

**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
Minutes of the Meeting
Wednesday, July 21, 2010**

1. Call to Order

Chairman Bill Haarlow called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, July 21, 2010 at 7:38 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 and John Callahan

Absent: Member Keith Giltner

Also Present: Director of Community Development/Building Commissioner Robb McGinnis, Deputy Village Clerk Christine Bruton and Court Reporters Kathy Bono and Tara Zeno

3. Approval of Minutes – June 17, 2010

Member Moberly **moved approval of the minutes of the Meeting of June 17, 2010.** Member Braselton seconded the motion.

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

NAYS: None

ABSTAIN: Member Callahan

ABSENT: Member Giltner

Motion carried.

4. Receipt of Appearances- All persons intending to speak were sworn in by 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:

a) V-05-10, 14 S. Park Avenue

Chairman Haarlow explained the purpose of the pre-hearing process. Susan and Robert Trefil addressed the Board stating that their request is for a variance for the fence they have already installed that replicates what had been there before. The fence is along Chicago Avenue. The Village

noted the installation after it was complete, however, they thought this was a repair. They kept the original posts, and explained that Mr. Trefil did the work himself, in sections, over a period of a month.

Chairman Haarlow noted that the ZBA recently had a case of a house on West Chicago Avenue whose owners were interested in replacing a non-conforming fence along Chicago Avenue. That request was granted, so there is precedent. Ms. Bruton will supply the Board with material from that case.

Chairman Haarlow noted there will not be a meeting of the ZBA in August, therefore the Public Hearing on this matter is set for September 15th.

7. Public Hearings

a) V-03-10, 115 E. Maple Street

That has been delayed until September because of a posting issue.

b) V-04-10, 409 W. Walnut Street

Jill and Harvey Seybold addressed the Board and explained that they are requesting permission to build a garage at grade level to prevent flooding and further damage to their home. The existing garage is below grade. Construction of a grade level garage will require relief of building area coverage and FAR. Mrs. Seybold introduced their team of professionals: Mr. Steven Wendell, their architect and builder for the project; Mr. Bruce Maki, from Engineering Resources who will report his findings, Mr. Joe Abel, a zoning and planning professional who will respond to questions regarding the variance. Also present are their neighbors, Stan and Wendy Cook.

Chairman Haarlow clarified that the ZBA does not have authority to grant variations for FAR or bulk coverage, as we discussed at our last meeting. The text amendment has been forwarded to the Plan Commission for public hearing by the Village Board. The idea is to change the code to allow the ZBA to hear applications of this nature. He wants people to understand that the context of this case exceeds the current authority of the ZBA, however, under §11-1-2 the ZBA is in the position to render an opinion to the Village Board of Trustees. If the ZBA decides to recommend these variations be granted, the Village Board can act on that.

Mrs. Seybold stated that they have lived in their home for 18 years. There were no incidents for the first several years, however, in the last 5-7 years several factors have occurred that contribute to the flooding.

In October of 2006, \$100,000.00 of damage was done to their home, the basement flooded and they lost both cars parked in the garage. Now, any major rain events cause issues, they live on the ready for these events. Contributing factors to the problem are: 1) the regrading of Madison changing the flow and direction of water, 2) significant building in area, several large new homes, 3) the Monroe School renovation, where water was directed out the front instead of the back, however, this has been remedied and 4) the design and maintenance of the public drains in the area. They brought photographs to illustrate the problem from June 3rd and June 24th of this year. It was confirmed that catch basins are under water. They purchased a trash pump to pump the water back to Walnut. They feel this is a hardship because it has altered the way they live and travel. Mr. Seybold stated that he has been working with the Village for several years, hoping to find a remedy. Since 2006, he has not been able to get insurance coverage, they have suffered significant financial damage, the value of their home has declined, not to mention the anxiety aspect having always to be ready for the water. They have six sump pumps, a full house generator and portable trash pumps; they have done everything they can.

Mr. Steve Wendell of A. W. Wendell and Sons, provided an overview of the proposed plans. He explained that the addition includes a 616' square foot two-car garage attached to the residence by a subterranean walkway to the house; the purpose of this is to create a 15' foot flat area that will allow a view of yard and sunlight to come into the house. Additionally, the garage acts as a damn to the water. He tried to create an aesthetically appealing garage to match the house, and conformed to the setback on the west. He noted that the house itself is slightly over building coverage and FAR requirements and the subterranean walkway counts toward these figures because of its height and grade. There is no exterior entrance from the subterranean level. Member Neiman asked about displaced water, to which Mr. Wendell replied that the engineer will address this question. Mr. McGinnis confirmed that the Seybolds have done everything conceivable to remedy this problem before coming to the ZBA. Mr. McGinnis further stated that this area is a depressional storage area; there is a problem with capacity. The sewer on Clay Street is at capacity and he does not know when this combined sewer will be separated. He confirmed that this is a unique situation and not a lot of options are available to the Seybolds.

