

July 2021 ZBA Minutes

Janie Backs

July 19, 2021 5:30pm Minutes

A meeting of the Village of Peoria Heights Zoning Board of Appeals was held on July 19, 2021 at the Peoria Heights Village Hall. The meeting was called to order by board member Charlie Callaway at 5:30pm.

Charlie Callaway called roll. Every member of the zoning board of appeals was present but Rick Picl, the zoning board chair.

The first order of business introduced by Charlie. He discussed approval of June's ZBA meeting minutes. Charlie stated he would give the audio recording of June's ZBA to Floyd Wombacher, and the board would approve June and July meeting minutes at the August ZBA meeting. Charlie reminded the board that we are sharing the wealth of the minutes amongst all members. Thus far Callaway, Floyd Wombacher, and Backs will have all submitted meeting minutes. Callaway stated that whomever may be the minute taker that month should record the audio meetings themselves. This would be the easiest way to take minutes in the future.

The second order of business was introduced by Callaway of the variance application Variance application filed by Mark A. Jones/Mark Jones Builder seeking a setback variance to allow construction of patio with a front yard setback of 20 feet, which is five feet less than the minimum depth allowed as set forth in Section 10-7A-5-A of the Village Code for the property located at 4526 Constantine Avenue, Peoria Heights, Illinois, 61616 (PIN No. 14-22-429-016), which property is currently zoned R-1 (Low Density Residential District).

- Callaway noted that Jones was present at the meeting and Variance application filed by Mark A. Jones/Mark Jones Builder seeking a setback variance to allow construction of patio with a front yard setback of 20 feet, which is five feet less than the minimum depth allowed as set forth in Section 10-7A-5-A of the Village Code for the property located at 4526 Constantine Avenue, Peoria Heights, Illinois, 61616 (PIN No.14-22-429-016), which property is currently zoned R-1 (Low Density Residential District).
- Jones stated that he would like to build a 10 by 16 foot porch across the front of their house with a covered roof over the top of it that mimics the house north.

Mark inquired to confirm that it would be as far out as the neighboring house. Jones confirmed that it would.

- O'Neil inquired if the railing would also match the neighbors railing. Jones stated it would be different-- more up to date than the neighbors. O'Neil also inquired whether it would be a porch or deck. Jones stated it would be a treated, wood porch with a covering that matches their house.
- Back's inquired about the alignment of Jone's house and the neighbor's house. Jones affirmed that it would be.
- Callaway noted that he wasn't able to drive by the home and inquired about fencing around the house. Back's Jones confirmed that there is no fencing.
- Mark asked the board if anyone had any other questions for Mr. Jones. There were no more questions from the ZBA.
- Callaway opened up public comments. There were no public comments or closing statements. Callaway closed public comments.
- Mark guided Callaway and the board on running through the standards for variance.
 - Will the strict application of the terms of the zoning code relating to the use, construction, or alteration of buildings or structures or to the use of land impose practical difficulties or a particular hardship upon the petitioner?
 - The first round of this question 4 answered no. Mark reminded the board that the questions are stated in the negative and in order to pass the variance we would need to vote yes. We began the standards of variance again.
 - Will the strict application of the terms of the zoning code relating to the use, construction, or alteration of buildings or structures or to the use of land impose practical difficulties or a particular hardship upon the petitioner?
 - The board answered in the affirmative yes: 8-0
 - If the variation is granted, the property affected by the variation will remain in harmony with the general purpose and intent of the zoning code?
 - The board answered in the affirmative yes: 8-0
 - The approval of the variation will not merely serve as a convenience to the petitioner, but is necessary to alleviate some demonstrable hardship on the petitioner.
 - The board answered the affirmative yes: 8-0
 - Can the variation requested by the petitioner be granted without substantial detriment to the public good?
 - The board answered the affirmative yes: 8-0

- Can the proposed variation be approved without impairing the general purpose and intent of the comprehensive plan as implemented by the zoning code?
 - The board answered the affirmative yes: 8-0
- If the proposed variance involves a fence, will the fence conform with the standards set forth at subsections 10-4-7D2c(2)- D2c(5) of the zoning code?
 - The board found this not applicable
- A motion to approve the request for the variance was made by O'niel and seconded by Woo with no conditions.
- The motion passed.
- Mark told Mr. Jones how to get the approval. Mrs. Backs told Mr. Jones he did not have to stay for the whole meeting.

Callaway proposed the next order of business -Variance application filed by Malynda and Michael Davis seeking approval of a variance to allow construction of a 7 foot front yard fence, which is 3 feet in excess of the maximum height allowed by Section 10-4-7(d)(1)(a)(1), and is less than 40% open in design, as required by Section 10-4-7(d)(1)(a)(1), and a variance to allow construction of an interior lot fence that is in excess of 6 feet, the maximum height allowed by Section by Section 10-4-7(d)(1)(c) of the Village Codes For the property located at 1009 E. Rouse Avenue, Peoria Heights, Illinois, 61616 (PIN No. 14-27-126-014), which property is currently zoned R-2 (Medium Density Residential District).

