



1200 Wilmette Avenue
WILMETTE, ILLINOIS 60091-0040

MINUTES OF THE REGULAR MEETING OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WILMETTE, ILLINOIS HELD IN THE COUNCIL ROOM OF SAID VILLAGE HALL, 1200 WILMETTE AVENUE, WILMETTE, ILLINOIS ON TUESDAY, SEPTEMBER 12, 2017.

The Village President called the meeting to order at 7:30 p.m.

1.0 ROLL CALL

Trustees

Julie Wolf
Daniel E. Sullivan, Jr.
Senta Plunkett
Kathy Dodd
Joel Kurzman
Stephen M. Leonard

President

Bob Bielinski

Staff Present:

Timothy J. Frenzer, Village Manager
Michael Braiman, Assistant Village Manager
Jeffrey M. Stein, Corporation Counsel
Barbara Hirsch, Deputy Village Clerk
John Prejzner, Assistant Director of Administrative Services
John Adler, Director of Community Development
Brigitte Berger, Director Engineering & Public Works

2.0 PUBLIC COMMENT

John Marshall, Prairie Avenue, said he believes the Village Board should reconsider opting back into the Cook County paid sick leave and minimum hourly wage ordinances as soon as possible.

Jeff Axelrod, Wilmette resident, said he believes the decision to opt out of the Cook County paid sick leave and minimum hourly wage ordinances harms everyone and encouraged the Village Board to reconsider the ordinances.

3.0 CONSENT AGENDA

Trustee Wolf moved approval of the Consent Agenda as follows:

- 3.1 Approval of minutes of the Regular Board meeting held August 22, 2017.

LAND USE COMMITTEE CONSENT AGENDA

- 3.2 Presentation of minutes of the Zoning Board of Appeals meeting held July 19, 2017.
- 3.3 Approval of Temporary Use Permit #2017-TU-26 for the St. Joseph Parish Oktoberfest Antique Market to be held on September 16, 2017 from 10 a.m. to 11:30 p.m.
- 3.4 Approval of Temporary Use Permit #2017-TU-27 for the Baker School Fall Festival to be held at 201 Sheridan Road on September 16, 2017 from 1 pm to 3 pm.
- 3.5 Adoption of Resolution #2017-R-21 granting final plat approval for a two-lot subdivision of the property located at 730 Romona Road in accordance with the plat.
- 3.6 Adoption of Ordinance #2017-O-49 approving a revised request for a 122.76 square foot (2.427%) total floor area variation to permit the construction of a two-story addition on the property at 100 Girard Avenue in accordance with the plans as revised.
- 3.7 Zoning Board of Appeals Report, Case #2017-Z-38, 1187 Wilmette Avenue regarding a request for a special use for a personal service establishment (High Touch) in accordance with the plans submitted. The use shall run with the use; adoption of Ordinance #2017-O-52.

FINANCE COMMITTEE CONSENT AGENDA

- 3.8 Approval of August 2017 Disbursement Report.

ADMINISTRATION COMMITTEE CONSENT AGENDA

- 3.9 Appointment of Nathan Kebede to the Environmental and Energy Commission from September 12, 2017 to September 12, 2020.
- 3.10 Notice of vacancy on the Human Relations Commission.

MUNICIPAL SERVICES COMMITTEE CONSENT AGENDA

- 3.11 Approval of one-year contract extension at a rate of \$450 per truckload with KLF Trucking Inc., Markham, IL for hauling spoil and debris.

- 3.12 Approval of contract in the amount not to exceed \$499,600 with Knickerbocker Roofing and Paving Company, Inc., Harvey, IL for replacement of the roof at Village Hall.
- 3.13 Introduction of Ordinance #2017-O-45 authorizing the disposal of surplus personal property owned by the Village of Wilmette.
- 3.14 Adoption of Ordinance #2017-O-48 amending Chapter 18 of the Village Code concerning sewer and water facilities.
- 3.15 Approval of contract amendment in the amount of \$13,174 with Illinois Pump Repairs Inc., Shorewood, IL for the High Lift Pumps Rebuild Project at the Wilmette Water Plant.

