



VILLAGE OF PALATINE

VILLAGE HALL - COUNCIL CHAMBERS 200 E. WOOD STREET
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ZONING BOARD OF APPEALS

MINUTES • JUNE 23, 2020

Village Hall - Council Chambers

Regular Meeting

7:00 PM

I. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Brent Larson	Commissioner	Present	
Cindy Roth-Wurster	Commissioner	Absent	
Jan Wood	Commissioner	Present	
Jerry Luszczak	Commissioner	Present	
Theodore McGinn	Commissioner	Absent	
Kevin Cavanaugh	Commissioner	Absent	
James Dittrich	Commissioner	Present	
John Pirog	Commissioner	Present	

Staff present: Mr. Ben Vyverberg

II. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Jun 9, 2020 7:00 PM

Mr. Luszczak made a motion to approve the minutes of June 9, 2020; seconded by Mr. Larson.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Jerry Luszczak, Commissioner
SECONDER:	Brent Larson, Commissioner
AYES:	Larson, Wood, Luszczak, Dittrich, Pirog
ABSENT:	Roth-Wurster, McGinn, Cavanaugh

III. PUBLIC HEARING**1. 17 E. Northwest Highway**

Staff indicated to the Zoning Board of Appeals that the Petitioners had ultimately chosen to withdraw the application thereby removing it from any further Village consideration.

2. 1189 N. Coolidge Avenue

Notice was published in the Daily Herald on June 8, 2020 and mailed to the owners of the surrounding properties.

Petitioner's Exhibits:

1. Application for Variation
2. Proof of Ownership
3. Plat of Survey/ Site Plans
4. Public Notice

Sworn in staff: Mr. Ben Vyverberg

Sworn in petitioner: Mr. Mihajlo Danilovski 1189 N Coolidge

Mr. Danilovski stated he purchased the home in late 2016 and built a deck without a permit because he didn't think it was required. He explained last year he did a home addition and during the permit process the deck was noted on the plat. Once he understood that a permit was required, he applied for a building permit for the deck and, upon Staff review, it was determined that the deck was required to be a minimum of 15 feet from the property line. Mr. Danilovski further explained to the ZBA that the deck is already built and he didn't know had to be setback 15 feet from the side property line. He explained in his previous town decks had to be 5 feet from the property line. He stated he is hoping to keep the deck, since it is fully built.

Ms. Wood clarified the deck was built in 2017.

Mr. Danilovski answered yes about 6 months after they moved there.

Mr. Dittrich asked if the neighbors have any issues.

Mr. Danilovski answered no. He stated the deck is kind of low and there are privacy bushes.

Mr. Pirog asked if they built the deck built themselves.

Mr. Danilovski answered yes him and his father in-law.

Ms. Wood clarified the location.

Mr. Danilovski explained it is directly behind kitchen and closer to the home to the south.

Ms. Wood asked if there are any objections including 1169 N. Coolidge.

Mr. Danilovski answered no. He stated they keep to themselves and have never heard anyone say anything.

Mr. Pirog asked if there is a fence.

Mr. Danilovski answered yes a chain link fence.

Mr. Pirog asked if it would be difficult to cut off 4ft.

Mr. Danilovski explained the deck is fully composite. He further explained the area which would need to be removed include a set of stairs that walk out to yard.

Ms. Wood asked if the steps are the area that is out further.

Mr. Danilovski answered yes there are steps to lead to backyard toward the back of the property line.

Mr. Vyverberg gave a brief overview of request explaining the petitioner was in for a building permit to connect the house and the garage and during the permit review and subsequent inspection staff noted the presence of the deck on the east side of the property. He stated since it was not permitted and staff advised the Petitioner to apply for a building permit. Mr. Vyverberg stated the property is zoned R1 single family residential which indicates if a deck is above 16 inches the minimum required setback is 15 feet. He stated the current building permit will remain open, pending the outcome of the zoning process. Mr. Vyverberg explained the location of the steps on the east side referring to the plat/site plan slide. He pointed out the rear yard setback exceeds the minimum required, so the required relief is for the side yard setback.

Mr. Pirog asked if there was any reason to not build to code.

