



VILLAGE OF PALATINE

VILLAGE HALL - COUNCIL CHAMBERS 200 E. WOOD STREET
PALATINE, IL 60067-5339 – (847) 359-9050
<http://www.palatine.il.us>

ZONING BOARD OF APPEALS

MINUTES • APRIL 10, 2018

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	Present	
Jan Wood	Commissioner	Present	
Jerry Luszczak	Commissioner	Present	
Theodore McGinn	Commissioner	Present	
Kevin Cavanaugh	Commissioner	Present	
James Dittrich	Commissioner	Present	
John Pirog	Commissioner	Absent	

Staff present Ms. Katie Romack and Ms. Lyn Bremanis

II. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Mar 27, 2018 7:00 PM

Mr. Cavanaugh made a motion to approve the minutes of March 27, 2018 ZBA meeting; seconded by Ms. Roth-Wurster.

Mr. Dittrich made a motion to open the public hearing; seconded by Mr. Cavanaugh.

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

III. PUBLIC HEARING

1. 223 E. Northwest Highway

The Petitioner has requested that their Special Use request be put on hold until further notice. Therefore, Staff is requested that this item is remanded back to Staff. If, at some point in the future, the Petitioner intends to move forward, it will be necessary to complete the notification process again.

2. 33 N. Clyde Avenue

Notice was published in the Daily Herald on March 22, 2018 and mailed to the owners of the surrounding properties.

Petitioner's Exhibits:

1. Application for Special Use Amendment & Variation
2. Proof of Ownership
3. Plat of Survey
4. Building Plans
5. Ordinance O-051-12
6. Public Notice
7. Letter from Attorney

Ms. Romack gave the background of the request explaining the petitioner would like to repair an existing non-conforming accessory structure located entirely in the floodplain in the rear yard. Therefore, the Petitioner is requesting:

1. **Special Use Amendment to allow an accessory structure to be used for more than storage**
2. **Variation to permit the total square footage of all accessory structures to be 900 square feet instead of the maximum permitted 700 square feet**

SITE ANALYSIS:

- The Subject Property is zoned R-2 Single Family and is improved with a single-family residence and a 900-square foot accessory structure.
- The lot is 120 feet wide by 301 feet deep (approximately 36,000 square feet).
- The rear three quarters of the property are within the floodplain and unbuildable.
- The accessory structure was formally used as a coach house prior to the Subject Property's annexation in 1993. Per Code, the accessory structure cannot be used for habitation. Additionally, accessory structures cannot exceed 700 square feet.
- In 2012, the Subject Property received a Special Use to permit a front yard setback of 12 feet instead of the minimum required 30 feet. The Special Use approval required that a restrictive covenant be recorded against the Subject Property to prevent future structures from being constructed in the floodplain without Special Use review, including fences, sheds, decks, etc. The restrictive covenant may also include a provision to prevent the second structure on the property from being used for occupancy.
- Because the accessory structure is located in the floodplain, it is required to follow the Village's adopted floodplain regulations. The Village of Palatine participates in the National Floodplain Insurance Program (NFIP) to make affordable flood insurance available for structures within its jurisdiction through the Federal Emergency Management Agency (FEMA). The Village adopts and enforces floodplain management ordinances to reduce flooding damage. FEMA has a 50% rule, which limits the cost of improvements (additions, alterations,

etc.) to non-conforming structures to less than 50% of the market value of the structure prior to improvements. The Village, as part of the NFIP's Community Rating System (a voluntary incentive program that recognizes and encourages community flood plain management programs that exceed the NFIP minimum requirements) that provides flood insurance premium discounts to residents, further reduces the 50% to 40%. If the repairs to a non-conforming structure exceed 40%, then the structure is required to conform to the requirements for new construction including elevating to the required minimum elevation. FEMA determines the minimum lowest elevation for structures located in area they have identified at risk for flooding.

