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**VILLAGE OF HINSDALE
MINUTES OF THE MEETING
ZONING BOARD OF APPEALS
Wednesday, April 18, 2012**

1. CALL TO ORDER

Chairman Debra Braselton called the meeting of the Zoning Board of Appeals to order on Wednesday, April 18, 2012 at 7:40 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

2. ROLL CALL

Present: Chairman Debra Braselton, Members Marc Connelly, Gary Moberly, Bob Neiman and John Callahan

Absent: Members Keith Giltner and Rody Biggert

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

3. APPROVAL OF MINUTES – March 21, 2012

Member Moberly moved **approval of the minutes of the Meeting of March 21, 2012.** Member Neiman seconded the motion.

AYES: Members Connelly, Moberly, Neiman and Chairman Braselton

NAYS: None

ABSTAIN: Member Callahan

ABSENT: Members Giltner and Biggert

Motion carried.

4. APPROVAL OF FINAL DECISION – None

5. RECEIPT OF APPEARANCES – None

6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE PUBLIC COMMENT OF A GENERAL NATURE - None

7. PRE-HEARING AND AGENDA SETTING - None

8. PUBLIC HEARINGS

a) **V-03-12, 344 Radcliffe Way** (Transcript on file)

Chairman Braselton opened the public hearing. Anyone intending to speak was sworn in by Court Reporter Bono. Ms. Christin Stefani and architect, Mr. Dennis Parsons came to the podium. Chairman Braselton explained that they have the right to postpone the hearing because two of the Board members are not in attendance. Ms. Stefani elected to continue. She addressed the Board explaining that she has a contract to purchase the property depending on the approval of this variation request. The current owners are Gretchen and Tim McCarty who are present tonight. She provided history for the subject property. The home was built in 1927, in 1969 the property was divided and that created the 'back-loaded' location of the home on the lot. The property has access to the below ground garage from Ravine Road. In 2006

1 the home was ranked a significant structure by the Historical Preservation
2 Commission. Granting this variation request will allow her to take the 21 x 30 foot
3 garage out of the basement and allow a family and breakfast room. She stated that
4 the current home occupies only a small part of the property and even after the
5 requested addition, 1,419 square feet of allowable FAR will remain unused. She
6 believes the location of the house on the lot creates a unique physical condition and
7 one not created by the owners. She stated that one of the rights granted by the
8 Zoning Code is the right to build and this right is enjoyed by other neighbors. She
9 stated that a proper garage is a right enjoyed by neighbors. She is asking the
10 minimum amount required to erect a garage. She believes that given the irregular
11 nature of the lot and the historic nature of the home, it would be appropriate to grant
12 this variance. She does not believe this addition will not be detrimental to the
13 neighborhood, in fact, it would be a benefit. She will be a home owner and not a
14 renter. In her opinion, the closest neighbor is minimally affected. She also pointed
15 out that whether a two or three car garage is requested, the variance request would
16 be the same because of the necessary depth of the garage not the width. Mr. Parsons
17 illustrated the current configuration of the basement noting the applicant wants to
18 reclaim this space as usable basement for laundry, storage, etc.

19
20 **Mr. Tim McCarty, owner of subject property,** stated that he purchased the home
21 in 2004 and lived there until 2008. While living in the house it became clear how not
22 functional the basement and garage are. They filed a request for a variance in 2008,
23 but withdrew as they moved out of the home. It has been rented since they moved
24 out. The question is how to expand the house with respect to the home and the
25 neighbors. He believes this solution enhances the neighbors' property. He stated
26 that this is not a financial motivation; this makes the home livable and consistent
27 with what modern families need. He contends this is a solution to preserve a lovely
28 home.

29
30 **Nancy Cox, 127 E Third Street,** addressed the Board stating that she studied the
31 plan and has driven around property and her first reaction was it was a logical
32 design. However, she started to think about the code, about this Village, the old
33 housing stock and unusual homes, and concluded that this is not the right direction.
34 She believes the house exists in a certain context and that the Zoning Code is the best
35 way to insure everybody gets the same deal, provide protection, insure consistent
36 streetscapes, and guarantee that remodeling will do no harm to neighbors. She asked
37 the Board to comment about hardship and what is the denial of rights in this matter.

38
39 Mr. McGinnis confirmed that the house could be torn down. Member Callahan
40 discussed tear downs. Mr. Parsons pointed out that other options were explored; this
41 addition is subservient to the original structure and is a sensible solution. He said it
42 is a basement and first floor addition only and is the least obtrusive of the possible
43 options.

44
45 **Mr. Nick Gusto, 120 Ravine Road,** stated he can empathize with the seller and the
46 buyer, but his concern is the value of his home. He read a letter from an anonymous
47 neighbor who is a builder in Hinsdale who thinks that Mr. Gusto's home value will
48 suffer as a result of the proposed addition. He showed pictures of how the view from
49 his guest room would be altered. His friend, realtor Linda Feinsten, said his home
50 would be devalued by this addition. He believes this is a transfer of wealth, there is
51 no hardship; it is a want and not a need. He said that the home on Radcliffe Way has
52 worked for many families in 80 years, if you don't like this house as it is, don't buy it.

