

MEETING MINUTES OF THE  
PLAN COMMISSION/ZONING BOARD OF APPEALS  
NOVEMBER 14, 2007  
7:30 P.M.

LINCOLNWOOD VILLAGE HALL  
COUNCIL CHAMBERS  
6900 NORTH LINCOLN

MEMBERS PRESENT: Herbert Theisen, Kenneth Klint, Anthony Pauletto,  
Mark Yohanna and Sue Auerbach,

ABSENT: Joann Angarola and Mary Couzin

OTHERS PRESENT: John Lebegue, Building Commissioner and Davorka  
Kirincic, Building Inspector

**I. APPROVAL OF PREVIOUS MINUTES:**

Motion was made by Commissioner Theisen, seconded by Commissioner Yohanna, to approve the minutes of October 24, 2007. Motion carried unanimously.

**II. ORDER OF BUSINESS**

**6600 LeMai Avenue**

Acting Chairman Pauletto swore in Gary Brown, owner. Chairman Pauletto then read the variation requests into the record: A variation to reduce the rear yard setback by 28.56-feet from the required 33.52-feet to the proposed 4.96-feet and a variation to reduce the north, interior side yard by 4.77-feet from the required 7.9-feet to the existing 3.13-feet.

Chairman Pauletto asked Building Commission Lebegue for his comments. Building Commissioner Lebegue stated that the variation requests are being sought in order to construct an addition onto the south side of the existing, detached garage and connect the garage addition to the rear of the existing, home. The variation request to reduce the north, interior side yard set back is necessitated due to the location of the existing , detached garage on the lot. The variation request to reduce the rear yard setback is necessitated due to the fact the applicant proposes to construct the

addition in alignment with nonconforming west, exterior wall of the detached garage. The variation to reduce the rear yard setback is also necessitated due to fact that petitioner wishes to connect the proposed addition to the rear of the existing home making the addition a part of the home, thus requiring a rear yard setback of 33.52 feet. As a result of the proposed development, the existing detached garage would be converted to habitable living space, with the addition serving as an attached garage.

As a point of information, the owner of 6600 LeMai Avenue was granted a variation for a similar development under Ordinance # Z2000-068 (attached) in 2000, but chose not construct the project and the Ordinance became null and void. In 2001, the owner of 6600 LeMai Avenue was granted several variations under Ordinance # Z2001-101 (attached) in order to construct a one-story addition onto the rear of the home and to construct the existing detached garage to a height that exceeded the 17 foot limit and within 2 feet of the rear property line. Despite being granted a variation that would have permitted the detached garage to be constructed 2 feet from the rear property line, the applicant actually constructed the detached garage five feet from the rear property line.

As detailed on the attached Zoning Information Worksheet, the property at 6600 Le Mai Ave, with the exception of side yard setback and rear yard setback conforms to all other zoning and bulk regulations.

Chairman Pauletto asked if the new proposed garage would comply with bulk ordinance. Building Commissioner Lebegue stated that it does comply.

Mr. Brown stated that the reason he needed the garage is that the existing garage is going to be converted to living space for his ailing mother-in-law. Mr. Brown went on to explain about previous variations and also did a PowerPoint presentation.

Commissioner Yohanna asked Building Commissioner Lebegue if there was a problem converting the garage to living quarters. Building Commissioner Lebegue stated that it is not a problem because it is a brick garage.

Chairperson Pauletto asked Commissioner Auerbach if there was concern in how much bigger the house is getting. Commissioner Auerbach stated that she is concerned about setting precedent. Commissioner Auerbach stated that she is also concerned about the second floor in the garage and the possibility of it being converted to living space as well. Chairman Pauletto explained what would set a precedent is if there was an exact house with the same circumstances then that would set a precedent. Chairman Pauletto stated that the way the house is built leaves the homeowner limited.

Chairman Pauletto asked if there were any questions from the audience. There were none.

Mr. Brown gave Chairman Pauletto a letter from his neighbor that was read into the record. Mr. Brown stated that the neighbor's only concerns were the three windows on the west side of the garage, that the neighbor did not want those windows. Commissioner Yohanna asked Mr. Brown about the windows and if he was going to install them. Mr. Brown stated that he told his neighbor that he would not install those three windows.