- In 2015, the Petitioner initially applied for a Special Use to reconstruct the existing structure into a gazebo using the existing concrete foundation and slab. Upon review of this request, Staff determined the proposed improvements would have been greater than 40% of the market value and the Petitioner would have to elevate the proposed gazebo in order to move forward.
- In November 2016, Staff received a complaint that the Petitioner had started removing the roof on the accessory structure without receiving zoning approval and a building permit. The Petitioner was cited and required to appear in adjudication. All work was stopped and the Petitioner has placed a tarp over the structure to protect it from the weather.
- In January 2018, the Petitioner reapplied for a Special Use and Variation to repair the existing structure. Such repairs include electrical fixtures and accessories, siding, gutter and downspouts, windows, doors, skylights, and roofing.
- Prior to reapplying, the Petitioner was required to submit documentation to the Village Engineer to determine if the proposed improvements would exceed 40% of the market value. The Village Engineer reviewed the necessary documents and determined the improvements did not exceed 40% threshold.
- The Petitioner has indicated to Staff the structure would be used for storage and yoga. A yoga studio is not a permitted home occupation. Per Code, no more than 600 square feet of the area of the dwelling unit shall be devoted to any home occupation; the home occupation shall not be visible from the street or create unreasonable traffic related to the home occupation; and, no other person shall be employed or involved with said activity on premises other than a member of the immediate family residing in the dwelling unit.

DEPARTMENTAL REVIEWS:

Community Services	A licensed Architect or Structural Engineer must evaluate the existing structure.
Engineering	No issues identified.
Environmental Health	N/A
Fire Prevention	N/A
Public Works	N/A
Police	N/A

STANDARDS FOR SPECIAL USE: Since this Petition is not for a use publicly

operated or traditionally affected with the public interest, those standards under Section 14.05 D (2) and (3) are applicable. Specifically, the Petitioners must show that the Special Use, if granted, will be operated in a manner consistent with the public health, safety, and welfare, and that the Special Use will not have a negative impact on the value of surrounding properties. The Petition for a Special Use is attached, and the Petitioners have attempted to address the required standards.

STANDARDS FOR A VARIATION: Standards for a Variation are found in Section 14.03 D (1) and (2) of the Zoning Code. Specifically, the Petitioners must show that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located; that the plight of the owner is due to unique circumstances; and that the variation, if granted, will not alter the essential character of the locality. The Petition for Variation is attached, and the Petitioners have attempted to address the required standards.

Mr. Dittrich asked what the current square footage of the accessory structure is. Ms. Romack explained it is 900 sq. feet and is not changing in size

Mr. McGinn clarified if it was 700 sq. ft. no variation would be needed. Ms. Romack stated that is correct.

Ms. Wood asked if the complaint for the roof removal pushed this request. Ms. Romack explained the ongoing history of the property.

Ms. Wood asked if the structure was 900 sq. ft. all along. Ms. Romack answered yes.

**Sworn in Petitioner - Ms. Egle Vasiliauskiene - 33 N. Clyde Avenue, Palatine and
Mr. Michael Berube - Attorney for Petitioner - 10 Laura Drive Addison, IL**

Ms. Vasiliauskiene explained they would like to use the structure for personal hobbies including art and yoga for themselves not for business. She stated she would like it to be nicer than it is now and would like to make use of it.

Mr. McGinn asked if they would consider making it a smaller structure so a Variation is not needed. Ms. Vasiliauskiene explained it was built in 1930 and is less expensive to repair.

Mr. Cavanaugh asked if yoga would be for personal or business use. Ms. Vasiliauskiene stated it would be for personal use.

Mr. Cavanaugh asked if they have any intention on running a business out of it. Ms. Vasiliauskiene answered no.

Ms. Wood asked if they are remodeling the existing structure.

Ms. Vasiliauskiene explained they are repairing not remodeling.

Ms. Roth-Wurster asked if there is electrical currently running to the structure.
Ms. Vasiliauskiene answered no.

Ms. Roth-Wurster asked if they receive FEMA discount for insurance.
Ms. Vasiliauskiene explained the house is not in the flood plain and never applied for insurance for the structure.

Ms. Wood asked if the existing foundation is changing.
Ms. Vasiliauskiene answered no.

