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**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE MEETING
October 15, 2014**

1. CALL TO ORDER

Chairman Bob Neiman called the regularly scheduled meeting of the Zoning Board of Appeals to order on Wednesday, October 15, 2014 at 6:34 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, Marc Connelly, Keith Giltner, Kathryn Engel and John Podliska

Absent: Member Rody Biggert

Also Present: Director of Community Development/Building Commissioner Robb McGinnis and Village Clerk Christine Bruton

3. APPROVAL OF MINUTES

a) **April 16, 2014**

There were not enough eligible voting members present to approve. Chairman Neiman asked that the minutes be moved to the next regularly scheduled meeting for approval.

b) **August 20, 2014**

Member Moberly moved to **approve the minutes of the meeting of August 20, 2014, as amended.** Member Engel seconded the motion.

AYES: Members Connelly, Moberly, Giltner, Engel and Chairman Neiman

NAYS: None

ABSTAIN: Member Podliska

ABSENT: Member Biggert

Motion carried.

c) **September 17, 2014**

Chairman Neiman made a correction to the draft minutes. Member Giltner moved to **approve the minutes of the meeting of September 17, 2014, as amended.** Member Moberly seconded the motion.

AYES: Members Connelly, Moberly, Giltner, Podliska

NAYS: None

ABSTAIN: Member Engel and Chairman Neiman

ABSENT: Member Biggert

1 Motion carried.
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4 **4. APPROVAL OF FINAL DECISION – None**
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6 **5. RECEIPT OF APPEARANCES**

7 All persons intending to speak at the public hearings were sworn in by the
8 court reporter.
9

10 **6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO**
11 **MAKE PUBLIC COMMENT OF A GENERAL NATURE – None**
12

13 **7. PRE-HEARING AND AGENDA SETTING – None**
14

15 **8. PUBLIC HEARINGS**

16 a) **V-06-14, 949 and 955 Cleveland Road** (*transcript on file*)

17 Mr. Scott Day and Ms. Christina Morrison, attorneys for homeowners Greg
18 and Christina Steil, addressed the Board. Mr. Day described the current
19 ownership of the properties and that the owners are seeking a variation
20 from §9-1-4(f)(3); parking and driveway stipulations. The code states that
21 the driveway shall not be located closer than one foot from the property.
22 Mr. Day said they are asking for one of two alternative requests. The first
23 regards the interpretation of the code that prohibits crossing the property
24 lines. The second option constructs a code compliant driveway on both lots
25 and both would be adjacent with a strip of grass in between. Chairman
26 Neiman asked why a variation would be required on the code compliant
27 second option. Mr. Day explained that the property would have to be
28 considered as one zoning lot, but these are two lots of record. Option #1
29 would eliminate the two foot strip and eliminates curb cuts and Option #2
30 fills in the strip, but is a longer driveway.

31 Mr. Michael Graham, architect on the project, explained the driveway they
32 are proposing has less impermeable surface and fewer curb cuts, which
33 they believe is also an intention of the code. They hope to make the
34 property look like a bigger estate and avoid adding another driveway to the
35 parcel.

36 Mr. Day noted this is a co-owned property, not the situation the code would
37 normally address. After the Village completed the street improvements, a
38 storm drain had been placed where they were putting the driveway. There
39 is an existing elm tree and a sanitary sewer manhole cover. These make
40 installing a second driveway more intrusive, however, Option #1 has none
41 of these problems. He explained this is a unique situation because the first
42 home had already been permitted, but if they had then consolidated the
43 lots, the setbacks would have changed and a variation would be required
44 for the house on the consolidated lot. Both permitted houses were in full
45 compliance with code as two parcels. If consolidated, the second home

1 would be an accessory structure and as permitted, too large. In order to
2 allow crossing a property line of two adjacent lots with the same owner, a
3 text amendment would be required. This would be broad relief, and it was
4 agreed that the variation, as requested, is narrower relief. He stated our
5 code encourages applicants to seek the narrowest relief they can.
6 Discussion followed regarding what Mr. Day believes are conflicting code
7 provisions. He contended that every driveway traverses a lot line to get to
8 the street.

