

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44

**VILLAGE OF HINSDALE  
ZONING BOARD OF APPEALS  
MINUTES OF THE MEETING  
Wednesday, May 15, 2013**

**1. CALL TO ORDER**

Chairman Debra Braselton called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, May 15, 2013 at 7:32 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:** Village Attorney Michael Marrs, Director of Community Development/Building Commissioner Robb McGinnis, Village Clerk Christine Bruton, Court Reporter Kathy Bono

**3. APPROVAL OF MINUTES – April 17, 2013**

There being no changes or corrections to the draft minutes, Member Moberly moved to **approve the minutes of the Meeting of April 17, 2013**. Member Connelly seconded the motion.

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

**NAYS:** None

**ABSTAIN:** Member Callahan

**ABSENT:** Members Biggert and Giltner

Motion carried.

**4. APPROVAL OF FINAL DECISION – None**

**5. RECEIPT OF APPEARANCES**

All persons intending to testify in the public hearing were sworn in by the court reporter.

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

**7. PRE-HEARING AND AGENDA SETTING – None**

1 **8. PUBLIC HEARINGS**

2 a) **APP-01-13, 735 and 739 Phillippa**

3 Mr. Matthew Kline, attorney for the homeowner, addressed the Board  
4 explaining that this case is an appeal of a determination by the Village  
5 that a new home cannot be constructed on 739 Phillippa. The  
6 homeowner, Dr. Ruth Barski lived in the residence at 735 Phillippa,  
7 acquired the property at 739 Phillippa, put up a fence, installed  
8 landscaping and a sprinkling system thereby creating one zoning lot,  
9 according to Village staff. However, he asserts that it was two lots then  
10 and is two lots now. The lots could not be consolidated, because it would  
11 have resulted in the house being non-conforming, and code states you  
12 cannot create a non-conforming lot. Individually, each of these lots is a  
13 legal non-conforming lot of record. He distributed Exhibit 1, a memo  
14 from Mr. Robert McGinnis, Director of Community Development which  
15 states the Village is of the opinion that by obtaining the fence permit for  
16 the two lots, one zoning lot is created.

17 Mr. Klein offers Exhibit II, which illustrates that each lot was created  
18 by a plat or deed. Member Neiman asked why this isn't a single zoning  
19 lot. Mr. Klein explained this single zoning lot was defined by the owner  
20 when she got a permit for a fence. He suggests she takes out the fence,  
21 only an accessory use, and redefine the property. He pointed out that on  
22 a Grant Street property a playhouse was removed and moved to the  
23 home lot, therefore there was no accessory structure, and the ZBA  
24 agreed at that time there were two legal non-conforming lots again.  
25 Chairman Braselton confirmed two pin numbers still exist.

26 Mr. Klein suggests that many houses on Phillippa are legal non-  
27 conforming lots. He believes that reverting these two to their original  
28 non-conformity would make homes built on these properties consistent  
29 with almost every other house on the block. To leave the lot 'double'  
30 would make it substantially larger than all other lots in the block. Dr.  
31 Barski would take out the fence; denying her the right to do this would  
32 be taking her rights away from her. Mr. Klein pointed out that there  
33 are three neighbors present tonight that have no objection to the  
34 proposal.

35 Member Moberly asked if this is a code or staff issue. Mr. McGinnis  
36 explained that this is not in the code with specificity and staff struggles  
37 with this issue regularly. He provided background information  
38 regarding bulk regulations in Hinsdale and explained that most towns  
39 don't allow building on non-conforming lots, a goal of most zoning codes  
40 is to slowly eliminate non-conforming lots and uses. Past practice was  
41 consistent on this zoning lot issue; he spoke with former and long time  
42 Village building department director Mr. Dan Schoenburg and building  
43 commissioner Mr. Charles Schmidt, who confirmed if people purchased