Mr. Danilovski explained it made sense. He explained they put the grill on that side and didn't want to walk right out to the end of the deck. He stated it looks nicer to have more area when walking out from the kitchen. He restated since it is fully composite it would be difficult to cut off the 4 feet.

Mr. Larson clarified the 16 inches includes the total height of deck to the railing is another 36 inches.

Mr. Vyverberg explained it is to the top of the deck. He explained the reason is decks to a certain height would be considered unobtrusive like a patio which also would not require a railing. He referred to the slide of the old plat showing a patio that existed in the late 1990's. Mr. Vyverberg referred to the current plat/site plan showing location of fencing.

Ms. Wood asked if 10 feet is acceptable in other zoning districts.

Mr. Vyverberg answered yes stating the R1 has the most restrictive zoning requirements. He spoke to the area being annexed and how they automatically come in as the R1 zoning district.

Mr. Pirog asked if staff knew of any other variations in area.

Mr. Vyverberg stated not that staff did not note any during the review, excepting explaining any setback which existed before the homes were annexed. He pointed out in the aerial that rear yard and side yard for patios and decks are common in the area.

Mr. Dittrich asked the petitioner if the old patio structure on old plat was there when they built the deck.

Mr. Danilovski explained when they purchased the home there were 2 large

stones you walked out to.

STAFF RECOMMENDATION:

Decks and patios are customary rear yard improvements and typical within the Village. Per Code, decks above 16 inches in height are required to comply with the minimum side yard setbacks, as they tend to be larger and potentially less passive in use than an at-grade patio (minimum 2-foot side yard setback). Nevertheless, the deck was, at some point constructed without a permit and now requires a setback Variation. Therefore, Staff recommends Action at the Discretion of the Zoning Board of Appeals. If the ZBA recommends approval, Staff recommends the following condition:

1. The Special Use shall substantially conform to the site plan submitted by the Petitioner and the addition and deck plans by RB Custom Design, INC. except as such plans may be changed to conform to Village Codes and Ordinances.

There were no further questions. The public hearing was closed.

Mr. Dittrich made a motion to approve subject staff's conditions; seconded by Mr. Larson.

DELIBERATIONS:

Mr. Dittrich stated though it is already built the board needs to look as if it was not built. He stated 11 feet vs 15 feet isn't that big of a deal. He pointed out there are privacy bushes and a fence and the neighboring house is not that close so has no issues. He stated with it being composite cutting it off would be a plight to the owner.

Mr. Larson stated looking at the aerial the 4 feet doesn't look out of character with the neighborhood. He stated had it come before the board before being built they may have been requested to move it but at this point it doesn't alter the character the essential character of the neighborhood.

Mr. Pirog stated he doesn't like it but understands the composite makes it difficult to remove. He stated he doesn't see any harm in the request.

Ms. Wood pointed out the board had some good points. She stated it is hard to say they can't yield a reasonable return. She stated had this request come through before being built the request for a few feet may have been considered but is hard to say. Mr. Wood spoke to the standards and stated given the individual situation she could be in favor.

Ms. Wood summarized that this request has met the standards and was unanimously approved by a vote of 5-0. This item will go to Village Council on July 13, 2020.

RESULT:	RECOMMENDED TO APPROVE [UNANIMOUS]
MOVER:	James Dittrich, Commissioner
SECONDER:	Brent Larson, Commissioner
AYES:	Larson, Wood, Luszczak, Dittrich, Pirog
ABSENT:	Roth-Wurster, McGinn, Cavanaugh

3. 410 S Oak Street

Notice was published in the Daily Herald on June 8, 2020 and mailed to the owners of the surrounding properties.

Petitioner's Exhibits:

1. Application for Variation
2. Proof of Ownership
3. Plat of Survey/Site Plan
4. Public Notice

Sworn in Mr. Umesh K Javvaji 410 S Oak

Mr. Javvaji stated they built home in 2017. He explained the builder requested him to remove the hydrant at the end of driveway and a tree but it was too costly. He stated anyone who comes to property and has to back a vehicle from the garage is going on the lawn toward the adjacent property causing the lawn to get ruined as well as a friend has hit the hydrant. Mr. Javvaji explained the circular drive will allow ease on exiting.

Mr. Pirog asked if there is room on other side to expand the current driveway. Mr. Javvaji explained there only 2 feet, which is what is required.