Chairman Pauletto asked if there were any further questions. There were none.

Motion to approve variations was made by Commissioner Yohanna with the condition that the windows on the west side of the garage not be installed, seconded by Commissioner Klint. Ayes: Yohanna, Klint, Theisen, Pauletto. Nays: Auerbach. Will go before the Board of Trustees on December 20, 2007.

### **6640 Drake Avenue**

Chairman Pauletto swore in Shimon Fink, owner. Chairman Pauletto read the variation requests into the record: A variation to allow the installation of a 6-foot high, solid wood fence in the interior side yards and a variation to allow the installation of a solid wood fence on the side property lines, in the rear yard

Chairman Pauletto asked Building Commissioner Lebegue for his input. Building Commissioner Lebegue stated that the variations are being sought in order to allow installation of a 6-foot high, solid wood fence along the side property lines, in the rear and interior side yards of the existing property to provide protection and privacy from dogs of adjacent properties.

The variation request to install a 6-foot high, solid wood fence in the interior side yards is necessitated due to the fact that the applicant wishes to install the 6-foot high, solid wood fence in the interior side yards rather than installing the allowed 50% open, 4-foot high fence per Article VII, (L), (13), (a), (1), (c) of the Zoning Code.

In addition to proposing the installation of a 6-foot solid wood fence in the interior side yard, the applicant wishes to install a 6-foot, solid wood fence on side property lines in the rear yard, for added privacy. Pursuant to Article VII, (L), (13), (a), (1), (g) of the Zoning Code, only a semi-private fence (shadow box), 6-foot in height can be installed on the side property line in the rear yard, not a solid wood fence as petitioner proposes.

According to information submitted by the applicant, his neighbors adjacent to his property own dogs and he wishes to install the solid wood fence in order to accomplish privacy and to protect his children.

In the opinion of staff, while the request to install the solid wood fence on the side property lines in the rear yard may sound reasonable due to the unusual situation that petitioner's children are scared of the neighboring dogs, installation of the proposed 6-foot solid, wood fence in the interior side yards is contrary to the purpose and intent of the Fence Ordinance to keep side yard areas open and free of high fencing. Installation of the proposed six foot solid fence in the interior side yards of the property at 6640 Drake Avenue would be incompatible and not in harmony with the properties in the neighborhood and would greatly undermine the intent and purpose of the Fence Ordinance.

Chairman Pauletto asked Mr. Fink why he was attempting to vary from the fence ordinance. Mr. Fink stated that his neighbors have dogs and that is why he wants solid wood fence. Mr. Fink stated he would settle for 4-foot semi-private if possible. Chairman Pauletto stated that precedent would be set here using barking dogs as reason. Chairman Pauletto then confirmed with Building Commissioner Lebegue that semi-private fences are not allowed in side yards between the homes. There was further discussion about what other types of fence might possibly be used in the side yard.

Commissioner Theisen asked Mr. Fink if he noticed the dogs before buying the house. Mr. Fink stated that no, he did not. Commissioner Auerbach asked if the rear yard door opened directly into the rear yard or side yard. Mr. Fink stated that it opened into the rear yard. Commissioner Klint suggested bushes in the side yard if possible. Commissioner Yohanna asked if neighbor has fence. Mr. Fink stated that his neighbor does have a fence.

Chairman Pauletto asked if there were any questions. There were none.

Commissioner Auerbach asked if there was an ordinance on dogs. Building Commissioner Lebegue stated that yes there was and that it is very specific and administered by the Police Department.

Chairman Pauletto stated that he felt he should not go against the fence ordinance.

Commissioner Yohanna made a motion to deny the variation requests, seconded by Commissioner Theisen. Ayes: Yohanna, Klint, Pauletto, Auerbach, Theisen. Motion to deny is unanimous. Item will go before the Board of Trustees on December 20, 2007.

## 6424 Tower Court

Chairman Pauletto swore in John Berta, Capital Architects, petitioner. Chairman Pauletto read the variation requests into the record: A variation to reduce the front yard setback by 6.08-feet from the required 25-feet to the existing 18.92-feet, a variation to increase the allowed front yard coverage limit by 9% (264 square feet) from the allowed 50% (1,435-square feet) to the existing 59% (1, 699 square feet), a variation to reduce the interior side yard setback by 4.47-feet from the required 11.3-feet to the existing 6.83-feet, a variation to reduce the rear yard setback by 35.25-feet from the required 40.25-feet to the proposed 5-feet and a variation to increase the allowed building coverage limit by 1% (234 square feet) from the allowed 35% (6,136-square feet) to the proposed 36% (6,370 square feet).