Sworn in Mr. Catalin Ciocan - 41 N. Clyde Avenue

Mr. Ciocan stated he is the north side neighbor and knows the property very well because the previous owner was a friend. He expressed his concern is if we allow one building in the flood plain then everyone will want a permit to allow. He spoke to other properties with fences and sheds in the flood plain. He asked if we are obeying federal law about flood plain. He stated the previous owner was issued restrictions from the Village to not use the structure but now the new owners are getting approval for it to be rebuilt. He stated the new house that was built was raised almost 2 feet above elevation.

Ms. Wood stated staff can speak to nearby surrounding properties and can address the issues with this property now.

Ms. Romack explained the flood plain is reviewed by engineering. She stated she is not sure what shed he is speaking to but explained the flood way is different than the flood plain. She further explained to build in a flood plain you can go through the Special Use process.

Ms. Wood stated if Mr. Ciocan has addresses he is concerned about he can give them to Staff them and they will look in to the properties.

Mr. Ciocan stated the water comes from the north side and he will flood. He presented pictures of where the neighbors filled in their yard with dirt. He stated they poured a new slab in 2017. He asked Ms. Romack about the planting of trees in the right of way because he can't see leaving the driveway. Mr. Ciocan stated every time he complains Ms. Romack would find some violations on his own property. He stated this summer he fixed all the violations but his neighbors have not complied with any of theirs.

Ms. Romack explained they are still in adjudication for the accessory structure and for the trees in the right of way.

Mr. Ciocan asked about the slab they poured without a permit.

Ms. Romack repeated they are in adjudication for the accessory structure.

Ms. Wood asked if he is submitting the pictures into record.
Mr. Ciocan stated Staff has them.

Ms. Wood clarified it was for other matter.

Mr. Ciocan stated yes. He stated the main house was built 2 feet higher than the flood plain. He stated they fill in every year with Gabriel Landscaping who threatens him, and the neighbors send the police to his property. He stated they are not neighbors.

Mr. Dittrich objected to the testimony relativeness.

Ms. Wood directed Mr. Ciocan to discuss the issues with filling in the property with Staff. She pointed out that is a separate issue than the current request.

Mr. Ciocan stated he just wants them to do the right thing and obey the law. He stated when he bought the house the Village Engineer stated the properties would remain the same and now they divide the parcels by three. He stated he bought because it was a nice neighborhood and now it is overcrowded.

Ms. Wood stated she understands his frustration.

Mr. Ciocan stated he is not frustrated just wants the board to do the right thing.

Ms. Wood explained they have a limited scope and is currently reviewing the request for the accessory structure.

Mr. Dittrich again objected to the testimony relativeness.

Mr. Cavanaugh asked how long has he lived there.

Mr. Ciocan answered 2002.

Mr. Cavanaugh asked if the structure was there when he moved in.

Mr. Ciocan answered yes.

Mr. Cavanaugh was it the same condition.

Mr. Ciocan stated it was in much better condition.

Mr. Cavanaugh asked if he feels his property value will increase if this structure was fixed to look nice.

Mr. Ciocan asked what does his property have to do with this.

Mr. Cavanaugh asked if they fix the detriment will it increase his home value.

Mr. Ciocan answered no it will increase the taxes.

Ms. Wood asked if any other questions for Petitioner. There were no further questions for the Petitioner.

STAFF RECOMMENDATION:

The Subject Property and many of the surrounding properties are significantly encumbered by the floodplain. While the existing structure is not changing in size or location and the proposed repairs are less than the 40% threshold, it is the goal of the floodplain regulations to remove structures located in the floodplain not improve structures therein. Also, it is the intent of the Zoning Ordinance to

prohibit buildings and structures incompatible with the residential districts. While it is not uncommon for Staff to process requests to exceed the maximum allowable size for an accessory structure, such requests are typically for detached garages where the intent of the structure is to park vehicles with some additional space for storage and hobbies. Furthermore, the 2012 Special Use ordinance was approved subject to the accessory structure being used for storage purposes only. The Petitioner has indicated the structure would be used for more than storage. Therefore, Staff recommends Action at the discretion of the Zoning Board of Appeals of the proposed Special Use and Variation. If the Zoning Board of Appeals recommends approval, Staff recommends the following conditions:

1. The Special Use and Variation shall substantially conform to the plans prepared by Thomas Architects, dated 12/11/2017, except as such plans may be changed to conform to Village Codes and Ordinances.
2. The accessory structure shall not be used in pursuit of any commercial business.
3. The accessory structure shall not be used for a dwelling unit. If approved by the Village Council, a revised deed restriction reflecting this condition shall be prepared and recorded in a manner acceptable to the Village Attorney, within 30 days of said approval.
4. The accessory structure shall be evaluated by a Licensed Architect or Structural Engineer, with an analysis report submitted for review, in a manner acceptable to the Village of Palatine, prior to the issuance of a building permit.

Ms. Wood asked if there were any questions on Staff's recommendation.

Ms. Wood asked if staff read in the standards for the special use and variation.
Ms. Romack answered yes.

Ms. Wood asked if the flood plain regulations are from the Village or FEMA.
Ms. Romack explained it is in the subdivision ordinance.

Ms. Wood asked if it acceptable to Staff for them to use for storage and hobby.
Ms. Romack stated there is a concern that it will be used for more but explained if Staff receives complaints we will follow up and take necessary action. She stated this request is different from other recent requests for garages with additional storage because it won't be used for vehicles.

Mr. Dittrich asked if the NFIP FEMA part was directly tied to the Special Use and Variation request so if the structure was only for storage and under 700 sq. ft. and the cost would not exceed 40% would it be required to be elevated.
Ms. Romack explained that info was for background and explained they would have still had to go through the process for the Special Use Amendment.

Ms. Wood asked if they are changing the square footage that would have additional impact of the flood plain
Ms. Romack answered the size and location is not changing. She stated

engineering has stated it will not increase or decrease the flood plain.

Ms. Wood asked if they had a variation for the 900 sq. ft.

Ms. Romack explained the property was annexed in 1993 with coach house existing so there was no Variation but because of the amount of improvements they are making Staff felt a Variation was necessary for the size. She further explained the need for the Special Use Amendment.

Ms. Wood clarified the Special Use is to allow it to be used for more than storage. She asked if they still need the Special Use seeing it will be for hobbies. Ms. Romack explained it is an amendment to the 2012 Special Use that stated it would only be used for storage. The request is to allow them to do their hobbies and yoga in addition to storage.

Mr. Ciocan showed pictures of the dirt filled in over the summer behind the structure where he is making a new garden. He spoke to his elevation and how the property at 33 N. Clyde Avenue doesn't get water but properties downstream will get water.

Mr. Luszczyk asked if they can change the grading.

Ms. Romack stated grading would require a permit.

Mr. Ciocan stated it is illegal and he is not sure who helps them but they do whatever they want since they moved in.

Ms. Romack stated Mr. Ciocan can email pictures and Staff will look into it. She pointed out they are still in adjudication to work through the other issues.

Sworn in Mr. Robert Vasiliauskiene - 33 N. Clyde Avenue, Palatine, IL

Mr. Vasiliauskiene stated they have had to suffer from the harassment from the neighbor explaining every time we have bonfire the police are called. When they made a garden complaints are made. He stated his car was hit at least 4 times by stones and his windshield is cracked.

Mr. Dittrich again objected to the testimony relativity.

Mr. Vasiliauskiene stated this is nonsense they are trying to live quietly. He spoke to the pictures submitted explaining they are of gardening and not moving of dirt.

Mr. Ciocan asked to show more pictures.

Ms. Wood stated that is for other matters not the current request.

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

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

DELIBERATIONS:

Mr. Dittrich reminded the audience the ZBA is an advisory board and the final

decision will come from Village Council. He pointed out the Special Use Amendment is to allow use for more than storage which would be something similar in a detached garage. He stated the standard on operating under public health safety and welfare is in line. He stated the structure is already 900 sq. ft. and though they could knock it down and reduce the size but in doing so it would exceed the 50% cost and would need new elevation.