PUBLIC SAFETY COMMITTEE CONSENT AGENDA

- 3.16 Presentation of minutes of the Public Safety Committee meeting held May 24, 2016.
- 3.17 Presentation of minutes of the Public Safety Committee meeting held August 7, 2017.
- 3.18 Introduction of Ordinance #2017-O-51 amending the Village Code, Chapters 13 and 19 regarding the licensing of taxi cabs.

Trustee Sullivan seconded the motion. Voting yes: Trustees Wolf, Sullivan, Plunkett, Dodd, Kurzman, Leonard and President Bielinski. Voting no: none. The motion carried.

4.0 REPORTS OF OFFICERS:

President Bielinski said he would like to note the circumstances of item 3.7, Zoning Board of Appeals Report, Case #2017-Z-38, 1187 Wilmette Avenue. The special use that was requested is a spa in the back of a retail store which is not a typical request. The special circumstances were noted in the Zoning Board of Appeals Report and the request was approved by the Zoning Board of Appeals and the Village Board.

Village Manager Timothy Frenzer said he would like to apologize to those residents who attempted to tune into Channel 6 on Wednesday, September 6, 2017 to watch the Zoning Board of Appeals meeting. There was a power source that failed that evening and there is only an audio recording of the meeting that is available of the Village website.

Mr. Frenzer thanked former Village Trustee Ted McKenna for his help with staff to save \$100,000 for a roof replacement at Village Hall which is a substantial savings for the Village.

There was no report from Corporation Counsel.

5.0 REPORT OF LIQUOR CONTROL COMMISSIONER:

No Report

6.0 STANDING COMMITTEE REPORTS:

6.1 LAND USE STANDING COMMITTEE REPORT

- 6.11** Zoning Board of Appeals Report, Case #2017-Z-36, 112 Lawndale Avenue regarding a corrected request for a 206.21 square foot (8.59%) front yard impervious surface coverage variation to permit the retention of a patio and walk on the legal non-conforming structure in accordance with the plans submitted.

Trustee Leonard moved approval of Case #2017-Z-36, 112 Lawndale Avenue regarding a corrected request for a 206.21 square foot (8.59%) front yard impervious surface coverage variation to permit the retention of a patio and walk on the legal non-conforming structure in accordance with the plans submitted, seconded by Trustee Wolf.

President Bielinski noted that the request received a negative recommendation from the Zoning Board of Appeals and would need five positive votes to overturn the recommendation.

Michelle and Kevin Miller, applicants, reviewed their request noting their intent was to improve the aesthetics and function of their home. They removed the stone work that was previously there and replaced it, not realizing that a permit was needed to replace existing surface. They also believe the variation should be smaller as they calculated a different number in their front yard.

President Bielinski asked John Adler, Director of Community Development, if the calculations take into consideration that the walkway and patio are paver stones.

Mr. Adler said the ordinance allows an additional 10% if mortarless pavers and a non-compacted base are being used. That would allow for an additional 72 square feet which would reduce the variation if

there is a non-compacted base but they did not do an inspection so they do not know for sure.

Trustee Kurzman said it is his understanding that permeable pavers and mortarless pavers versus the regular pavers are not the same in their permeability. Is Mr. Adler giving the 10% to mortarless pavers the same way he would to permeable pavers?

Mr. Adler said the ordinance only says if they are “non-mortared pavers or similar on a non-compacted base, the applicant will receive the 10% reduction in calculation”.

Trustee Wolf asked how the applicant came before the Zoning Board of Appeals.

Mr. Miller said the landscaper was working on the patio and he was cited for not having a permit. When he applied for the permit, he was told that they were over on the permeable surface for the front yard.