Mr. Bruce Maki, of Engineering Resource Associates, Inc. addressed the Board, noting that he has 24 years of experience in the field. He referred to his memo dated June 10, 2010 to Mr. Seybold regarding

'Hydrologic Impact Evaluation-Proposed Garage & Deck Addition (409 West Walnut Street, Hinsdale, IL). He summarized what they did when they evaluated the impact of this garage; the results indicate that the water displacement amounts to roughly the equivalent of a kid's pool. The number is well below County and State standards for concern. In response to the question about where the water goes, the runoff or displaced water could be managed by some alternative grading on the property and/or the installation of underground storage. He pointed out that very conservative measurements were taken to get this result. Member Neiman asked Mr. McGinnis if he concurred, and Mr. McGinnis responded that the Village would conduct a full engineering review before this is built. Mr. Maki stated that the retention structure is not designed at this point, but are often prefabricated underground structures. He is confident the amount of displaced water can be accommodated.

Chairman Haarlow noted that as a condition of any approval, any displacement would have to be contained on the property. It is important to be mindful of the neighbors. In response to a question from Member Moberly, Mr. Maki explained the displaced water will be stored and then drained to the catch basin. This project would result in the same impact as a patio or a shed.

Mr. Joseph Abel, addressed the Board stating that he has been a Planning and Zoning consultant for 40 years and is familiar with DuPage and Hinsdale. His task was to make sure the standards that are applicable to granting a variation are met by this application.

- 1.) The topography, the natural phenomenon of more ground water in DuPage County, more impervious surface and larger homes comprise the unique physical condition of this property; that test is met.
- 2.) The Seybolds problems are caused by all these other conditions and they have done everything they can to overcome them: therefore this is not a self-created hardship.
- 3.) There is no special privilege, they are asking for nothing more than to protect their investment; they could not sell this property without disclosure of this problem.
- 4.) The essential character of the area is unaltered; these plans blend perfectly with the area. There is nothing in the design that could have an adverse effect on surrounding property.
- 5.) There is no impact on the surrounding area in terms of traffic or obstruction of views.

It is his opinion that this is the best alternative to solve the problem, and all standards for approval of the variation have been met.

Chairman Haarlow noted that it is true the ZBA does not have the ability to grant these types of variations, and indeed because of tear downs and increase of impervious surface, this seems to be a growing problem. When the text amendment was first proposed, it was suggested that the ZBA should have the ability to approve or deny these requests. In his opinion, the ZBA should not have this power. Increasing FAR and bulk density should not be done lightly, there could be unintended consequences and exacerbated problems.

Mr. & Mrs. Stan Cook, 412 W. Walnut, addressed the Board to provide their vote of support for the Seybold proposal. They have witnessed this hardship and know that all options have been exhausted.

Member Braselton asked if the Seybolds have made additions or alterations to their home. Mr. Seybold replied that 14 years ago they built an office on the back, but noted that the water problems started after this. In his opinion the biggest contributor to the flooding was the re-grading of Madison Street.

Mr. Stephen Davis, 211 N. Madison, addressed the Board stating that what he knows of this proposal he has learned from the Freedom of Information Act. He wondered why this water can't be pumped into the Clay Street or Walnut Street sewer. He commented that the original proposal made asked to build within a couple of feet of the west boundary where his easement is located. He understands that proposal has been dropped, but is wondering how his sewer and water lines will be protected during construction. He read the engineers report, but sees no plan that shows where the water will go and that it won't be shunted over to his property.

He concurs with the Seybolds that the problem has gotten worse. He bought his house in 1994 and didn't know he was buying a home in a storm water retention area. He explained that in the 1970's there was a lawsuit because the Village opposed the proposal to construct his house, however the appellate court ruled to allow the construction of the home. He described the measures surrounding neighbors have taken to direct the water, and he doesn't think more building should occur in a place that already has too much built. He is worried that the path of least resistance is to give him more water. He thinks it would be better to reduce the amount of water and get it out faster, this plan does neither and he is worried. There needs to be a solution to help everyone. He confirmed that he has never had water in his basement.

Chairman Haarlow confirmed that the Village is aware of the easement to which Mr. Davis refers, and that is why the garage was moved. Mr. Seybold assured the Board and Mr. Davis that the easement will be honored and they will work around it.