Mr. McGinn added because majority of their property is in the flood plain presents unique circumstance which is needed for the variation.

Ms. Wood stated since it is pre-existing it won't alter the character of the locality. She spoke to the standards for the variations on reasonable return and unique circumstances and how they have been met. She spoke to the Special Use standards and how it won't have a negative impact and will not affect health safety and welfare so is in favor.

Ms. Wood summarized that this request had met the standards and was approved by a vote of 6-1. This item will tentatively go to Village Council on May 7, 2018.

RESULT:	RECOMMENDED TO APPROVE [6 TO 1]
MOVER:	James Dittrich, Commissioner
SECONDER:	Theodore McGinn, Commissioner
AYES:	Larson, Roth-Wurster, Wood, McGinn, Cavanaugh, Dittrich
NAYS:	Luszczak
ABSENT:	Pirog

3. 534 W. Helen Road

Notice was published in the Daily Herald on March 22, 2018 and mailed to the owners of the surrounding properties.

Petitioner's Exhibits:

1. Application for Variation
2. Proof of Ownership
3. Plat of Survey
4. Site Plan
5. Elevation
6. Sample Deck
7. Public Notice

Ms. Bremanis gave the background of the request explaining the petitioners are proposing to build a deck around an existing above ground pool. Therefore, they are requesting:

- **Variation to permit total square footage for all accessory structures (deck, pool, and shed) to be 1260 square feet instead of the maximum 700 square feet**

SITE ANALYSIS:

- The Subject Property is zoned R-1 Single Family.
- The proposed deck is approximately 1,170 square feet, including the above ground pool (33' x 39') and varies in height from 4' 6" to 1' 3".
- There is also an existing shed - 83 square feet, which raises the total accessory structure square footage to 1,253 square feet.
- Per code, the maximum allowable accessory structure square footage exceeds 700 square feet and a Variation is required.
- The setbacks, building and lot coverage all meet Code.

DEPARTMENTAL REVIEWS:

Community Services	No Issues Identified
Engineering	No Issues Identified
Environmental Health	N/A
Fire Prevention	N/A
Public Works	N/A
Police	N/A

STANDARDS FOR A VARIATION: Standards for a Variation are found in Section 14.03 D (1) and (2) of the Zoning Code. Specifically, the Petitioners must

show that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located; that the plight of the owner is due to unique circumstances; and that the variation, if granted, will not alter the essential character of the locality. The Petition for Variation is attached, and the Petitioners have attempted to address the required standards.

Ms. Wood asked what the approximate building and lot coverage would be after the request.

Ms. Bremanis explained they are well under the maximum coverage and referred to the plat of survey/ site plan slide.

Ms. Wood asked if staff is aware of any flooding issues in the area.

Ms. Bremanis stated the petitioner can speak to it but pointed out the Village engineer reviewed and had no concerns.

Sworn in petitioner Mr. Kurt Schild & Mrs. Kristin Schild 534 W Helen

Mr. Schild referred to the current condition slide. He indicated where the existing deck is and explained the request is to protect his 2 little girls that use the current setup as a climbing apparatus and to keep the pool toys up and blocked off.

Mrs. Schild explained safety is number one priority pointing out the current deck and no protection.

Mr. Luszczak asked how the deck will be built.

Mr. Schild explained he is a concrete contractor- explained- Previous owner had a patio that drops so would like to extend

Mr. Luszczak asked if it would still be permeable

Mr. Schild answered yes

Ms. Wood asked how long they have been in the home.

Mr. Schild answered 3 years in October

Ms. Wood asked Mr. Schild if he has seen the letter from the neighbor.

Mr. Schild answered yes and explained there are issues with the water he is speaking of. He spoke to the current issues with the sewer and culvert and how the elevations are all over the place and how this causes the water to crest at their easement.

Ms. Bremanis stated the drainage issues have nothing to do with the proposed structure because it occurs in the front yard-. She pointed out engineering and building have reviewed and are in agreement the letter has nothing to do with the structure being proposed.