Mr. Larson asked if he was involved with the design of this home and if there was a thought to flip before.

Mr. Javvaji explained they tore own the old home and built the new one.

Mr. Larson asked why not design with the garage on other side to avoid the tree and the fire hydrant.

Mr. Javvaji explained the driveway was done last and at the last moment the builder explained the limited width of the driveway. He stated he also has maneuvering issues parking his car in the second garage.

Ms. Wood asked if he spoke to contractors to review all options.

Mr. Javvaji explained to remove the hydrant costs \$5,000 and the tree is good shade

Discussion on cost difference.

Mr. Larson asked if the proposed driveway would go to street pointing out on the slide it shows it ends at the sidewalk.

Mr. Javvaji answered yes.

Mr. Dittrich asked if the fire hydrant removal had no cost would the drive be requested.

Mr. Javvaji answered no.

Ms. Wood asked if the only factor is the cost not that he prefers the circular drive.

Mr. Javvaji answered yes.

Mr. Vyverberg gave a brief overview of the request pointing out the fire hydrant has been in the same place for some time so it was a known condition when the property was built. He stated the home complies with all required setbacks and meets the bulk standards. Mr. Vyverberg explained the requested variation is for driveway width though it meets maximum lot coverage. He pointed out it is an older established subdivision where though the lots are lawful platted lots they are substandard for current requirements at only 60 feet in width. He spoke to other circular drives in area and the nuances associated.

Mr. Pirog asked if it would be easier to request a variation for the 2 feet at the lot line.

Mr. Vyverberg stated there are not a lot of options to improve the driveway, without requesting relief, due to the existing setbacks of the home and driveway and overall lot size. He spoke to the requirements of location for fire hydrants pertaining to linear distance for hoses. He stated relocating the fire hydrant becomes a privately born expense and the capacity would have to be examined by the Village.

Ms. Wood asked if it is normal to have a fire hydrant in that position

Mr. Vyverberg spoke to the previous home being smaller with one car garage so the driveway was different. He stated was an existing circumstance that the petitioner acknowledged in their building plans.

Discussion on relocation of fire hydrant and the required water flow capacity.

Ms. Wood asked the petitioner if they looked into the water flow capacity.

Mr. Javvaji answered no.

Mr. Dittrich asked if staff has an obligation when the permit came to indicate possible issues.

Mr. Vyverberg explained the homeowner had a private engineer and an architect submit plans which all showed the existing fire hydrant remaining in place. He further explained it was approved by staff because it meets all code requirements.

Sworn in Michael Kimak and Ms. Catherine Kvitek- 411 S. Benton Street.

Mr. Kimak expressed concern with the increased water flow from the new construction. He stated when home was built they noticed an increase in water flowing onto their lower laying property. He stated the property started to puddle and they lost a lot of landscaping. Mr. Kimak stated they had to replace sump pumps due to the extra flow. He stated a year later a deck was added and now a circular driveway and is concerned the added impermeable surface will cause more water drainage problems. Mr. Kimak asked what they will do to address the water flow.

Ms. Wood asked if these problems have been since the new home was constructed.

Mr. Kimak answered yes.

Ms. Kvitek stated it has increased. She pointed out the homes on Oak Street are 5 feet above elevation which caused her neighbors to spend thousands on a French drain system. She spoke to the erosion and puddling and water coming into basement and asked if properties can address their own storm water.

Ms. Wood asked if the problem occurred before and is now exasperated.

Ms. Kvitek stated she has noticed more since this home was built. She spoke to the increase in home size stating she realizes it is within the zoning requirements but is asking for them to put in some kind of system to direct water flow.

Ms. Wood asked if all the neighboring properties on Oak are up higher.

Ms. Kvitek submitted a picture to staff.

Mr. Luszczyk asked if the grade was changed.

Ms. Kvitek answered no.

Ms. Wood submitted the picture into record as objector's exhibit #1.

Mr. Dittrich asked how much more lot coverage was added with new built home.

Mr. Vyverberg stated a lot coverage analysis was done when home was constructed, which met code but does not have the calculation on the previous home.

Mr. Dittrich asked if the deck was wood or concrete.

Mr. Vyverberg answered wood.

Mr. Dittrich clarified under is gravel.

