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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.

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

57
58 Member Neiman referenced three letters on file from neighbors,
59 but noted they are not from anyone on Bruner Place facing the
60 'rear' yards. Mr. Limparis stated that he has spoken with his
61 Bruner Place neighbors, and some of the people who are not in
62 favor of this variation are present tonight to address the Board.

63
64 Mr. Limparis distributed copies of landscape plans for the
65 property and explained various aspects of the plans for the
66 Board. The pool is located on the east side with a fence. The
67 house currently sits with a single drive on south side, with a
68 proposed turnaround driveway, which is not a code problem. He
69 noted the new parkway landscaping, which he will provide. The
70 pool is located as is because of the grade of property; however,
71 there will never be a water issue with the pool because it is a self
72 contained, fiberglass shell. He noted that the pool is 20'+ from
73 the lot line and the fence is 10' feet off the property line. He also
74 stated that he would bury the overhead power lines.

75
76 Chairman Haarlow stated that he drove both blocks, and it
77 appears there are no fences in the de facto back yards. Mr.
78 McGinnis confirmed that there are three thru lots on 6th Street
79 between Garfield and Park and fifteen on Bruner and Quincy, but
80 he did not know if the 6th Street houses have fences. Member
81 Braselton referenced a fireplace accessory structure in the 'rear'
82 yard of 441 N. Quincy. Mr. McGinnis stated there was no
83 variance granted at that address and there was no separate
84 permit issued for the structure, but he could not find whether it
85 was part of the original house.

86
87 Member Giltner referenced Mr. Limparis' remark that he was not
88 aware of this restriction when he bought the house. Mr.
89 McGinnis confirmed that staff had incorrectly assumed Bruner

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

105
106 Member Braselton asked about the proposed fencing material.
107 Mr. Limparis said he is planning on using cedar, but would use
108 any material the Board recommended.

109
110 **Mr. Chuck Green of 421 N. Bruner Place** stated that his
111 house is kitty-corner from Mr. Limparis. He expressed concern
112 about the burying of the power lines, what would be visible from
113 the street, and excessive noise. He was happy to hear, however,
114 that water drainage from the pool would not be a problem.

115
116 **Maureen Hanson of 441 Bruner Place** stated she is not in
117 favor of this proposal and believes the water will be an issue.
118 New building in her neighborhood has created an ice street in
119 winter and a flooded street in the rainy season. Currently,
120 people have the 'rear' yards as a back yard, there have been play
121 sets and trampolines, but it has always been open. She doesn't
122 want to look at a six foot fence and believes the planted easement
123 will add to the flooding problems. She is concerned with setting a
124 precedent and noted that bedrooms would be facing the pool and
125 noise could be a problem.

126
127 **Cathy Merchantz of 723 W. North Street** stated that she
128 understands both positions, but is concerned about water and
129 noise. She also wondered who will maintain easement plantings.
130 With a recent landscaping project at their home, they were not
131 allowed to plant anything in the parkway. Mr. McGinnis
132 confirmed that Public Services would evaluate any proposed
133 plantings and the easements are theoretically maintained by the

134 Village. Mr. Limparis commented that the proposed spruce
135 maxes out in height and width, and because it is not a deciduous
136 tree, would provide screening year round.
137

138 Member Neiman wondered if there is a way to calculate what
139 additional trees would be needed to accommodate the loss of
140 permeable surface. Mr. Limparis explained that the issue isn't
141 trees, but rather that people do not use enough stone under the
142 base of their patios. He intends to install a French drainage
143 system, a below base system, that directs the water. He also
144 confirmed that the rear service gate would be kept locked.
145

146 Chairman Haarlow asked if there were any more questions,
147 hearing none, he asked for a motion to close the Public Hearing.
148 Member Braselton **moved to close the Public Hearing on V-1-**
149 **10, 415 N. Bruner Street.** Member Connelly seconded the
150 motion.
151

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

154 **NAYS:** None

155 **ABSTAIN:** None

156 **ABSENT:** Member Callahan
157

158 Motion carried.
159

160 The Board took a five minute break and reconvened for
161 deliberation.
162

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

164
165
166 Chairman Haarlow opened deliberations for V-01-10, 415 N.
167 Bruner Street and stated that: 1.) Given the location and nature
168 of this variance, the Board should be mindful of precedent, 2.) to
169 consider the fact that Mr. Limparis and anyone on a thru lot has
170 a defacto back yard, but not according to code. This puts them in
171 a challenging spot, as one would assume there is a back yard, 3.)
172 due to the nature of thru lots, there are neighbors whose front
173 yards face the de facto back yards. They are entitled to
174 consideration as to what one expects to look at from the front of
175 their home.
176
177

178 Member Neiman stated that he is sympathetic to the plight of
179 Mr. Limparis; it is a logical assumption regarding the back yard
180 and even the Village hadn't recognized the situation. However,
181 there are a few prerequisites to discuss before granting this
182 variation. One of which would be denying substantial rights;
183 does the owner have a right to have a swimming pool? Is this
184 merely a special privilege; denying the variance does not deny the
185 right to enjoy the yard, it would only deny a swimming pool. As
186 to whether this would alter the essential character of area, if
187 these yards were all fenced, instead of open as they are now, the
188 essential character would be impacted.
189