9 He addressed the standards required for approval. This situation is unique
10 and not previously presented to the Village; it is a unique legal problem.
11 Chairman Neiman pointed out the situation is unique, but the criteria
12 concerns the physical condition of the lot. Mr. Day contends that an
13 applicant who owns two compliant lots can treat them as one, according to
14 the definition of a zoning lot. Discussion followed regarding whether this is
15 one zoning lot, or two separate lots. Mr. McGinnis noted the permit was
16 issued for two zoning lots.

17 Member Moberly pointed out that it appears the applicant is choosing to
18 consider this one zoning lot or two zoning lots as it meets their needs at the
19 time. Member Podliska agreed that this appears to be the case.

20 Mr. Day elaborated the concept of required parking lots on the parcel; §9-
21 104(D)(4), Off-Street Parking which would indicate that if you want to allow
22 access to one zoning lot from the other, an easement can be recorded to
23 permit this. Chairman Neiman asserted that property lines refer to two
24 privately held property lines, not one owned by the Village. Mr. Day also
25 outlined the confusion in the zoning code with reference to the definition of
26 a driveway. Mr. Day summarized asking the Board to consider this matter
27 one zoning lot so the driveway is permitted, or two zoning lots so as an
28 easement can be filed, or grant the variation to fill the 39' feet of grass, or
29 there will be two driveways creating more impermeable surface and an
30 additional curb cut.

31 Chairman Neiman asked Mr. Day to illustrate the unique physical condition.
32 Mr. Day reiterated the code confusions. In terms of the condition of self-
33 creation, Mr. Day said that self-creation contemplates that the code can
34 only be interpreted one way, which is not the case here.

35 Discussion followed regarding alternative remedies. A second driveway
36 was suggested, and Mr. Day agreed this is physically possible, but
37 reiterated his concern with the volume of impermeable surface as a result.

38 Mr. Day informed the Board that he has not heard from any neighbor one
39 way or another on this proposal. Mr. Craig Workman, general contractor on
40 the project, clarified that when the new road was constructed, they did not
41 put a curb cut in at 955 Cleveland. There being no further questions,
42 Member Moberly moved **to close the public hearing on the matter**
43 **known as V-06-14, 949 & 955 Cleveland Road.** Member Engel seconded
44 the motion.
45

1 **AYES:** Members Connelly, Moberly, Giltner, Engel, Podliska and Chairman
2 Neiman

3 **NAYS:** None

4 **ABSTAIN:** None

5 **ABSENT:** Member Biggert

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7 Motion carried.

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

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Member Moberly began deliberations by stating this is a difficult case because people should be able to use their properties as they see fit, but the hardship and not self-created provisions are a problem. Member Giltner stated he is struggling with the standards the ZBA is asked to consider; the hardship is the code and not accommodating this situation. Other residents have chosen consolidation instead, and if this was looked at before building on 955 Cleveland, accommodations could have been made to meet the goals and needs of the residents. He intends to vote no.

Member Connelly asked about the fact that the permitted remedy would be more intrusive than the requested variance. Chairman Neiman said the answer might be that this may be the least intrusive variance to accomplish the petitioner's goal, but it still pre-supposes the criteria are actually met. If we deny, we will have more impermeable surface, which is unfortunate, but we are required to determine that the criteria are met. Also, the owners originally sought the permit and treated the lots as two zoning lots not one, which seems to dictate we continue to treat it that way.

Chairman Neiman reviewed the standards for approval stating; there is no unique physical condition, rather the request is based on the personal situation of the owners. This seems particularly self-created and in his opinion it is a special privilege. No substantial right is being denied; nor is this in keeping with the essential character of the area. There is another remedy, but the owners don't like it. Member Podliska agrees on several of these points, especially the unique physical condition; this request seems to focus on the convenience of the owners. There is another remedy; run another driveway straight back to the garage. This has the consistency of treating these properties as two zoning lots, which was an advantage, but now is a disadvantage. Member Engel agrees with the other members, and affirmed there is no denial of a substantial right and there is another remedy.