Mr. Vyverberg stated that is the typical finished improvement.

Ms. Wood asked if they can quantify the increased water flow.

Ms. Kvitek stated it is difficult. She spoke to the recent rain and how her properties took on water where she sunk in the mud up to her ankles and lost lilac bushes. He stated she added dirt and drain tiles. She stated Mr. Javvaji installed drainage which has since been removed.

Mr. Dittrich asked about yard currently from the rain.

Ms. Kvitek stated it is not a problem because it hasn't rained in 3 weeks. She spoke to the cost of adding a french drain in the front yard to hook up into the sewer system.

Mr. Luszczyk asked if these costs are incurred because of the new home being built behind.

Mr. Kimak answered yes.

Ms. Wood clarified these problems occurred before but now have become worse.

Ms. Kvitek stated they never had issues with their landscaping.

Ms. Wood asked staff if they are aware of problems on Benton in that area. Mr. Vyverberg stated the residents who have testified have been contact with the Village Engineer looking for solutions to issues that exist. He pointed out when the home was constructed there is a grading and engineering plan submitted during home building process which was reviewed, approved and inspected respectively. Mr. Vyverberg spoke the low lying areas on South Benton and Oak and vacant lots that are part of the Villages flooding improvement in the local flood plain.

Sworn in Ms. Carol Graf 341 S Benton

Ms. Graf stated her home is in a bowl with the properties to the west and east are higher. She stated she and her neighbor installed an \$8500 drainage system last spring. She stated it has kind of helped but if too many hardscapes are installed there is nowhere for the water to go except for someone's basement. She stated her neighbor even with the drainage system gets water. Ms. Graff stated she thinks raised curbs may help direct the water.

Ms. Wood asked if there have been other new homes built in the area
Ms. Graf stated the only new homes are on the west side of Benton so water comes rushing to their front yard.

Ms. Wood asked if the home in question caused an increase.
Ms. Graf answered no.

Ms. Wood asked staff what the current homes coverage is.
Mr. Vyverberg stated he believes it is approx. 38-39%. He explained it is minimal coverage being added.

Ms. Wood asked if the deck is already built.
Ms. Graf answered yes.

Sworn in Ms. Sally Graff 405 S Benton

Ms. Graf stated she has lived there for 60 years. She stated gradually they have built bigger homes and have always dealt with the problems. She stated the Village put in storm sewers which are higher than the sidewalks which causes the sidewalks to become a river. Ms. Graf stated they have planted all known plants that absorb water along fence line but you can watch the flow of water run down. She stated everything slopes from Oak into their backyards. She stated when more hardscapes is installed there is only one place for the water to go. Ms. Graf stated there is standing water at the high parts of their backyard.

Ms. Wood asked if the home in question being built caused an increase
Ms. Graf answered yes. She stated originally she made steps along the fence line to slow the water but even with the new drainage swale her basement still gets seepage. She stated the old home had a crawlspace to absorb some water but new home has basement so more water.

Mr. Vyverberg stated the Village Engineer can meet on site to discuss solutions

for current drainage issues but some circumstances need to be privately resolved.

Mr. Pirog asked if the Village Engineer had any issues with the request.

Mr. Vyverberg clarified the petitioner is going through the zoning process to determine if his request is feasible. He explained if Village Council approves there will have to be engineering plans submitted as part of the building permit process. Mr. Vyverberg explained the comments of no issues identified relate to the zoning relief requirements which is a different review from the permit process.

Mr. Pirog asked if the additional front yard concrete would cause more water flow to the back yard and then onto the neighboring properties.

Mr. Vyverberg stated it will require a building permit which will require review to engineering standards. He further explained the flow of the area and topography will have to be taken into account to determine the impact.

Mr. Javvaji spoke to the existing water problems. He explained his house is at the top of the hill. He stated the neighbor is stopping the water from flowing by increasing the dirt. Mr. Javvaji state there is no storm sewer on this property so all the water from his and the adjacent properties flow to Benton Street. He pointed out if he removes the fire hydrant and expands his driveway it will be the same amount of added concrete.

Mr. Dittrich clarified it is the same square footage of concrete.

Mr. Javvaji answered yes.

Ms. Wood asked if that would require relief.

Mr. Vyverberg stated staff would have to review accordingly.

