

MINUTES
VILLAGE OF ELBURN PLANNING COMMISSION/ZONING BOARD OF APPEALS
APRIL 2, 2019

Members Present: Commissioners Ryan Anderson, Chris Gould, Rob Houtz, Brian Techter, Chairman Jeff Metcalf

Members Absent: Carolyn Jansons, Chris Mulvihill

Staff Members Present: Village Admin John Nevenhoven, Building Commissioner Tom Brennan, Public Works Supt Phil VanBogaert, Village Attorney Bob Britz

Others Present: Residents Ken and Mary Gustafson, Stephan Schenk

1. Call to Order – Chairman Metcalf called the meeting to order at 7:00 p.m.
2. Pledge of Allegiance – Chairman Metcalf led the assembly in the Pledge of Allegiance.
3. Roll Call – A roll call ensued.
4. Public Comment – None
5. Approve Minutes – A motion to approve the March 5, 2019 Planning Commission minutes was made by Commissioner Gould and seconded by Commissioner Techter. The motion unanimously carried by voice vote.
6. Open the Public Hearing Regarding the Application of Dennis Schenk for a Subdivision Request with Zoning Variances, 508 S First St – A motion to open the public hearing was made by Gould and seconded by Houtz. A roll call vote ensued. Ayes: Anderson, Gould, Houtz, Techter, Metcalf. Nays: None. Motion carried.
7. Public Hearing Regarding the Application of Dennis Schenk for a Subdivision Request with Zoning Variances, 508 S First St – Building Commissioner Brennan stated Schenk wants to subdivide the subject lot which is just over 16,000 SF. The Village Zoning Ordinance requires 10,000 SF minimum lots. Brennan referred to his memo to the Commissioners which lists four variances: 1) minimum lot size; 2) minimum lot width, minimum front and corner yards; 4) minimum interior side yards. Stephan Schenk, representing the developer (Dennis Schenk), said Shenk Construction recently built and sold a home nearby the subject location with similar variances. He is requesting the same consideration as the other lot (on Kansas Street). Schenk said doing so will increase revenue for the Village via taxes and building permit fees. Brennan explained the difference with the lot on Kansas Street vs. the subject lot is that two non-conforming lots will be created by dividing the property whereas the lot on Kansas Street was an existing nonconforming lot. Schenk confirmed the purpose for the second lot is to build a spec house and said he can make the proposed home smaller to decrease the variances. The Commissioners reviewed blueprints for the proposed home and brainstormed ideas as to how to make the plan work, including making the home smaller, etc. Commissioners commented they did not like the idea of creating two non-conforming lots and setting a precedent by allowing so many variations by such a large margin, not even close. Schenk said there are other small ranch homes in the area and thought the proposed house could be altered to match.

Resident Ken Gustafson was sworn in by Village Attorney Bill Thomas. Gustafson said the subject property belongs to his brother-in-law Steve Glidden. The current home on the property was built in 1958 by his father-in-law—it is a study brick ranch that needs to be gutted and remodeled. The Blackberry Township Assessor recently reassessed the value of the home from \$218K to \$120K. By subdividing the lot and remodeling the old home, there will be two properties bringing in tax revenue rather than one. All neighbors have been notified of the intent and there have been no negative responses.

There was further discussion and it was stated the four variances have nothing to do with the house size—it is the lot itself. Even if the lot line were changed to make one of the lots conform to the 10K SF minimum, it would create greater variances on the second lot. There are a lot of moving parts when considering how to lessen the non-conformities. In addition, one of the variation standards states the “variation is not based exclusively upon a desire to make more money out of the property.”

8. Close the Public Hearing Regarding the Application of Dennis Schenk for a Subdivision Request with Zoning Variances, 508 S First St – Being no further discussion or comment, a motion to close the public hearing was made by Gould and seconded by Houtz. A roll call vote ensued. Ayes: Anderson, Gould, Houtz, Techter, Metcalf. Nays: None. Motion carried.
9. Vote on the Finding of Facts – Commissioner Gould stated there is no use in having a Zoning Code if variances of this magnitude are allowed. It was questioned if the petitioner should be allowed the opportunity to revise the plan and come back to the Commission. Techter said some of the facts will not change if lot lines are altered and the house size reduced. In addition, Techter does not agree with some of the findings of fact. Metcalf said he agrees the trend is for smaller lots nowadays. Although the subject area is an older part of town with other nonconforming lots, this is not the original owner making the request and this is not a request for an accommodation for a personal situation. It seems the petition is motivated by money and when laws and ordinances are in place, approval would set a precedent for others to make the same request. If the variances were approved and the new home constructed, the new owners would not be allowed to make any future improvements (patios, etc.) because the lot lines are so close. Brennan stated lot coverage for the proposed home has not yet been calculated.

Commissioner Metcalf read aloud the Findings of Fact as follows:

The ZBA shall not recommend, and the Village Board shall not vary, the provisions of this Zoning, unless it shall find that the:

1. Property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zoning district;
2. Plight of the owner is due to unique circumstances;
3. Variation, if granted, will not alter the essential character of the locality.

For the purpose of supplementing the above standards, the ZBA, in making a recommendation that there are practical difficulties or particular hardships, shall also take into consideration the extent to which the evidence establishes, or fails to establish the following:

1. That the particular physical surroundings, shape or topographical condition of the specific property involved would bring particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulation were to be carried out.
2. That the conditions upon which the petition or variation is based would not be generally applicable to other property within the same zoning district.
3. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property.

4. That the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property, or by the applicant.
5. That the granting of the variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. That the proposed variation will not:
 - o Impair an adequate supply of light and air to adjacent properties.
 - o Substantially increase the hazard for fire or other dangers to said property or adjacent properties.
 - o Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of Elburn.
 - o Diminish or impair property values in the neighborhood.
 - o Unduly increase traffic congestion in the public streets and highways.
 - o Create a nuisance.
 - o Result in an increase in public expenditures.
7. That the variation is the minimum variation necessary to make possible the reasonable use of the land, building or structure.

A roll call vote ensued. Ayes: None. Nays: Anderson, Gould, Houtz, Techter, Metcalf. Motion carried.

10. Recommendation to the Village Board Regarding the Application of Dennis Schenk for a Subdivision Request with Zoning Variances, 508 S First St – A motion to recommend approval to the Village Board was made by Metcalf and seconded by Techter. A roll call vote ensued. Ayes: None. Nays: Anderson, Gould, Houtz, Techter, Metcalf. Motion carried.
11. Other Business – Nevenhoven said there are handouts available from the planning commissioner training held last week. If there are any questions on these handouts, commissioners should contact Brennan or Nevenhoven.
12. Adjourn – Commissioner Houtz motioned to adjourn the meeting at 7:44 p.m. with Commissioner Anderson seconding the motion. The motion passed by a unanimous voice vote.

Respectfully Submitted,



Diane McQuilkin
Village Clerk