cathy Merchantz of 723 W. North Street stated that she understands both positions, but is concerned about water and noise. She also wondered who will maintain easement plantings. With a recent landscaping project at their home, they were not allowed to plant anything in the parkway. Mr. McGinnis confirmed that Public Services would evaluate any proposed plantings and the easements are theoretically maintained by the

Village. Mr. Limparis commented that the proposed spruce maxes out in height and width, and because it is not a deciduous tree, would provide screening year round.

Member Neiman wondered if there is a way to calculate what additional trees would be needed to accommodate the loss of permeable surface. Mr. Limparis explained that the issue isn't trees, but rather that people do not use enough stone under the base of their patios. He intends to install a French drainage system, a below base system, that directs the water. He also confirmed that the rear service gate would be kept locked.

Chairman Haarlow asked if there were any more questions, hearing none, he asked for a motion to close the Public Hearing. Member Braselton **moved to close the Public Hearing on V-1-10, 415 N. Bruner Street.** Member Connelly seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: Member Callahan

Motion carried.

The Board took a five minute break and reconvened for deliberation.

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

Chairman Haarlow opened deliberations for V-01-10, 415 N. Bruner Street and stated that: 1.) Given the location and nature of this variance, the Board should be mindful of precedent, 2.) to consider the fact that Mr. Limparis and anyone on a thru lot has a defacto back yard, but not according to code. This puts them in a challenging spot, as one would assume there is a back yard, 3.) due to the nature of thru lots, there are neighbors whose front yards face the de facto back yards. They are entitled to consideration as to what one expects to look at from the front of their home.

Member Neiman stated that he is sympathetic to the plight of Mr. Limparis; it is a logical assumption regarding the back yard and even the Village hadn't recognized the situation. However, there are a few prerequisites to discuss before granting this variation. One of which would be denying substantial rights; does the owner have a right to have a swimming pool? Is this merely a special privilege; denying the variance does not deny the right to enjoy the yard, it would only deny a swimming pool. As to whether this would alter the essential character of area, if these yards were all fenced, instead of open as they are now, the essential character would be impacted.

Member Moberly commented that he drove through the neighborhood and is sympathetic to the folks who would be looking at a fence, particularly if this dominoed thru the street. He agreed this would be a negative effect on the character of the neighborhood. Member Giltner said his initial impression was that a fence would seem out of place and he hasn't heard anything to change his mind. He, too, believes a pool and fence would alter the character of the neighborhood. He also conjectured that the code was probably written this way to protect people from just this kind of situation.

Member Braselton called attention to the significant impact on the owner to use the property as he chooses, if this were a normal yard, he could install a pool. Further, it was only after moving forward did he find out he had no back yard. She also believes that the landscape plan as presented would be an improvement, and therefore is in favor of approving this variation request.

Discussion followed regarding putting a condition on approval. Chairman Haarlow commented that conditions don't seem to work. Landscaping dies and there isn't anyone to make sure the conditions are met. He also pointed out that when a house is sold, no one is obligated moving forward to fulfill any promise of a condition.

Member Connelly commented that he is sympathetic to both sides, but the Board must make a decision based on the code. Chairman Haarlow said, in terms of addressing the code and thru lots in general, the code really doesn't say much, this one is largely up to the Board. The Board must rely on the standards of variation for guidance. Mr. McGinnis offered that thru lots are a unique condition and the zoning code consultant, through the

course of the rewrite, has explained most codes don't regulate those lots; the Zoning Board of Appeals is the appropriate body to hear improvements on thru lots.

In summary, it was reiterated that the neighbors on Bruner Place did not speak in favor of this proposal, there is the matter of precedent, and it would be difficult to consider a fence along Bruner Place as anything but altering the character of the neighborhood.

Member Braselton suggested an indoor pool, but Mr. McGinnis pointed out that there was no available FAR on this lot for an accessory structure of that nature.

There being no further discussion from the Board, Chairman Haarlow asked for a motion. Member Moberly moved to approve the variation known as V-01-10, 415 N. Bruner Street. Member Braselton seconded the motion.

AYES: Member Braselton

NAYS: Members Connelly, Moberly, Neiman, Giltner and Chairman Haarlow

ABSTAIN: None

ABSENT: Member Callahan

Motion failed.

8. Unfinished Business - None

9. Adjournment

With no further business coming before the Zoning Board of Appeals, Member Neiman made a motion to **adjourn the meeting of the Zoning Board of Appeals of February 17, 2010**. Member Braselton seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: Member Callahan

Motion carried.

Chairman Haarlow declared the meeting adjourned at 9:21 p.m.

Christine M. Bruton
ZBA Staff Secretary

Approved: _____