1 and demolished a house, when they came in to alter or improve that  
2 property they were told they were creating one zoning lot. Since 2005,  
3 current practice is different, a resident can't have an accessory  
4 structure without consolidating. He believes by definition, this is one  
5 zoning lot, but the code doesn't support breaking it out. Village  
6 Attorney Michael Marrs cautioned with respect to precedent, that if the  
7 Board feels the code provisions support Mr. Klein's argument, they  
8 shouldn't rule against this applicant because of future situations. The  
9 concerns about precedent would be more appropriately addressed  
10 through text amendments to the code. Mr. McGinnis cautioned this  
11 could result in more houses on more lots. He further stated that as we  
12 are a non-home rule community, properties are bought and sold and we  
13 have to record until a permit is applied for and at that time they would  
14 be cautioned they were making one zoning lot. Member Callahan said  
15 this will be slowly eliminated over time, but after 2005 no permit would  
16 have been issued without consolidation. It was noted that a resident  
17 could put in a hedge or a swing set and unintentionally create one  
18 zoning lot by improving it.

19  
20 **Member Callahan moved to close the public hearing on APP-01-13,**  
21 **735 and 739 Phillipa.** Member Connelly seconded the motion.

22  
23 **AYES:** Members Connelly, Moberly, Neiman, Callahan and Chairman  
24 Braselton

25 **NAYS:** None

26 **ABSTAIN:** None

27 **ABSENT:** Members Giltner and Biggert

28  
29 Motion carried.

30  
31 **DELIBERATION**

32  
33 Member Moberly argues against the Village policy because it seems  
34 arbitrary to him. Member Neiman commented that in his opinion the  
35 language in §10 105 is dispositive; when he reads the language, it says  
36 it's ok notwithstanding any other section of the code. Further, given  
37 that Mr. McGinnis's office addresses this issue every day, and they have  
38 no strong view on the matter, it leads him to believe this Board should  
39 approve. Member Callahan agrees, there is no record of this policy and  
40 he believes the benefit of doubt should go to the homeowner.

41  
42 **Member Callahan moved to approve the appeal know as APP-01-13,**  
43 **735 and 739 Phillipa.** Member Connelly seconded the motion.

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

3           **NAYS:** None

4           **ABSTAIN:** None

5           **ABSENT:** Members Giltner and Biggert

6  
7           Motion carried.

8  
9           **9. NEW BUSINESS – None**

10  
11          **10. UNFINISHED BUSINESS – None**

12  
13          **11. ADJOURNMENT**

14          With no further business before the Zoning Board of Appeals, Member  
15          Callahan made a motion to **adjourn the meeting of the Zoning Board**  
16          **of Appeals of May 15, 2013.** Member Moberly seconded the motion.

17  
18          **AYES:** Members Connelly, Moberly, Neiman, Callahan and Chairman  
19          Braselton

20          **NAYS:** None

21          **ABSTAIN:** None

22          **ABSENT:** Members Giltner and Biggert

23  
24          Motion carried.

25  
26          Chairman Braselton declared the meeting adjourned at 8:07 p.m.

27  
28  
29          \_\_\_\_\_  
30          Christine M. Bruton  
31          Village Clerk