Chairman Neiman complimented Mr. Day saying he did a good job pointing out problems in the code, causing him to think of some of the provisions in a new way. Member Podliska **moved to close the deliberations on V-06-14, 949 & 955 Cleveland Road.** Member Connelly seconded the motion.

1 **AYES:** Members Connelly, Moberly, Giltner, Engel, Podliska and Chairman
2 Neiman

3 **NAYS:** None

4 **ABSTAIN:** None

5 **ABSENT:** Member Biggert

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7 Motion carried.

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9 Member Moberly moved **to deny the variation request known as V-06-14,**
10 **949 & 955 Cleveland Road.** Member Giltner seconded the motion.

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12 **AYES:** Members Connelly, Moberly, Giltner, Engel, Podliska and Chairman
13 Neiman

14 **NAYS:** None

15 **ABSTAIN:** None

16 **ABSENT:** Member Biggert

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18 Motion carried.

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21 b) **V-07-14, 602 S. Madison**

22 Mr. Bill Gillman, the builder for the homeowner, stated they are seeking a
23 variance from the required setback for construction of a new garage. He
24 explained that the new garage would be in exactly the same spot as the old
25 garage; maintaining the existing 5' foot setback. However, they would
26 extend the garage an additional two (2) feet into the back yard. He
27 pointed out that the property is only 34' feet wide, and because a 15' foot
28 corner side yard setback is required, they would not be able to build a
29 garage on the property. He noted the new garage would also be slightly
30 taller than the existing structure. Further, the neighbors have been notified
31 and he has the signatures of the immediate neighbors who signed off
32 during the permitting process. The existing non-conforming setback would
33 not change and due to the physical size of the property they cannot build
34 the garage. These are unique and not self-created factors. There being no
35 further questions for the applicant, Member Moberly moved **to close the**
36 **public hearing on the matter known as V-07-14, 602 S. Madison.**
37 Trustee Engel seconded the motion.

38

39 **AYES:** Members Connelly, Moberly, Giltner, Engel, Podliska and Chairman
40 Neiman

41 **NAYS:** None

42 **ABSTAIN:** None

43 **ABSENT:** Member Biggert

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45 Motion carried.

DELIBERATION

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3 Member Moberly supports this request; the Board has approved these
4 requests in the past and the neighborhood is improved as a result. Member
5 Engel said this matter fits the standards the ZBA is working with and noted the
6 two extra feet at the rear of the garage extends into the owners property.
7 Chairman Neiman reviewed each of the standards and how this application
8 meets each of them. Member Engel moved **to close deliberations for as V-**
9 **07-14, 602 S. Madison.** Member Podliska seconded the motion.

10
11 **AYES:** Members Connelly, Moberly, Giltner, Engel, Podliska and Chairman
12 Neiman

13 **NAYS:** None

14 **ABSTAIN:** None

15 **ABSENT:** Member Biggert

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17 Motion carried.

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19 Member Connelly moved **to approve the variation request known as V-07-**
20 **14, 602 S. Madison.** Member Engel seconded the motion.

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22 **AYES:** Members Connelly, Moberly, Giltner, Engel, Podliska and Chairman
23 Neiman

24 **NAYS:** None

25 **ABSTAIN:** None

26 **ABSENT:** Member Biggert

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28 Motion carried.

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30 **9. NEW BUSINESS – None**

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32 **10. UNFINISHED BUSINESS – None**

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34 **11. ADJOURNMENT**

35 With no further business before the Zoning Board of Appeals, Member Biggert
36 made a motion to **adjourn the meeting of the Zoning Board of Appeals of**
37 **October 15, 2014.** Member Moberly seconded the motion.

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39 **AYES:** Members Moberly, Connelly, Giltner, Engel Podliska and Chairman
40 Neiman

41 **NAYS:** None

42 **ABSTAIN:** None

43 **ABSENT:** Member Biggert

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45 Motion carried.

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

Christine M. Bruton
Village Clerk

Approved: _____