190 Member Moberly commented that he drove through the
191 neighborhood and is sympathetic to the folks who would be
192 looking at a fence, particularly if this dominoed thru the street.
193 He agreed this would be a negative effect on the character of the
194 neighborhood. Member Giltner said his initial impression was
195 that a fence would seem out of place and he hasn't heard
196 anything to change his mind. He, too, believes a pool and fence
197 would alter the character of the neighborhood. He also
198 conjectured that the code was probably written this way to
199 protect people from just this kind of situation.
200

201 Member Braselton called attention to the significant impact on
202 the owner to use the property as he chooses, if this were a normal
203 yard, he could install a pool. Further, it was only after moving
204 forward did he find out he had no back yard. She also believes
205 that the landscape plan as presented would be an improvement,
206 and therefore is in favor of approving this variation request.
207

208 Discussion followed regarding putting a condition on approval.
209 Chairman Haarlow commented that conditions don't seem to
210 work. Landscaping dies and there isn't anyone to make sure the
211 conditions are met. He also pointed out that when a house is sold,
212 no one is obligated moving forward to fulfill any promise of a
213 condition.
214

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

222 course of the rewrite, has explained most codes don't regulate
223 those lots; the Zoning Board of Appeals is the appropriate body to
224 hear improvements on thru lots.
225

226 In summary, it was reiterated that the neighbors on Bruner Place
227 did not speak in favor of this proposal, there is the matter of
228 precedent, and it would be difficult to consider a fence along
229 Bruner Place as anything but altering the character of the
230 neighborhood.
231

232 Member Braselton suggested an indoor pool, but Mr. McGinnis
233 pointed out that there was no available FAR on this lot for an
234 accessory structure of that nature.
235

236 There being no further discussion from the Board, Chairman
237 Haarlow asked for a motion. Member Moberly moved to approve
238 the variation known as V-01-10, 415 N. Bruner Street. Member
239 Braselton seconded the motion.
240

241 **AYES:** Member Braselton

242 **NAYS:** Members Connelly, Moberly, Neiman, Giltner and
243 Chairman Haarlow

244 **ABSTAIN:** None

245 **ABSENT:** Member Callahan
246

247 Motion failed.
248
249

250 **8. Unfinished Business - None**
251

252 **9. Adjournment**

253 With no further business coming before the Zoning Board of
254 Appeals, Member Neiman made a motion to **adjourn the meeting**
255 **of the Zoning Board of Appeals of February 17, 2010.** Member
256 Braselton seconded the motion.
257

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

260 **NAYS:** None

261 **ABSTAIN:** None

262 **ABSENT:** Member Callahan
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264 Motion carried.
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Chairman Haarlow declared the meeting adjourned at 9:21 p.m.

Christine M. Bruton
ZBA Staff Secretary

Approved: _____

FINAL DECISION

VILLAGE OF HINSDALE ZONING BOARD OF APPEALS PETITION FOR VARIATION

- Zoning Calendar:** V-01-10
- Petitioner:** James Limparis
- Meeting held:** Public Hearing was held on Wednesday, February 17, 2010 at 7:30 p.m. in Memorial Hall, in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois, pursuant to a notice published in The Hinsdalean on January 28, 2010.
- Premises Affected:** Subject Property is commonly known as 415 N. Bruner Street, Hinsdale, Illinois and is legally described as:
- LOT 38 (EXCEPT THE SOUTH 30 FEET THEREOF) AND ALL OF LOT 37 IN BLOCK 3 IN STOUGH'S RESUBDIVISION OF BLOCK 3, 4, 5, 6, 11, 12, 13, 14, 19, AND 20 OF ESTABROOK'S ADDITION TO HINSDALE, BEING A SUBDIVISION IN THE SOUTHEAST QUARTER AND PART OF THE NORTHEAST QUARTER LYING SOUTH OF THE ROAD IN SECTION 2, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF STOUGH'S RESUBDIVISION RECORD APRIL 2, 1874 AS DOCUMENT 17786, IN DUPAGE COUNTY ILLINOIS
- Subject:** 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.
- Facts:** 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.

The specific ordinance provision from which a variation is sought is 3-110-D(1).

Action of the Board:

The Board reviewed and discussed the variation as requested. Members concluded that the standards for variation set forth in 11-503 (F) of the Hinsdale Zoning Code had not been met. Additionally, some members were concerned that allowing a 6' solid fence in the front yard would change the character of the block and create bad precedent.

A motion to approve was made by Member Gary Moberly and seconded by Member Debra Braselton.

AYES:

Member Debra Braselton

NAYS:

Members Marc Connelly, Gary Moberly, Keith Giltner, Bob Neiman, and Chairman Bill Haarlow.

ABSTAIN:

None

ABSENT:

Member John Callahan

THE HINSDALE ZONING BOARD OF APPEALS

Chairman Bill Haarlow

Filed this ____ day of _____, _____, with the office of the Building Commissioner.