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3 Chairman Braselton asked Mr. McGinnis what happens to the side yard requirement
4 if the house is torn down. He stated that the 10-11 foot requirement today because of
5 the location of the home would become a 6 foot requirement.
6

7 **Mr. Randy Conte, 104 Ravine**, lives two doors down from the subject property. He
8 supports Mr. Gusto's position and asked what the hardship is in this case. He
9 believes setbacks exist for a reason and asked the Board to apply the rules
10 consistently. Member Neiman said the standards are in the code in Section 11-503(f).
11 He noted the criteria required for approval, read the hardship, substantial rights and
12 special privilege section. He pointed out that economic hardship is not one of the
13 criteria.
14

15 **Mr. Cash MacDiarmid** was sworn in. He stated that he has been a builder in
16 Hinsdale for over 40 years; he has done tear downs and rebuilding. He thinks it is
17 important to consider that the house that could be built on that lot would be huge.
18 He noted that it is a desirable lot and would be prime for a tear down. Mr. Parsons
19 agreed, stating the property is not priced quite right for teardown, but it is almost
20 there.
21

22 **Ms. Gretchen McCarty, homeowner**, was sworn in. She clarified that when they
23 applied for variation it was only a five foot request, the rules have changed and now
24 the numbers are different. She believes using only three houses to calculate setbacks
25 is flawed. She stated the proposed addition is in line with the other houses on the
26 block, every house in the area has had improvements and this house should be
27 allowed to do the same.
28

29 **Mr. John Nicholson of 105 Ravine**, lives across the street from Mr. Gusto. He has
30 lived in his home since 1952 and has seen a lot of large homes go up in Hinsdale. He
31 believes another big home on Ravine will make his property value go down.
32

33 Member Moberly asked Ms. Stefani to address the hardship issue. She stated that
34 the hardship is that the position of the home on the lot precludes certain amenities.
35 They are asking for the minimum variance required to erect a proper garage.
36 Discussion followed. Mr. McCarty pointed out that similar properties enjoy these
37 amenities and that this house is 14' behind Mr. Gusto's house. Mr. Parsons
38 illustrated that this addition would not be any closer to Mr. Gusto's house than the
39 existing structure. Mr. Gusto reiterated his loss of view.
40

41 **Mr. Ed McCarthy of 607 Franklin** was sworn in. He stated that the hardship is
42 that the house sits imperfectly on the lot. If there are concerns about the character of
43 the town of Hinsdale, he would think the Board would be more in favor of granting
44 these kinds of variances to preserve these homes. He said the value of the lot will
45 exceed value of the improvements and a big house on the lot would be worse.
46

47 Mr. Gusto said he sees his point but a \$1.4 million house is not a tear down. He
48 believes there are other houses available at that price.
49

50 Chairman Braselton noted for the record that she received four emails from neighbors
51 in support and two opposed. There being no further testimony, Member Neiman
52 moved to **close the public hearing for V-03-12, 344 Radcliffe Way**. Member

1 Moberly seconded the motion.
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4 **AYES:** Members Connelly, Moberly, Neiman, Callahan and Chairman Braselton

5 **NAYS:** None

6 **ABSTAIN:** None

7 **ABSENT:** Members Giltner and Biggert
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9 Motion carried.
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11 Chairman Braselton declared a five minute recess.
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14 **DELIBERATIONS**
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16 The Board reconvened and Chairman Braselton opened deliberations. Member Connelly
17 said that because of the contentious nature of the case, he would prefer to deliberate in
18 chambers. Member Connelly moved **to deliberate V-03-12 in closed session**. There
19 was no second, the motion failed. Chairman Braselton stated the Board will deliberate in
20 public. Member Callahan commented that this is the most difficult case the Board has
21 seen in a long time, and everybody has great and logical arguments. He asked; where is
22 the hardship and has heard that common enjoyments is the argument. He gives great
23 weight to neighbors, especially the next door neighbor. His sense is that a tear down is a
24 real option and would result in an unfortunate loss of a charming home. he believes
25 preservation is important. Member Moberly commented that this is a beautiful house on
26 a beautiful lot, and a monster house could be built, but questions if the garage and family
27 room constitute a hardship. Member Connelly sympathizes with both sides; he
28 commented that with a garage below grade, he would not want cars under his house with
29 respect to the safety of his children. Member Neiman stated the Board does not consider
30 variances in a vacuum, we know what market conditions are, but are required to decide
31 based on code standards. He stated that the likelihood of a tear down is not criteria they
32 are duty bound to follow, but one criterion they must follow is whether the applicant is
33 being denied substantial rights commonly enjoyed by owners of other lots. He doesn't
34 believe any owner has a right to a three car garage, a family room or a big kitchen. He
35 believes these are special privileges. He said he is a preservationist and thinks the
36 house will be preserved. Chairman Braselton reiterated that this is a difficult case; she
37 is struggling with hardship issue and doesn't see it with this house and this application.
38

39 Member Moberly moved to **approve V-03-12, 344 Radcliffe Way**. Member Connelly
40 seconded the motion.
41

42 **AYES:** Members Connelly and Callahan

43 **NAYS:** Members Moberly, Neiman and Chairman Braselton

44 **ABSTAIN:** None

45 **ABSENT:** Members Giltner and Biggert
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47 Motion failed.
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49 **9. NEW BUSINESS – None**
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51 **10. UNFINISHED BUSINESS – None**
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11. ADJOURNMENT

With no further business coming before the Zoning Board of Appeals, Member Moberly made a motion to **adjourn the meeting of the Zoning Board of Appeals of April 18, 2012**. Member Neiman seconded the motion.

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

NAYS: None

ABSTAIN: None

ABSENT: Members Giltner and Biggert

Motion carried.

Chairman Braselton declared the meeting adjourned at 9:16 p.m.

Christine M. Bruton
Village Clerk

Approved: _____