Trustee Leonard said he believes there are two issues, the permit issue and the improvement issue. He would like to set aside the permit issue and look at the improvement that was done and was that something that would have been approved. He asked the applicants if there was anything they could do to make the variation smaller.

Mr. Miller said the driveway is brick pavers and he would try to make the driveway smaller rather than make the walkway and patio any smaller as they would not be functional.

Trustee Dodd does agree with Trustee Leonard in looking at the situation as two separate issues. She asked why the applicants just did not fix the walkway but also added a patio.

Mr. Miller said their children are always playing out front and they like to sit on the front lawn and watch them. They removed the brick ring that was built around the tree and added the circular patio next to the tree.

Trustee Plunkett asked if the applicant put in the brick driveway.

Mr. Miller said the brick driveway was already there when they bought the house and it is approximately 15'8" wide.

President Bielinski noted that there were letters of support from the neighbors in the Zoning Board of Appeals report.

Trustee Leonard said he looks at the request as a precedent issue. He encouraged the applicants to find out how many bricks have to be removed to make the variation smaller or eliminate the variation.

Mr. Miller asked how much of the brickwork would have to be removed.

Mr. Adler said the problem is that the driveway already exceeds the allowable impervious surface in the front yard. The applicant would have to reduce the existing driveway significantly to eliminate the variation being requested.

Trustee Plunkett said in looking at the neighborhood, there are garages in the front of the home and the back of the home with different sized driveways. What would the typical size of a driveway be in this neighborhood?

Mr. Adler said typically driveways are 10' wide in the neighborhood but they may extend longer to the back of the lot if the garage is in the back of the lot.

President Bielinski asked if there is a total impervious surface coverage ordinance.

Mr. Adler said there is a requirement for the front yard, rear yard and combined side yard coverage.

President Bielinski asked how much coverage would be allowed in the applicant's rear yard.

Mr. Miller said there is nothing in the rear yard as there used to be an alley in the back of the yard. There is currently a small deck off the house and a small concrete patio area.

Mr. Adler said the lot is fairly large and has a large buildable area so as long as the applicants meet the engineering requirements on drainage and grading, a significant deck or patio would be allowed in the back yard without a variation.

Trustee Plunkett said if the driveway extended into the backyard, how would the calculations for the allowable area in the front yard change.

Mr. Adler said they would be allowed close to what the variance currently requested is. He noted that many of the older homes in the area have wider driveways.

President Bielinski noted that there was no one present to speak for or against the application.

Trustee Wolf said she is a big proponent for reducing impervious surface but this is an unusual case. She noted Commissioner Duffy's comment about the fact that the alley in the back was never opened and that is a key factor in this case. She noted that Lawndale is different from other streets in the area as the driveways are in the front and are wider as the homes are older. She hoped that residents would become more aware of the need for permits but she will support the request.

Trustee Sullivan said he agrees with Trustee Wolf and believes the request is relatively small especially given the size of the lot in the back yard and they do not have much pervious surface. He will take that into account as well as all the neighbors who expressed their support of the request. The request is small and he noted there were only four Zoning Board of Appeals members, three voted in favor of the request and it may not have been a negative recommendation if there had been a full Board.

Trustee Plunkett said she agrees with her fellow Trustees. When she saw the house, the driveway itself is not really deep and there would be more impervious surface if the driveway went all the way to the back of the house. The fact that the driveway takes up all the front yard impervious surface and there is not coverage for a walk and most people believe a front walk is acceptable. We all learn lessons about what a permit is needed for, so for all these reasons, she will support the request.

Trustee Dodd said she believes the request is difficult as it is about setting a precedent for setting more allowable surface for a front yard. She struggles with the request and would be more accepting of just the front walk and not the patio. She drove up and down the street and counted the number of houses that had chairs in the front yard and there were 10 other homes with chairs that were all on grass. She is concerned that allowing the patio in the front yard will set a precedent for other patios in front yards. She believes the patio looks nice and appreciates the applicants are trying to improve their home but she is struggling with the application.