Mr. Schild continued to explain the drainage and ponding issue and agreed it had nothing to do with the deck rather than previous elevation of the neighborhood that needs to be addressed.

Ms. Wood asked if any other questions for Petitioner. There were no further questions for the Petitioner.

STAFF RECOMMENDATION:

The Petitioners have an existing shed and above-ground pool in their rear yard but they would like to construct a new deck around the existing pool. As the deck is detached from the principal structure and greater than 16" in height, the Zoning Ordinance considers the deck an accessory structure. If the deck was attached to the principle structure, no additional relief would be required. With the size of the existing pool and shed, any additional accessory structures would require relief. The proposed deck should not alter the essential character of the locality. Therefore, Staff recommends approval of the proposed Variation, subject to the following condition:

1. The Variation shall substantially conform to the plans submitted by the Petitioners, Kurt and Kristin Schild on 3/14/18, except as such plans may be changed to conform to Village Codes and Ordinances.

Ms. Wood asked if there were any questions on Staff's recommendation. There were no further questions. The public hearing was closed.

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

DELIBERATIONS:

Mr. Luszczak stated they want to build the deck for safety for their children and doesn't see any issues with flooding.

Ms. Roth-Wurster spoke to the term "permeable" surface pointing out it is just a raised deck that from a safety standpoint makes sense.

Ms. Wood pointed out if the structure was attached to the home they would not need the special use. She spoke to the home being large pointing out they are not even close to exceeding the allowed lot coverage.

Mr. McGinn stated the neighbor's issues won't be aggravated by the requested structure.

Ms. Wood summarized that this request had met the standards and was approved by a vote of 7-0. This item will tentatively go to Village Council on April 16, 2018.

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

4. 920 W. Kenilworth Avenue

Notice was published in the Daily Herald on March 22, 2018 and mailed to the owners of the surrounding properties.

Petitioner's Exhibits:

1. Application for Special Use & Variation
2. Proof of Ownership
3. Plat of Survey
4. Site Plan
5. Public Notice

Ms. Romack gave the background of the request explaining the Petitioner constructed a new patio and sidewalk, which both encroach in the required setbacks, without a building permit. Therefore, the Petitioner is requesting the following:

1. Variation to permit a patio to be set back 0 feet from the side lot line instead of the required 2 feet.
2. Variation to permit a patio to be set back 0 feet from the rear lot line instead of the required 2 feet.
3. Variation to permit a sidewalk to be set back 1 foot from the side lot line instead of the required 2 feet.
4. Variation to permit building coverage to be 38 percent instead of the maximum permitted 35 percent.
5. Variation to permit lot coverage to be 55 percent instead of the maximum permitted 45 percent.

SITE ANALYSIS:

- The Subject Property is zoned R-2 Single Family and the lot size is approximately 9,572 square feet.
- The patio was constructed on both the side and rear lot lines and the service walk was constructed 1 ½ feet from the side lot line.
- The patio is also located in a 10-foot public utility easement. The Petitioner has received sign-offs from all utility companies.
- The patio is approximately 383 square feet and the service walk is 165 square feet (3' x 55').
- With the addition of the patio and service walk, the building coverage is 38% (35% is the maximum) and the lot coverage is 56% (45% is the maximum).
- A building permit was applied for, but never approved in November 2017. As part of the building permit review, Staff indicated that the proposed improvements must be set back 2 feet from the lot lines or a Variation would be required. These comments were never address and the subject improvements were made.

DEPARTMENTAL REVIEWS:

Community Services	No issues identified.
---------------------------	-----------------------

Engineering	No issues identified.
Environmental Health	N/A
Fire Prevention	N/A
Public Works	N/A
Police	N/A

STANDARDS FOR A VARIATION: Standards for a Variation are found in Section 14.03 D (1) and (2) of the Zoning Code. Specifically, the Petitioners must show that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located; that the plight of the owner is due to unique circumstances; and that the variation, if granted, will not alter the essential character of the locality. The Petition for Variation is attached, and the Petitioners have attempted to address the required standards.

Mr. Cavanaugh asked if the patio and sidewalk are existing.
Ms. Romack explained they are existing now.