Ms. Wood clarified the maximum is 30 feet and asked what the current drive is versus proposed.

Mr. Vyverberg explained referring to the site plan slide.

Mr. Luszczak clarified the driveway could not be widen without relief.

Mr. Vyverberg explained the petitioner did not submit such plans. He stated if another solution was proposed staff would have to review accordingly.

Mr. Javvaji stated the maximum is 35 feet and he is requesting 41 feet.

Ms. Wood asked how much impervious surface they are adding.

Mr. Vyverberg stated approx. 350 sqft.

Mr. Pirog asked if the apron is included in the coverage calculations.

Mr. Vyverberg explained work in the right of way is not calculated in lot coverage.

Ms. Kvitek addressed Mr. Javvaji comments explaining she added soil because she thought it would absorb the moisture, added a small retaining all to hold soil in place and added the drain tile to drain to the middle of the yard. She stated

she is trying to slow the erosion. She suggested adding a lamp post to draw attention to hydrant location.

STAFF RECOMMENDATION:

The Petitioner has indicated the need for a circular driveway on the Subject Property to avoid maneuverability issues with exiting the driveway, which is directly adjacent to a fire hydrant. While Staff understands the questions being raised by the Petitioner, the hydrant remains in the same location as has existed on S. Oak Street for some time. And, the new home was constructed with the hydrant to remain in place. The hydrant (private expense) relocation would cost approximately \$5,000, assuming it meets the capacity requirements. The driveway cannot be widened with the existing fire hydrant in place. The Subject and surrounding lots in this area are narrow (60 feet) and a circular driveway would utilize 39% of the frontage for this lot. This driveway would not be in character with the neighborhood.

While there are other options to accomplish this request, they would involve removing an established tree in the front yard and relocating the hydrant. Therefore, Staff recommends denial of the Zoning Board of Appeals. If the Zoning Board of Appeals recommends approval, Staff recommends the following conditions:

1. The Special Use shall substantially conform to the site plan submitted by the Petitioner, Umesh Javvaji, except as such plans may be changed to conform to Village Codes and Ordinances.

Ms. Wood asked when staff mentions other options does that include the fire hydrant and tree removal

Ben answered yes. He spoke to the conditions of the tree and the hydrant. He stated when the homes was constructed and designed these things were taken into account by professionals. Ben pointed out the home could have been flip flopped the hydrant issue could have been avoided. He stated staff does not see adding a second curb cut on an interior lot that is only 60ft wide as being the best solution.

There were no further questions. The public hearing was closed.

Mr. Larson made a motion to deny; seconded by Mr. Pirog.

DELIBERATIONS:

Mr. Larson stated the request doesn't meet the standards pointing out the petitioner can yield a reasonable return. He stated it is not unique circumstances since they knew about the hydrant when home was built and this request will alter the essential character of the locality.

Mr. Pirog agreed and pointed out there are alternatives.

Ms. Wood stated in the petitioner's defense it would be \$5,000 for hydrant, \$2,000 for tree and the cost of adding more pavement.

Mr. Pirog stated the main issue is the fire hydrant. He pointed out the drive is standard width so without the hydrant there wouldn't be an issue.

Mr. Luszczyk agreed the standards have not been met.

Mr. Dittrich stated there is no such thing as a good floodplain in Palatine. He stated he has never seen a fire hydrant that close to a drive. He stated he would hope the petitioner and the Village would come to some sort of agreement.

Ms. Wood stated the house is larger so does not quite fit into the neighborhood and then they are adding the driveway. She agreed it is strange to see fire hydrant there. She stated it should have been taken in account when the home was built but it wasn't. She stated she doesn't like the circular drive but pointed out it is not adding that much square footage.

Ms. Wood summarized that this request has not met the standards and was denied by a vote of 4-1. This item will go to Village Council on July 13, 2020.

RESULT:	RECOMMEND TO DENY [4 TO 1]
MOVER:	Brent Larson, Commissioner
SECONDER:	John Pirog, Commissioner
AYES:	Larson, Wood, Luszczyk, Pirog
NAYS:	Dittrich
ABSENT:	Roth-Wurster, McGinn, Cavanaugh

IV. COMMUNICATIONS

V. ADJOURNMENT