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

32  
33  
34

**FINAL DECISION**

**VILLAGE OF HINSDALE  
ZONING BOARD OF APPEALS  
PETITION FOR STAFF APPEAL**

- Zoning Calendar:** App 01-13
- Petitioner:** Ruth Barsky
- Meeting held:** A Public Hearing was held on Wednesday, May 15, 2013 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 March 7, 2013.
- Premises Affected:** The Subject Property is commonly known as 735/739 Phillippa, Hinsdale, Illinois and is legally described as:
- PARCEL 1:
- LOT 7 IN BLOCK 5 IN JEFFERSON GARDENS SUBDIVISION, BEING A SUBDIVISION OF A PART OF THE WEST HALF OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN; RECORDED AUGUST 17, 1929 AS DOCUMENT NO. 10457275 IN COOK COUNTY, ILLINOIS
- PARCEL 2:
- LOT 8 IN BLOCK 5 IN JEFFERSON GARDENS SUBDIVISION, BEING A SUBDIVISION OF A PART OF THE WEST HALF OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN; RECORDED AUGUST 17, 1929 AS DOCUMENT NO. 10457275 IN COOK COUNTY, ILLINOIS
- Subject:** The Petitioner appeals a long standing staff position that a Zoning Lot is created by definition once someone purchases an abutting property, demolishes the structures on it, and uses that parcel for their own use and enjoyment as a yard or open space, thereby preventing future redevelopment of the abutting property for a separate principal use.
- Facts:** This property is located in the R-4 single-family zoning district in the Village of Hinsdale and is located on the east side of Phillippa between Fuller and Bob-o-link Drive. Both lots are approximately 60'x 125' and are considered Legal Non-conforming Lots of Record.
- The Petitioner purchased a lot adjacent to her single family home, demolished the existing residence on the adjacent lot, and then installed a fence enclosing both lots, as well as an irrigation system covering both lots. The Petitioner did not file a plat of consolidation or otherwise act to merge the two existing Legal

Non-conforming Lots of Record; two individual Lots of Record with separate Property Index Numbers still exist.

The Petitioner maintained that the issuance of permits for the fence and irrigation system did not result in de facto consolidation of the two Lots of Record, and that such a consolidation could not have actually been authorized by the Village due to Section 12-101 of the Zoning Code of the Village of Hinsdale that prevents modification of lot lines without bringing the entire lot into conformity (consolidation in this case would have caused the side yards relative to the remaining residence to become non-conforming). No variation was required by the Village at the time the permits issued. It was noted that the Petitioner was willing to remove the fence.

Staff explained that for many years, staff had permitted an applicant who owned adjacent lots, only one of which had a principal structure on it, to place accessory structures on the vacant lot without any requirement that an applicant consolidate the lots in order to construct the accessory structures. Staff would simply orally inform an applicant that by installing an accessory structure on the lot or across the lot lines, they were creating a single Zoning Lot and would thereafter be precluded in the future from selling off the underlying Lot of Record that did not have a principal structure on it for redevelopment.

Staff Liaison Robert McGinnis gave the Board some history on the bulk zoning regulations in Hinsdale and the goal of most zoning codes to eventually eliminate non-conformities in general. He also provided a brief history on both the Village's past practice and the current staff position. Staff, in order to prevent these types of cases from recurring, now requires an applicant to make a choice between leaving the vacant adjacent property unmodified, in which case it can be redeveloped for a principal use, or to formally consolidate the two lots in order to install accessory structures.

**Action of the Board:**

Members discussed the request and the provisions of Section 12-101.C. relied upon by the Petitioner. The Board agreed that Section 12-101.C was general in nature, that there had been no legal consolidation of the two Lots of Record under the circumstances detailed above, and that staff never asserted any sort of de-facto consolidation necessitating any approvals for the existing structures on the site. Rather, prior staff action only determined that a single, non-separable Zoning Lot had been created.

While members agreed that this may meet the technical definition of one Zoning Lot, they stated that the provisions in Section 10-105 specifically afforded an owner the right to build or re-build on a

Legal Non-conforming Lot of Record whether there were structures on it or not, so long as various requirements in Section 10-105 were complied with. Section 10-105 of the Zoning Code provides that “notwithstanding the regulations imposed by any other provisions of this code, a single-family detached dwelling, and any permitted accessory structure, that complies with the regulations of [Section 10-105] may be erected, maintained, altered, enlarged, rebuilt, restored and repaired on a legal nonconforming lot of record.” The Board found Section 10-105 dispositive.

Members stated that staff’s current practice of requiring a formal consolidation in order to place accessory structures on an abutting lot would prevent the issue from recurring.

A motion in favor of Petitioner in her appeal from the staff decision was made by Member Callahan and seconded by Member Connelly.

**AYES:** Connelly, Moberly, Neiman, Callahan, and Chairman Braselton  
**NAYS:** None  
**ABSTAIN:** None  
**ABSENT:** Members Giltner, Biggert

THE HINSDALE ZONING BOARD OF APPEALS

---

Chairman Debra Braselton

Filed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, with the office of the Building Commissioner.