Trustee Kurzman said he has concerns with the application and will not support the request. He believes precedent is a concern as there is not a hardship for the request in his mind. He is slowly working with staff and colleagues to try to turn the tide on a growing mismatch between the development and infrastructure, especially west of Ridge Road. When we see violations of Code, they have to be taken seriously. In the case of permeability, we have not had big events of rain to test the neighbors of the applicants. He empathizes with the human error as we all make mistakes but we need to be in the business of making things better for our residents Village wide. He would like to see an offer from the applicants to make it better and he wished the Village was prepared to have options to suggest to residents such as rain gardens.

Trustee Leonard said he agreed with the comments of the first three Trustees regarding the actual improvements that were in place. His comments and concerns were not about the improvements but more about the precedent issue. He has watched the Board compare the well thought out set of rules on how we develop in the Community and make exceptions to those rules. He thinks making exceptions to the rules should be in cases of hardship and he is struggling with the hardship in this case as well as the precedent this request may set.

President Bielinski said he believes it is relevant when we are talking about impervious surface to look at the property as a whole. We clearly have rules around the different parts of the property and there are reasons for that. He noted that the patio itself is within Code, if they did not have the long driveway, the patio is not too big for the front yard. He does not think the precedent that will be set by granting the request. He believes the variation process exists under State Law as it is impossible to account for every circumstance and situation and it is the judgement of the Village Board on whether the request is reasonable or not. He believes the request is relatively small on a property that is well below what the property could be developed at. He is inclined to support the request, he is not insensitive to the Village Code but every case is different.

Trustee Leonard said he is not opposed to the improvements but could there be an accommodation to the rear yard calculations.

President Bielinski asked the resident if they would be agreeable to restrictions on building in the rear yard and that would be removed if they put the front yard in compliance.

Trustee Plunkett said her thought would be to subtract the overage in the front yard from the allowable back yard allowable area.

Trustee Wolf agreed with Trustee Plunkett's suggestion.

Trustee Leonard said he is concerned with the ratios of impervious surface so they balance each other. He would also like to see the restriction recorded so future owners are also bound by the restriction.

Corporation Counsel said we would put the restriction in the ordinance for the variation and would make that recordable at the applicant's expense so that it is recorded within 30 days after passage and it would be in the title so future owner's would know about the restriction.

Trustee Wolf said in an ideal world we would have stormwater utility and there could be offsets such as an extra-large rain garden to account for extra stormwater but we do not have that yet. There are zoning laws regarding permeable surface in the front yard and the back yard and if we suddenly say the applicant cannot build in the back yard, then we are circumventing our own zoning laws. She suggested that twice the variation amount in the front should be subtracted from what could be built in the back 40' of the yard.

President Bielinski asked the applicant if they were amenable to the condition.

The applicants said they would be amenable to the condition.

Corporation Counsel Jeffrey Stein said he would include the condition in the ordinance that would be up for adoption at the next Regular Village Board meeting.

Trustee Leonard noted the sidewalk and patio were installed without a permit and there is a penalty for that.

Mr. Adler said there is a surcharge of 50% of the permit fee.

Trustee Dodd said she was still concerned with the issue of precedent if the request is granted.

President Bielinski said for it to be true precedent, there would have to be almost identical circumstances that actually replicate the variation granted.

Voting yes: Trustees Wolf, Sullivan, Plunkett, Leonard, and President Bielinski. Voting no: Trustees Dodd and Kurzman. The motion carried.

- 6.12** Zoning Board of Appeals Report, Case #2017-Z-39, 1006 Michigan Avenue regarding a request for a 2.5' fence height variation to permit the construction of a 6.5' tall fence in the front yard in accordance with the plans submitted.

Trustee Leonard moved approval of Case #2017-Z-39, 1006 Michigan Avenue regarding a request for a 2.5' fence height variation to permit the construction of a 6.5' tall fence in the front yard in accordance with the plans submitted, seconded by Trustee Wolf.