Ms. Wood asked what is increasing the building coverage.
Ms. Romack explained the building may be an existing coverage condition but when an analysis was done she found it was over the 35%.

Mr. Luszczyk asked if it was nonconforming.
Ms. Romack answered yes and existing nonconforming condition.

Ms. Wood asked how it went over with it being a new construction.
Ms. Romack stated she can't speak to that she explained she determined it by her current lot coverage analysis.

Mr. Cavanaugh asked if the request is work that has already been done.
Ms. Romack answered yes.

Ms. Roth-Wurster asked if the work that was done is the same staff reviewed in the building permit request.
Ms. Romack explained the permit review process and the follow up and that no response was received by the homeowner.

Sworn in the Petitioner - Mr. Michael Bauer - 920 W. Kenilworth, Palatine, IL
Mr. Bauer explained all work is done because he jumped the gun and didn't realize he would need a Variation for this. He stated he has been in the home since 2006 and the east side of the property has always been a big mud puddle where nothing grows. He explained he jumped the gun on the permit and had work done to make more usable space. He stated the Village may have an issue with the fire pit but the fire department indicated if it is turned into gas or a planter they would be fine with it. Mr. Bauer stated he has had the neighbors over and no one is complaining and the neighbor who lives on the other side of the fence is

here to testify.

Mr. Luszczyk asked if they have flooding issues.

Michel answered no explaining he is "sewer rich". He further explained the paver patio slopes into the yard that has a swale that leads to a sewer in back fence area.

Mr. McGinn asked if there are any flooding issues in neighboring properties.

Mr. Bauer stated the neighbor behind thought it would be an issue but he has come by and is fine with it.

Mr. Luszczyk asked when the work was done.

Mr. Bauer stated April 2017.

Ms. Wood asked when the house was built.

Mr. Bauer answered 2006.

Ms. Wood asked if Mr. Bauer was the original owner.

Mr. Bauer answered yes.

Ms. Wood asked if he could have built the request within the setbacks.

Mr. Bauer explained it would not have been usable space. He further explained the walkway is in dirt not concrete.

Ms. Wood asked if any of it could have conformed to the setbacks.

Mr. Bauer explained it would not have worked out because it is not wide where the flagstone meets the paver.

Mr. Cavanaugh asked if the mud where the flagstone is put down was from flooding.

Mr. Bauer stated nothing would grow there.

Mr. Cavanaugh asked where the water went in the last year.

Mr. Bauer stated there was no standing water just nothing would grow and this makes the space more usable.

Ms. Wood asked if there are any other variations in neighborhood.

Ms. Romack stated she is not aware of any similar setback requests but 968 W. Kenilworth Avenue was approved a lot coverage variation for a pool and patio a few years ago.

Ms. Wood asked if all other properties have maintained lot line.

Ms. Romack answered yes not aware of any similar requests.

Mr. McGinn asked if the patio would be moved back or smaller would they need a Variation for building/lot coverage.

Ms. Romack stated she can't say for sure without knowing how small they would make.

Sworn in Mr. Mark Klieman - 908 W Kenilworth, Palatine, IL (property to the east)

Mr. Klieman stated they share a lot line. He stated he doesn't believe there will be any additional flooding issues. He stated if it were him he would have built it the same way. He pointed out the utilities have signed off. Mr. Klieman stated if he would have built 2 feet off lot lines it would have been much smaller and not as usable. He stated he stood in the yard with the north neighbor who initially wasn't excited to put a level on the patio to show water flows into his own yard where there is a swale to direct water to the drain in the middle of his own yard. Mr. Klieman stated he has been there since 1996 and spoke to the drainage improvements the Village has done. He stated some properties have made improvements to their properties to limit water issues but he doesn't feel this request will have any impact.

Mr. Cavanaugh asked Mr. Klieman if he has had any water issues around the garden in the northwest corner of his property within the last year.

Mr. Klieman stated he has had no additional water even with the heavy rains. He stated it is an interesting neighborhood because the properties on Hillside cannot be divided because there is no lift station to allow sewage to be moved where it needs to be moved. He spoke to the changes in the neighborhood.