## MEMORANDUM

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

**FROM:** Robert McGinnis MCP  
Director of Community Development/ Building Commissioner

**DATE:** July 10, 2013

**RE:** Zoning Variation – V-06-13; 14 E. Glendale

---

In this application for variation, the applicant requests relief from the height regulations set forth in 3-110A.1(a)(ii) in order to flood proof their home. The plan is to raise the structure above the new 100 year flood plain elevation being implemented by FEMA. The request is for an increase of 3' to the allowable height of the structure.

It should be noted that this request will need to move on to the Board of Trustees as a recommendation, as the Zoning Board of Appeals does not have the authority to grant increases in building height in a residential district.

This property is located in the R-4 single-family zoning district in the Village of Hinsdale and is located on the south side of Glendale west of Washington. The property has a frontage of approximately 130', a depth of approximately 165', and a total square footage of approximately 21,450. The maximum FAR is .24+2,000 square feet or approximately 7,148 square feet. The maximum building coverage is 25% or approximately 5,362 square feet. The Total Lot Coverage is 50% or approximately 10,725 square feet.

cc: Dave Cook, Village Manager  
Zoning file V-06-13



**MEMORANDUM**

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

**FROM: Robert McGinnis MCP  
Director of Community Development/ Building Commissioner**

**DATE: July 10, 2013**

**RE: Zoning Variation – V-07-13; 330 Chestnut**

---

In this application for variation, the applicant requests relief from the front and rear yard setbacks set forth in 5-110C in order to construct a new commercial building on the site.

This property is located in the B-3 Business District in the Village of Hinsdale and is located on the south side of Chestnut Street between Vine and Clay. The property is irregularly shaped and has a total square footage of approximately 24,090. The maximum FAR is 50% or 12,045. The Total Lot Coverage is 90% or approximately 21,681square feet.

cc: Dave Cook, Village Manager  
Zoning file V-07-13

## MEMORANDUM

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

**FROM: Robert McGinnis MCP  
Director of Community Development/Building Commissioner**

**DATE: July 10, 2013**

**RE: Zoning Variation – V-08-13; 5526 S. Washington**

---

In this application for variation, the applicant requests a decrease in the required side yard setback of 7.35' to 3.90' for the construction of a detached garage.

This property is located in the R-3 Residential District in the Village of Hinsdale and is located on the west side of Washington Street between 55<sup>th</sup> & 57<sup>th</sup>. The property has a frontage of approximately 63.50', a depth of approximately 296.69', and a total square footage of approximately 18,840. The maximum FAR is approximately 5,722 square feet and the maximum allowable building coverage is 25% or approximately 4,710 square feet.

cc: Dave Cook, Village Manager  
Zoning file V-08-13

## MEMORANDUM

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

**FROM:** Robert McGinnis MCP  
Director of Community Development/Building Commissioner

**DATE:** July 11, 2013

**RE:** Zoning Variation – V-09-13; 421 E. Ogden Ave.

---

In this application for variation, the applicant requests several sign variations in conjunction with the proposed cancer treatment center to be built on the property later this year. The sign package will be reviewed by the Plan Commission in terms of design and content, and as such, the relief being requested is for only the number and size of the signs and not the content, materials, etc. It should be noted that this request is being driven by the fact that the Code does not account for campus type signage such as the cancer treatment center, or the unusual nature of the relationship between it and the rest of the office park. As a result, the applicant is requesting variations from the following:

### **Monument Signs**

Section 9-106J3(d) - to allow 9 monument signs in lieu of the 1 permitted.

Section 9-106J4(d) - to allow a total square footage of 375 square feet in lieu of the 50 square feet permitted.

### **Wall Signs**

Section 9-106J4(b) - to allow a total square footage of 120 square feet, in lieu of the 100 square feet allowed

Section 9-106J5(b) - to allow a wall sign at a height of 39 feet in lieu of the 20 feet or no higher than the bottom of any second story window, whichever is less.

Per Section 11-607F(2)(c), the Plan Commission has the authority to increase, by not more than one, the maximum number of signs of any functional type otherwise allowed.

