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**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING
March 18, 2015**

1. CALL TO ORDER

Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, March 18, 2015 at 6:32 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

2. ROLL CALL

Present: Chairman Bob Neiman, Members Gary Moberly, Keith Giltner, Rody Biggert, Kathryn Engel and John Podliska

Absent: Member Marc Connelly

Also Present: Director of Community Development/Building Commissioner Robb McGinnis, Deputy Building Inspector Tim Ryan and Village Clerk Christine Bruton

3. APPROVAL OF MINUTES

a) February 18, 2015

Member Podliska made a correction to the draft minutes, Member Moberly moved to **approve the minutes of the meeting of February 18, 2015, as amended.** Member Engel seconded the motion.

AYES: Members Moberly, Biggert, Engel, Podliska and Chairman Neiman

NAYS: None

ABSTAIN: Member Giltner

ABSENT: Member Connelly

Motion carried.

4. APPROVAL OF FINAL DECISION – None

5. RECEIPT OF APPEARANCES

All persons intending to speak during 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

1 **7. PRE-HEARING AND AGENDA SETTING**

2 a) **V-02-15, 36 - 42 South Washington Street**

3 Mr. Peter Coules, attorney representing Dick Roudebush, addressed the
4 Board to introduce V-02-15. He noted that there has been no change to the
5 subject property since 1961. In the B-2 zoning district, only two signs are
6 allowed, but his client needs a new sign. He described the proposed
7 signage, he noted the existing Coldwell Banker sign may have been in for a
8 variance or it is pre-code because it is over 100' square feet.

9 Board members questioned whether the proposed sign might provide a
10 competitive advantage. They also asked that the applicant expand on the
11 hardship and not self-created standards in more detail.

12 Discussion followed regarding jurisdiction of sign approval and the
13 necessity of this variance.
14

15 b) **V-03-15, Salt Creek Properties, LLC**

16 Mr. Peter Coules, the attorney representing Salt Creek Properties,
17 addressed the Board. This request is a variation for signage; including
18 eight way-finding signs, ground and monument signs. He gave an overview
19 of the proposed placement of the signage. He noted the existing Hinsdale
20 office park sign is coming down. Ms. Kim Cardosi, who designed the signs
21 for the project, addressed the board explaining the necessity of the
22 signage. She believes the new cancer center sign is a precedent for this
23 request.
24
25

26 **8. PUBLIC HEARINGS**

27 a) **V-01-15, 321 East Ninth Street**

28 Chairman Neiman called the public hearing to order. Mr. Robert
29 Blinstrubas, attorney for the applicant, addressed the Board regarding their
30 request for side yard setback relief. He explained that the homeowner had
31 approved drawings for a remodel on the existing footprint and foundation.
32 However, there was a misunderstanding about the walls, for which they
33 apologize. They removed the walls and wanted to reassemble them in the
34 same location exactly as they were. The intention was to keep the property
35 on the same foundation and footprint. Mr. Darius Jusitis, project manager,
36 addressed the Board and explained the walls they removed would be
37 reassembled using the same materials, not new materials, they would be
38 the same walls. They took them down so they could raise the basement up
39 two feet and then put the same walls back up. The walls were put back up
40 after the stop work order was issued. They asked for an inspection on
41 additional foundation work, and then it was discovered that the walls were
42 down. Mr. Jusitis said it was a misunderstanding; they did not ignore the
43 instructions of the Village. He said the Deputy Building Commissioner
44 said to keep 51% of building, they had a discussion with their architect, who
45 said it was okay to do it the way they did. He suggested they would not

1 have asked for an inspection if they thought something was wrong. They
2 believed that reconstructing the walls was different than demolishing the
3 walls, because they could put them back.

4 Mr. Paul Poloz, the architect on the project, told the Board he believes this
5 is a unique situation, because they were lifting the walls two feet. He
6 understands there are different methods to do this, but the architect does
7 not make that the decision. The sub-contractor called him and described
8 the reconstruction idea, Mr. Poloz told him to talk to the Village.

9 Chairman Neiman recapped the homeowner's position on the matter and
10 asked to hear from the Village. Deputy Building Commissioner Tim Ryan
11 explained that all his communications were with Victor, the site
12 superintendent. Mr. Ryan said they discussed the removal of the walls and
13 he told Victor what would constitute a technical demolition and that the
14 walls must remain according to the approved drawings. He explained at
15 length how to raise the foundation the desired two feet without having to
16 remove the walls. He stated that the concept of removing and
17 reconstructing the walls was not discussed. On December 18th, the Village
18 inspected the site and found that the walls were gone. The Village issued a
19 stop work order at that time.

20 Mr. Poloz stated that he believes the contractor on this job was not
21 qualified to jack up the house, and the reconstruction of the walls was their
22 solution. Discussion followed about what Victor understood from his
23 conversation with the Village. Mr. Ryan confirmed that it would be easier to
24 do what they did than to do the work according to code.

25 Mr. Blinstrubas stated this is not a self-created situation because the owner
26 relied on his contractors to know what to do, and now they are in a situation
27 of asking for mercy from the Village.

28 Mr. Poloz stated if the variance is not granted, they will have to demolish
29 the existing foundation, which is in beautiful shape. There will be trucks
30 and noise and mud to build a new foundation. They would rather preserve
31 the existing foundation, as this is more environmentally friendly.