- Callaway asked the Davis's to come forward and present their case to the board
- The Mr. Davis stated that a privacy fence would be 6ft not 7ft privacy fence.
- Callaway reminded the board that the current code for a front yard fence is 4ft and it has to be more than 40ft open. Mark and Janie affirmed this with him.
- Callaway inquired that this front yard fence would be 2ft more than 4 and total privacy. Mr. Jones affirmed
- Mrs. Backs inquired if the petitioner had a backyard. Mr. Jones stated that he did not, his house is off of an alleyway and set back on the lot. Essentially he would want to fence the front and side yard. The Jones's own the houses next door to each other. They would like to combine the yards. They stated that they have dogs who use this front/side yard and disrupt all passers by on the street.

- Mr. Tenney inquired about the current chain link fence attached to the house. He asked if it would be removed. Mr. Jones stated yes, it would.
- Mrs. Backs circled the conversation back to Mr. & Mrs. Jones to state the plans of the petition. Mr. Jones stated that the fence would be 6ft back from the sidewalk, 4 ft back from the property line, 6ft tall and 40ft long on the front of the house, the fence would also go alongside the house on the property line.
- Callaway inquired about any variances on the side of the house. Mark affirmed that the fence can be along the property line along the side of the house and we are discussing variances on the height and open.
- Mrs. Backs inquired about the fence impeding complete view of the house. Mrs. Joens said their house sits higher than the street so passersby would still be able to see some of the house.
- Mr. Tenney asked Mark if there was anything the board needed to know about combining lots with a fence. Mark said they can't combine lots with houses, each house has to be on it's own lot. They can't combine them but how they use them is up to the property owners. Mr. Tenney then affirmed that joining the fence with the other lot they own isn't a problem.
- Mark affirmed that essentially the whole fence would be a front yard fence due to the uniqueness of the lot, they do not have a backyard, it is a front and side yard.
- Mr. Jones explained that his house and garage take up most of the lot and their dogs have very little space with the current chain link fence.
- Mrs. Backs revisited the visualization of the house with a 6ft privacy fence. The Jones's said that they wouldn't be able to see the house from the left hand side of the house, but as you got to the right hand side of the house the house would be visible. O'neil confirmed that it would be hard to see.
- Mr. Tenney inquired about the type of fence. Mr. Jones stated it would be a white, vinyl fence. Callaway asked about other fences in that neighborhood and Mrs. Jones replied that there are other side yard, privacy fences in the neighborhood.
- Mrs. Backs if they would be willing to put up a 5ft privacy fence instead of 6ft. Mr. Jones said yes.
- Mr. Callaway asked the petitioners what the goal of the privacy fence was. Mr. Jones said it is just for the dogs, and they would like it to be completely private and open to change the height of the fence.
- Callaway opened public comments
- Rick Wagner at E Rouse came up for public comment and stated that he supported the fence. The fence would be from his house and the Jones's and he supported it.

- Shannon S. who lives across the street from the petitioners came forward and stated his support of the fence.
- An informal comment from a person present said he grew up in the neighborhood and is in big support of the improvement of the neighborhood.
- Callaway closed the public comments and opened board deliberation.
- Wombacher stated his concern for a privacy front yard fence of that height. He empathized with the hardship of the petitioner but stated his concern about the curb appeal. O'neal stated that he agreed with Wombacher about his concern about the height of the fence.
- Mr.Woo reminded the board of a similar variance last year on Highland that passed
- Mr. Tenney stated that St.Thomas school drop off is near the house which makes for heavy traffic in that area, and more potential for the dogs to be activated. And asked about the gate between the two properties. Mr. Jones stated he would have a chain link gate to connect them.
- Callaway confirmed about foot traffic in that neighborhood and stated that the height is in question.
- Backs proposed approval of the variance of a privacy fence with the condition that the fence be only 5ft tall.
- Mark offered that we go through the factors as presented and put the condition of 5ft height with the motion to approve.
- Callaway closed board discussion and presented the standards for variance
 - Will the strict application of the terms of the zoning code relating to the use, construction, or alteration of buildings or structures or to the use of land impose practical difficulties or a particular hardship upon the petitioner?
 - The board voted in the Affirmative 6-2
 - If the variation is granted, the property affected by the variation will remain in harmony with the general purpose and intent of the zoning code?
 - the board voted 2 Yes -6 No
 - The approval of the variation will not merely serve as a convenience to the petitioner, but is necessary to alleviate some demonstrable hardship on the petitioner.
 - he board voted in the Affirmative 6-2
 - Can the variation requested by the petitioner be granted without substantial detriment to the public good?
 - The board voted in the Affirmative 8-0