President Bielinski noted that the request received a negative recommendation from the Zoning Board of Appeals and would need five positive votes to overturn the recommendation.

Matt Rogers said he is the zoning consultant for the applicant and they are seeking a variation on a front yard fence. In reviewing the proposed plans, he said the hardship they are seeking is that the property is large and on the lakefront. They are making accommodations where they feel they can in order to help lessen the impact of the fence on the neighboring properties. The fence has been set back from the property line approximately 11-16 feet and they are doing extensive landscaping around the fence to soften the impact of the fence in the neighborhood. He said since the house is on lakefront property, they are only allowed to build back on the lot to a certain area due to the lakefront regulations. He noted the property owner does require significant security and he has written a letter to the Village Board, which he presented for the record. He said the security company recommended an eight foot fence but they realize that is significantly more than the allowable height and are asking for a six foot fence with 4-6 inch finials on the top of the fence. He also said the neighbor's fence is approximately seven and a half feet tall.

Trustee Plunkett asked if there was more than one gate on the property.

Mr. Rogers said there are two gates, one is a service gate the will go to the back of the property and the main gate that will be used by the property owner on a regular basis. The gates match the fence, but will not have landscaping in front of them.

Trustee Kurzman asked when the neighbor with the seven and a half foot fence received a variation.

Mr. Adler said the neighbor's fence pre-dates any regulations the Village had on the height of fences. The house was built in the 1920's and he believes the fence was probably installed at that time.

Trustee Sullivan asked if the applicant could lower the fence to four feet as the proposed landscaping covers the majority of the fence.

Mr. Rogers said they are seeking approval for the six foot fence for security purposes.

Trustee Dodd asked if the applicant looked at other security options besides a six foot fence.

Mr. Rogers said there are other security measures that will be in place. The security consultant said most of the issues that arise are considered nuisance. The applicant currently lives in Wilmette and has a four foot fence and people regularly cross that fence to reach the front door of the home. They are relying heavily on the security consultant's recommendation to keep the applicant and his family secure.

Trustee Dodd asked how far the fence would go on the property.

Mr. Rogers noted that the fence goes down the property towards the lakefront but ends approximately just past the middle of the property as there are other restrictions from the Department of Natural Resources regarding building on the lakefront.

Trustee Plunkett asked if there was concern with people coming from the beach onto the property.

Mr. Rogers said they are concerned with people trying to come onto the property from the beach and the street.

President Bielinski asked Mr. Adler why the Village has a fence ordinance.

Mr. Adler said for a front and side yard, the fence ordinance is more to regulate the openness of the neighborhood. The front yard, as in this case, is more about aesthetics and there have been circumstances where they have been allowed.

President Bielinski said most of the exceptions to the fence ordinance for a front or side yard are due to the property being on a busy street in the Village. He asked if the Land Use Committee should consider a different standard of fences in specific neighborhoods.

Mr. Adler said in 2002 the Land Use Committee looked at regulations on the lakefront and established a different rear yard line due to water in Lake Michigan fluctuating. He noted that in working with the property owners on the lakefront then, some wanted more regulations and some wanted less regulations but they were able to find a pretty good compromise. He said they could also deal with the approximately 18 properties on the lakefront on a case by case basis regarding fencing.

Trustee Plunkett asked if other fence variations had been granted to properties with lake front homes.

Mr. Adler said there have been homes that have received variations for fence pillars but not for fencing.

President Bielinski noted that the Village had to apply for a fence variation for the Water Plant at the advice from a security expert.

Trustee Plunkett noted there are four homes currently under construction on Michigan Avenue and asked if there had been any more requests for fence variations from those homes.

Mr. Adler said he had not received any requests from the homes under construction at this time.

Trustee Leonard said he is struggling with making land use decisions based on ownership and he believes we should make the decisions based on improvements to the area.

President Bielinski asked if any other land use decisions had been made based on ownership of the property.