Mr. Maki explained that if compensatory storage is provided, this construction would not add 'new water' and that the amount of water on the Davis' property would not increase. Chairman Haarlow reiterated that this Board is cognizant of the effect on neighbors. Mr. Seybold explained that he submitted preliminary plans only, but accommodation of displaced water will be studied further and addressed.

Chairman Haarlow stated that accommodation of the displaced water is not a minor consideration and a central issue to this matter, to say it will be addressed is insufficient. Mr. Seybold explained that to have provided completed plans would have been very costly before approval of the variation. Mr. McGinnis confirmed that permits for the project would not be issued unless the final plans included the water run-off provisions. Member Braselton wondered about a margin of error in the engineering calculations and Mr. Maki explained that the actual displaced volume is easy to calculate. What happens to water that used to be where the garage is can be calculated to the nth degree; additionally this is not an unusual design.

Chairman Haarlow stated that he did intend to disregard the expense and difficulty the Seybolds have, he is just trying to express the need to be very careful not to make problem worse. The compensatory storage is directly related to this matter and one way or another we need assurance that it is here. He is surprised that it isn't provided for in the plans or any other written materials so far submitted. He does not doubt the Seybold's word, but the Board needs to be mindful of impact on neighbors. This issue will have to be part of deliberations and any recommendation made.

Mr. Maki said a combination of underground storage and lowering other parts of the yard are the solution. He stated that the storage container would be installed by a contractor, but the engineers would verify correct installation and provide numbers to the Village. Member Moberly asked if this is part of permit process, to which Mr. McGinnis replied yes and that the review process is very comprehensive.

There being no further testimony or questions, Member Neiman **moved to close the hearing of V-04-05, 409 W. Walnut Street.** Member Moberly

seconded the motion. Voice vote taken, all in favor, motion carried. The Board discussed a final recommendation and its form. A short recess was taken, the Board reconvened at 9:33 p.m.

8. New Business

Chairman Haarlow stated that he and the Village received a letter from Mr. & Mrs. James Morgan, the applicants of V-02-10. The Village has responded to their concerns.

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

Member Callahan **moved to begin deliberations on V-04-10.** Member Connelly seconded the motion. Voice vote, all in favor, motion carried.

Member Neiman began discussion stating that the cardinal rule is do no harm and the only professional opinion is that of Mr. Maki, however, based on everything else he's heard, he believes the Board should recommend to approve. Member Connelly suggested that approval stipulate any increased run-off compensation be provided for. Member Moberly agreed that before the garage is built there should be proof of provisions for the water. Mr. McGinnis explained that after the Village Board of Trustees would approve the variation, the Seybolds would have to undergo the rigorous permit process. Benes, Inc. would do an in-house review of the project. Member Braselton stated if there was ever a hardship case this is it, no stone has been unturned, and an increase in FAR for this reason is acceptable and reasonable. Member Callahan noted the Mr. Davis's point is well taken and his concerns are noted. He believes the recommendation should state the Seybolds will maintain or improve the status quo of water displacement, so that there would be no flooding in the Davis's basement. This express provision should be part of the recommendation. Member Moberly stated he supports the variation request and suggested that Mr. Davis speak his case to the Village Board.

Member Callahan made a motion to recommend the Village Board approve this variation with the express provision that water displacement maintains or improves the status quo. Member Neiman seconded the motion, but Member Moberly expressed concern with the 'improves the status quo' language in the motion. He believes this is beyond what the ZBA can ask a resident to do; Chairman Haarlow agreed stating that it would not be appropriate to ask the Seybolds to take care of a problem in the neighborhood.

Discussion followed regarding the exact nature of the motion, all previous motions were withdrawn. Member Neiman **moved to recommend to the Village Board of Trustees approval of the two variances requested in**

V-04-10, 409 S. Walnut ‘assuming that all necessary compensatory storage associated with filling at or below elevation 706.5 is provided’.
Member Braselton seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: Member Giltner

Motion carried.

Discussion followed regarding the timing of the approval of the final recommendation, as there is no meeting in August. Mr. Seybold stated that he would prefer not to wait until the September meeting of the ZBA. Chairman Haarlow suggested a special meeting be held next week for the sole purpose of approving the recommendation and he asked Ms. Bruton to send an email to poll the Board for a date and time where quorum will be met.

9. Unfinished Business – None

10. Adjournment

With no further business coming before the Zoning Board of Appeals, Member Callahan made a motion to **adjourn the meeting of the Zoning Board of Appeals of July 21, 2010.** Member Neiman seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: Member Giltner

Chairman Haarlow declared the meeting adjourned at 9:54 p.m.

Christine M. Bruton
ZBA Staff Secretary

Approved: _____