Chairman Pauletto asked Building Commissioner Lebegue for his comments. Building Commissioner Lebegue stated that the variations are being sought in order to construct a one-story building that would enclose an existing, in-ground swimming pool and attach the building to the rear of the existing, non-conforming home. The variation requests to reduce the front yard setback, reduce the interior side yard setback and increase the allowed front yard coverage limit are necessitated by existing nonconformities of the property and were not created by petitioner and will not be intensified as a result of the proposed development.

The variation request to reduce the rear yard set back is necessitated due to the fact that the applicant is proposing to enclose the existing in-ground swimming pool with a building and connect the building to the rear of the existing house. The proposed addition to the rear of the existing home would create a zoning nonconformity where one currently does not exist. Currently, the home maintains a rear yard setback of 54.4-feet, which conforms with the required rear yard setback of 40.25-feet. As a result of the proposed addition, the rear yard setback would be reduced to 5-feet. Review of the attached aerial photograph reveals that no surrounding home maintains such a nonconforming rear yard setback. Given that this is a rare variation request to reduce rear yard set back by 35.25 -feet, great caution should be employed due to the precedent that will be set.

The variation request to increase the allowed building coverage is necessitated due to the fact that the proposed one-story addition would cause the existing home to exceed the allowed 35% building coverage limit. The existing home with a building coverage area of 4,151 square feet conforms to the allowed building coverage limit of 6,136 square feet and should the addition be constructed another zoning nonconformity would be created that currently does not exist.

In the opinion of staff, the variation requests to reduce the rear yard setback and to increase the allowed building coverage are directly contrary to the intent and spirit of the adopted bulk zoning regulations. Any relief granted to the property at 6424 Tower Court to reduce the rear yard setback and increase building coverage beyond the allowed limits has the potential to significantly shape future variation decisions for other residential properties in the Village. In the opinion of staff, the petitioner must provide strong evidence of a hardship in support of the variation requests.

Mr. Berta stated that the hardship is the owner's health condition. Mr. Berta stated that the doctor recommends swimming as part of the homeowner's therapy and that he cannot use another pool for this because he has allergies involving chlorine. Mr. Berta submitted a letter from the homeowner's doctor.

Mr. Berta stated that they are trying to keep the roof low and not make it a big structure covering the pool. Commissioner Theisen asked Mr. Berta what the homeowner does now in regard to chlorine in his own pool. Mr. Berta stated the homeowner uses something other than chlorine.

Commissioner Klint asked if there was a minimum requirement for the deck for an indoor pool. Building Commissioner Lebegue stated that he did not know. Mr. Berta stated that some towns require a minimum of 3-feet. Mr. Berta stated they may be able to bring the height of the roof down to 9-feet. There was further discussion in regard to roof height. Commissioner Pauletto asked if they could minimize coverage of pool. Commissioner Theisen stated they needed a revised plan showing a smaller structure.

Commissioner Yohanna asked Building Commissioner Lebegue if there was any precedent on this type of request. Building Commissioner Lebegue stated that not to his knowledge.

Commissioner Yohanna stated that they can bring it down to 35%, but that it's just cosmetic compared to the rest of the issues. Commissioner Auerbach stated that the hardship is that they have a pool. Commissioner Auerbach also stated that they were leading him on to believe that he might get the variations if he came in with revisions. Commissioner Pauletto stated that it was Mr. Berta's option to come back with revised plans.

There was discussion on whether or not to vote on the issue at that time or to continue. Chairman Pauletto suggests continuing the matter to the next meeting. Commissioner Yohanna makes a motion to continue to the meeting on January 9, 2008, seconded by Commissioner Auerbach. Ayes: Yohanna, Klint, Pauletto, Auerbach, Theisen.

Motion to adjourn made by Commissioner Theisen, seconded it by Commissioner Auerbach. Meeting adjourned at 9:00 p.m.

Respectfully submitted,

Carrie Dick