Mr. Adler said there have been other land use cases in the Village based on ownership due to security issues and the requests have been granted.

Trustee Leonard asked if there could be other security options besides a six foot fence.

Mr. Rogers said the idea is to present a visible deterrent from entering the property and noted that there were other six foot fences in the area.

Trustee Sullivan asked if the variance being asked for is two feet or two and a half feet.

Mr. Adler said the proposed fence is six feet and the finials on top are four inches.

Trustee Dodd noted that the Village Board had previously allowed eight foot fences around the Water Plant and the Park District sailing beach.

Mr. Frenzer said the Village was legally required to build an eight foot fence around the Water Plant due to security assessments. The Park District built the eight foot fence due to theft and safety issues.

Trustee Wolf said after walking the neighborhood she noted that the property is atypical and the situation is unusual. There are other six foot fences in the area, the proposed fence is very open and the landscaping is tasteful so she will support the request.

Trustee Sullivan said he agrees with Trustee Wolf. He is comfortable with the fact that the fence is set back from the property line, the fence is open and the proposed landscaping will probably cover most of the fence. He also supports the Land Use Committee reviewing fences in that area.

Trustee Plunkett said she has a more difficult time with the request as it will possibly lead to other properties requesting higher fences and she likes the open, welcoming properties on Michigan Avenue. She is not opposed to revisiting the fence height issue but she is concerned with setting a precedent with the proposed request.

Trustee Dodd said she agrees with Trustee Plunkett regarding setting a precedent but she also believes that security in these times can be an issue. She also supports the Land Use Committee discussing the 18 homes in the area. She appreciates that the applicant is proposing landscaping and setting the fence back from the property line. She will support the request because she can appreciate the struggles of the property owners in the area and they have to look at what is best for the community and the area.

Trustee Kurzman said he agrees with his fellow Trustees on most of the issues of the request. He appreciates that the applicant is asking for six feet when the security recommendation was an eight foot fence. He also appreciates the effort to landscape the area to appear to reduce the size of the fence and gates.

Trustee Leonard said he does not agree that the eight foot fence at the Water Plant should necessarily affect their decision. He has no problem with the proposed fence but he does believe the Land Use Committee should discuss the issue of fence height in the area.

President Bielinski said he will support the request because fundamentally the fence ordinance is about aesthetics and he believes the aesthetics for this request are covered. He believes all the Trustees made good points regarding the request. He does not believe the request is being granted for an individual, he believes the request is reflective of the 18 homes on the lakefront. He also agrees that the Land Use Committee should review the issue as he believes there has been a change over the years regarding respect for other people's property. He will support the request.

Voting yes: Trustees Wolf, Sullivan, Plunkett, Dodd, Kurzman, Leonard and President Bielinski. Voting no: none. The motion carried.

6.2 FINANCE STANDING COMMITTEE REPORT
All items listed on the Consent Agenda.

6.3 ADMINISTRATION STANDING COMMITTEE REPORT
All items listed on the Consent Agenda

6.4 MUNICIPAL SERVICES STANDING COMMITTEE REPORT
All items listed on the Consent Agenda

6.5 PUBLIC SAFETY STANDING COMMITTEE REPORT
All items listed on the Consent Agenda

6.6 JUDICIARY STANDING COMMITTEE REPORT
No Report

6.7 REPORTS FROM SPECIAL COMMITTEES
No Reports

7.0 NEW BUSINESS

No Report

8.0 MATTERS REFERRED TO STANDING COMMITTEES

8.1 Review text amendments to the Zoning Ordinance.

8.2 Review adding group homes for private school students as a permitted or special use in the residential zoning districts.

8.3 Review Westlake Plaza Local Sign Ordinance regulations

9.0 ADJOURNMENT

Trustee Sullivan moved to adjourn the meeting at 9:35 p.m., seconded by Trustee Wolf. All voted aye, the motion carried.

Barbara L. Hirsch
Deputy Village Clerk