---

### **General**

Section 9-106G(5) - to allow off premises identification signs.

This property is located in the O-3 Office District in the Village of Hinsdale and is located on the north side of Ogden between Spinning Wheel and Salt Creek Lane. The property is irregular in shape and has a total square footage of approximately 404,243. The maximum FAR is .35 or approximately 141,485 square feet and the maximum allowable building coverage is 50% or approximately 202,121 square feet.

cc: Dave Cook, Village Manager  
Zoning file V-09-13

## MEMORANDUM

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

**FROM:** Robert McGinnis MCP  
Director of Community Development/ Building Commissioner

**DATE:** June 13, 2013

**RE:** Zoning Variation – V-04-13; 800 Merrill Woods Rd.

---

In this application for variation, the applicant requests relief from the front yard setback requirements set forth in section 3-110 (D)(1) footnote I(8) for the construction of a new single family home. The request is for 20.89' of relief to the required 78.42' required front yard setback.

This property is located in the R-2 single-family zoning district in the Village of Hinsdale and is located at the west end of Merrill Woods Rd.. The property has a frontage of approximately 51', a depth of approximately 188', and a total square footage of approximately 32,166. The maximum FAR is 20% +2,000 square feet or approximately 8,433 square feet. The maximum building coverage is 25% or approximately 8,041 square feet. The Total Lot Coverage is 50% or approximately 16,083 square feet.

cc: Dave Cook, Village Manager  
Zoning file V-04-13

---

---

## MEMORANDUM

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

**FROM:** Robert McGinnis MCP  
Director of Community Development/ Building Commissioner

**DATE:** June 13, 2013

**RE:** Zoning Variation – V-05-13; 1 S. Monroe

---

In this application for variation, the applicant requests relief from the fence regulations set forth in 9-12-3(E)(1)(b.) for the reconstruction of a 6' fence in the corner sideyard. The Code currently limits fences in corner sideyards to 4' in height.

This property is located in the R-4 single-family zoning district in the Village of Hinsdale and is located on the southeast corner of Chicago and Monroe. The property has a frontage of approximately 47', a depth of approximately 125', and a total square footage of approximately 5,875. The maximum FAR is .25+1,100 square feet or approximately 2,569 square feet. The maximum building coverage is 25% or approximately 1,469 square feet. The Total Lot Coverage is 60% or approximately 3,525 square feet.

cc: Dave Cook, Village Manager  
Zoning file V-05-13

---

## MEMORANDUM

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

**FROM:** Robert McGinnis MCP  
Director of Community Development/ Building Commissioner

**DATE:** June 13, 2013

**RE:** Zoning Variation – V-03-13; 218 W. Ogden

---

In this application for variation, the applicant requests relief from several requirements in the Code in order to subdivide and deed off two underlying Lots of Record as well as a request to rebuild a new sign on the property. The overall intent of this request is to sell off the property for single family homes once the owner finds a new location to build the animal hospital he presently operates on the site. The existing building and parking lot presently sit on three underlying Lots of Record. The applicant is proposing to demolish a portion of the rear of the existing building in order to move forward with the subdivision and deed off the two lots on Grant Street. He will need rear yard relief for the building once that portion that encroaches the lot line is removed in order to do this. Should these variations be approved, the applicant will then move forward with the subdivision process.

The specific relief is for a reduction in minimum lot width for the corner lot from 80' to 77.95', a reduction in the required rear yard from 25' to 3', and a new replacement sign in a residential district.

This property is located in the R-4 single-family zoning district in the Village of Hinsdale and is located on the south side of Ogden Avenue between Vine and Grant Street. The property has a frontage of approximately 106', a depth of approximately 353', and a total square footage of approximately 47,222. The maximum FAR is 20% or approximately 9,444 square feet. The maximum building coverage is 25% or approximately 11,805 square feet. The Total Lot Coverage is 50% or approximately 23,611 square feet.

cc: Dave Cook, Village Manager  
Zoning file V-03-13