Ms. Wood asked if any other questions for Petitioner. There were no further questions for the Petitioner.

STAFF RECOMMENDATION:

While the Petitioner constructed the patio and sidewalk without building permit approval, the Petitioner has indicated in the application that the corner of the lot has always been a mess and that the patio will improve the yard with usable outdoor space. Although many of the surrounding lot sizes meet the minimum R-2 lot size, many of the homes in this area are proportionally larger than in older neighborhoods. This impacts lot coverage and may necessitate relief for rear yard improvements. Staff is not aware of any storm water issues within this area; and, the Village Engineer has reviewed the request and does not have any concerns. Therefore, Staff recommends action at the discretion of the Zoning Board of Appeals for the proposed Variations. If the Zoning Board of Appeals recommends approval, Staff recommends the following conditions:

1. The Variations shall substantially conform to the site plan submitted by the Petitioner, Michael Bauer, except as such plans may be changed to conform to Village Codes and Ordinances.
2. If any grading changes are necessary on any of the surrounding neighboring properties (with a 0 foot setback), written consent from said property owners shall be required.
3. If, at the determination of the Village Engineer, any storm water or drainage issues are created by the patio or service walk, the improvements will either be revised or removed in a manner acceptable to the Village Engineer.

Ms. Romack added lot coverage was added in 2006.

Ms. Wood asked if there were any questions on Staff's recommendation. There were no further questions. The public hearing was closed.

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

DELIBERATIONS:

Mr. Cavanaugh stated it is a small backyard and this is a good usable plan that they instituted before coming before the ZBA. He stated he wouldn't feel different if they came to the ZBA before they did the work. He pointed out they got approval from the utilities and it slopes to their own drains so it is an easy yes.

Ms. Wood stated the neighbor is in favor and Staff has conditions in place. She stated it looks like it is done in a good responsible way. She pointed out the issue when you build a larger home on a property is you have some restrictions on what you can do in the back yard. She spoke to the standards for Variation on reasonable return and altering the character of the locality.

Mr. Cavanaugh stated in terms of altering the character of locality one of the longest tenure neighbors spoke in favor so doesn't think it is a concern.

Ms. Wood stated we have to look at the entire neighborhood.

Ms. Roth-Wurster spoke to the standards and how the improvements are not needed because of all the other improvements in yard.

The motion to approve was denied by a vote of 4-3.

Mr. Dittrich made a motion to deny; seconded by Ms. Roth-Wurster.

Ms. Wood summarized that this request has not met the standards and was denied by a vote of 4-3. This item will tentatively go to Village Council on May 7, 2018.

RESULT:	RECOMMEND TO DENY [4 TO 3]
MOVER:	James Dittrich, Commissioner
SECONDER:	Cindy Roth-Wurster, Commissioner
AYES:	Roth-Wurster, Wood, Luszczak, Dittrich
NAYS:	Larson, McGinn, Cavanaugh
ABSENT:	Pirog

IV. COMMUNICATIONS

The next ZBA meeting will be on April 24, 2018 with 3 items on the agenda.

Ms. Bremanis gave updates on previous projects:

- 223 E. Northwest Highway for a Pet Resort known as Pete & Mac's was approved.
- 861 & 865 W. Kenilworth Avenue was continued at the Village Council meeting to Monday April 16, 2018.
- 950 W. Colfax Street has withdrawn their application.
- 787 E. Dundee Road for a restaurant will be heard by Village Council on Monday, April 16, 2018.
- 220 N. Smith Street for the dental office was approved by Village Council.

V. ADJOURNMENT

1. Motion to Adjourn

Mr. Larson made a motion to adjourn; seconded by Mr. Dittrich.

RESULT:	MOTION CARRIED BY VOICE VOTE [UNANIMOUS]
MOVER:	Brent Larson, Commissioner
SECONDER:	James Dittrich, Commissioner
AYES:	Larson, Roth-Wurster, Wood, Luszczak, McGinn, Cavanaugh, Dittrich
ABSENT:	Pirog