- If the proposed variance involves a fence, will the fence conform with the standards set forth at subsections 10-4-7D2c(2)- D2c(5) of the zoning code?
 - The board voted even 4-4
- If the proposed variance involves a fence, will the fence conform with the standards set forth at subsections 10-4-7D2c(2)- D2c(5) of the zoning code?
 - The board voted no 0-8
- The motion to approve the request for variance is made by Mike Woo and seconded by Jack Wideman with the condition of a 5ft privacy fence.
- The motion passed 8-0

Callaway proposed the last Variance application filed by Andrew Pedraza seeking approval of a site plan and a setback variance to allow construction of a deck with a setback of less than 25 feet from a lot line abutting a street on a corner lot as required by Section 10-7B-5(A) of the Village Code for a property located at 3924 N. Vincent Avenue, Peoria Heights, Illinois 61616 (PIN No. 14-27-179-001), which property is currently zoned R-3 (Multiple Family Residential District).

- Andrew was not present due to being deployed in the military and his wife Devon came forward to present the case.
- Devon presented that they wanted to build a deck in place of the concrete steps in order to give the house a better resale value and appeal.
- Callaway mentioned that the drawing presented isn't to scale but confirmed that the deck would be 10x10 feet. Devon stated that the construction of the deck had already begun by Andrew before they knew they needed a variance.
- Devon stated they had a surveyor come out to state the site line is, and the surveyor came out and said the house is already on the property line.
- Devon stated the porch would have a cover and railings along the porch.
- Callaway inquired about the clarity of the dimensions of the porch. Devon came forward to show her drawings of the porch and stated she had trouble getting a hold of Rick with her questions. Mark stated that we needed to focus on the setback of the front porch.
- Mrs. Backs stated she did go by the house and affirmed to the board that the current concrete steps were in bad shape and potentially a deck could be an upgrade.
- Devon stated that the new stairs are currently 18ft from the property line not the 25ft that the code suggests.

- Callaway asked if the board had been to the site and if they had any other questions for Devon.
- The board agreed they had seen it and had no further questions for Devon. Callaway then proceeded with the standards for variance.
 - Will the strict application of the terms of the zoning code relating to the use, construction, or alteration of buildings or structures or to the use of land impose practical difficulties or a particular hardship upon the petitioner?
 - The board voted in the Affirmative 8-0
 - If the variation is granted, the property affected by the variation will remain in harmony with the general purpose and intent of the zoning code?
 - The board voted in the Affirmative 8-0
 - The approval of the variation will not merely serve as a convenience to the petitioner, but is necessary to alleviate some demonstrable hardship on the petitioner.
 - The board voted in the Affirmative 8-0
 - Can the variation requested by the petitioner be granted without substantial detriment to the public good?
 - The board voted in the Affirmative 8-0
 - If the proposed variance involves a fence, will the fence conform with the standards set forth at subsections 10-4-7D2c(2)- D2c(5) of the zoning code?
 - The board voted in the Affirmative 8-0
 - If the proposed variance involves a fence, will the fence conform with the standards set forth at subsections 10-4-7D2c(2)- D2c(5) of the zoning code?
 - The board found this not applicable
- The motion to approve the request for variance is made by Janie Backs and seconded by Floyd Wombacher.
- The motion passed 8-0

Callaway presented the last item of Discussion of site plan approval/variance filed by Gwynn Gilson at 1311 E. Duryea Ave.

- He asked Gwyn to come forward. She stated that the site was a run down beauty shop, zoned commercially, and the beauty shop was gutted. She stated that she wanted to make it a rental property as she has rental properties in the area. She already has someone interested in renting the building, if the site application were to pass. She would want a one bedroom, studio, both with kitchens and bathrooms. She needs a variance for the entrances to the buildings from the

sidewalk. She stated there would be a porch, and there are 7 parking spots, with two allies around the house. The application would be entrances and change the zoning to multi-use.

- Mark mentioned that usually we have had bigger stie applications, which is why we have the policy of discussion first so the members of the zoning board have a month to go and look at the site/site plan and wanted to continue the implication of the discussion before voting.
- Janie affirmed that the petitioner was prepared. The board discussed the location of Duryea to Sammuel and spoke on the alleyways that connect them.
- Callaway mentioned traffic goes both ways on the alleyway and that her intentions were a duplex.
- We told Gwyn to come back next month and we would vote on her variance and site plan. She inquired about what it would be like when she came back next month.
- Mrs.Backs stated to her that we would go through at least two different facts and findings and if it passes, she then would get her approval and building permit. And that we would tell her if we needed more or new materials.
- Meeting motion to adjourned by Calaway and Second by Woo, approved by all.