32 Member Moberly suggested that instead of making this a zoning issue, this
33 is a compliance issue and the homeowner should be fined for not following
34 the rules, as he has seen done in other communities. Mr. McGinnis said
35 this is a \$250.00 fine at most in Hinsdale. Member Podliska wondered if
36 the homeowner had information regarding the differences in cost between
37 the two different ways to fix this. Mr. Poloz said he never heard a
38 conversation about the costs, however Mr. Jusitis stated more money was
39 spent to take the walls down and save them, than not. Mr. Ryan was
40 skeptical. Member Biggert moved to **close the public hearing on V-01-**
41 **15, 321 East Ninth Street.** Member Moberly seconded the motion.
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1 **ABSENT:** Member Connelly

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3 Motion carried.

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5 **D E L I B E R A T I O N S - R E S U M E D**

6
7 Chairman Neiman began discussion stating that on the one hand it is clear the
8 Village told them what to do, but the owners, through their contractor, did
9 something else. However, the idea of tearing it all down, starting over and
10 environmental issues are real. This is a public policy issue; does granting a
11 variance under these circumstances invite other future owners to effectively
12 disregard Village instructions, and come before us and hope we grant a
13 variance because they made a mistake. Member Giltner agreed and
14 wondered if the Village can address whether or not the removal and
15 reinstallation of the walls is acceptable; can the ZBA then treat this as a one-
16 off. Member Biggert noted this applicant is trying to improve the housing stock
17 by rebuilding; he is concerned about digging up the foundation, is willing to
18 say yes, and doesn't think this is precedent setting. Chairman Neiman
19 reminded the Board that the ZBA decisions have no precedential value, as
20 advised by the Village Attorney, one ruling on one case does not apply to other
21 cases. Member Moberly said Hinsdale is lenient, and our fines are light. We
22 allow contractors to make grievous mistakes and he does not believe we
23 should allow contractors to run roughshod over the code. He agrees with the
24 arguments, but we need to send a message to contractors and homeowners
25 that they need to follow the rules. He noted, too, that he is struggling with the
26 self-created criteria.

27 Member Podliska said this is an important decision regarding not gaming the
28 system. He agrees with Mr. McGinnis that the purpose of the code is to bring
29 things into compliance, not to perpetuate the non-conformity. We are told the
30 walls were put back up at Christmas time, but Member Biggert has said they
31 are not up. He suggested that the Board could approve the variance,
32 conditioned that only the original walls go up at the original spot. Chairman
33 Neiman noted we are still allowing the benefit of doing it their way. Member
34 Biggert said it is not for this Board to decide how construction problems should
35 be addressed, but likes the idea of a condition on the approval. Further, he is
36 struggling with the definition of demolish; if the walls are kept intact, but only
37 removed for re-installation, is that a demolition? Member Moberly noted we
38 have routinely granted variances for construction of homes and garages on the
39 existing footprint, but there is a reason for the building process and they did
40 not follow it.

41 Mr. Poloz asked if he could ask a question, therefore, Member Moberly moved
42 to **reopen the public hearing on V-01-15, 321 East Ninth Street**. Member
43 Podliska seconded the motion.

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45 **AYES:** Members Moberly, Giltner, Biggert, Engel, Podliska and Chairman

1 Neiman

2 **NAYS:** None

3 **ABSTAIN:** None

4 **ABSENT:** Member Connelly

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6 Motion carried.

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8 **PUBLIC HEARING - RESUMED**

9
10 Mr. Poloz asked what if the structure of the existing building was almost rotten,
11 and the Village code said the structure had to be kept. He said he personally
12 reviews a structure for such problems as mold. These walls would collapse in
13 ten years anyway. He respects the code, but he believes the true intention in
14 this case was to save walls, they did not intend to break code. It was noted
15 there was no mold or other such issue with the walls in question.

16 Member Moberly moved **to re-close the public hearing on V-01-15, 321 East**
17 **Ninth Street.** Member Biggert seconded the motion.

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19 **AYES:** Members Moberly, Giltner, Biggert, Engel, Podliska and Chairman
20 Neiman

21 **NAYS:** None

22 **ABSTAIN:** None

23 **ABSENT:** Member Connelly

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25 Motion carried.

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27 **DELIBERATIONS - RESUMED**

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29 It was noted that Victor, the contractor who made the decision to remove the
30 walls, was out of the country at the time of the hearing. Member Moberly
31 moved **to approve the variation request know as V-01-15, 321 East Ninth**
32 **Street.** Member Biggert seconded the motion.

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34 **AYES:** Members Giltner, Biggert and Podliska

35 **NAYS:** Members Moberly, Engel and Chairman Neiman

36 **ABSTAIN:** None

37 **ABSENT:** Member Connelly

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39 A majority of the Board, not having voted to grant the motion, the motion is
40 therefore denied.

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42 **9. NEW BUSINESS – None**

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44 **10. OTHER BUSINESS – None**

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11. ADJOURNMENT

With no further business before the Zoning Board of Appeals, Member Engel made a motion to **adjourn the meeting of the Zoning Board of Appeals of March 18, 2015**. Member Podliska seconded the motion.

AYES: Members Moberly, Giltner, Biggert, Engel, Podliska and Chairman Neiman

NAYS: None

ABSTAIN: None

ABSENT: Member Connelly

Motion carried.

Chairman Neiman declared the meeting adjourned at 8:00 p.m.

Christine M. Bruton
Village Clerk

Approved: _____