



1200 Wilmette Avenue  
Wilmette, Illinois 60091-0040

**MEETING MINUTES**

**ZONING BOARD OF APPEALS**

**WEDNESDAY, OCTOBER 5, 2016**

**7:30 P.M.**

**COUNCIL CHAMBERS**

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**Members Present:** Chairman Patrick Duffy  
Mike Boyer  
John Kolleng  
Michael Robke  
Reinhard Schneider

**Members Absent:** Bob Surman

**Staff Present:** Lisa Roberts, Assistant Director of Community Development

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**I. Call to Order**

Chairman Duffy called the meeting to order at 7:30 p.m.

**II. 2016-Z-46 446 Sandy Lane**

See the complete case minutes attached to this document.

**III. 2015-Z-47 1211 Wilmette Avenue**

See the complete case minutes attached to this document.

**IV. 2016-Z-42 2411 Wilmette Avenue**

See the complete case minutes attached to this document.

**V. 2016-Z-45 1728 Walnut Avenue**

See the complete case minutes attached to this document.

**VI. Approval of the September 7, 2016 Meeting Minutes**

Mr. Kolleng moved to approve the September 7, 2016 meeting minutes.

Mr. Robke seconded the motion and the voice vote was all ayes and no nays. Motion carried.

**VII. Public Comment**

There was no public comment.

**VIII. Adjournment**

The meeting was adjourned at 8:47 p.m.

Respectfully submitted,

Lisa Roberts  
Assistant Director of Community Development

### **3.0 TESTIMONY, COMMENTS AND ARGUMENTS ON BEHALF OF AN APPLICANT**

#### **3.1 Persons appearing for an applicant**

3.11 Mr. Fangpei Cai, applicant  
446 Sandy Lane

#### **3.2 Summary of presentations**

3.21 Ms. Roberts said that this is a request for a 2.0' fence height variation and a fence openness variation to permit the repair and replacement of a 6.0' tall stockade fence in the side yard adjoining Wilmette Avenue. The Village Board will hear this case on October 25, 2016.

3.22 The applicant said that part of their fence was knocked down by a tree last summer. They want to rebuild the fence. With the new rule, the fence can only be 4' in height, but it is a 6' fence. It is not completely destroyed and only part of the fence needs to be rebuilt. They are not changing any part of the fence.

3.23 Chairman Duffy said that this project was already started. There is new fence up right now. Will there be more fence built in the future?

The applicant said that is correct. His wife thought that this was a repair and the work was started. They are not adding more fence to what currently exists.

3.24 There was no one in the audience to speak on this case. There was no additional communication on this case.

### **5.0 VIEWS EXPRESSED BY MEMBERS OF THE ZONING BOARD OF APPEALS**

5.1 Mr. Boyer said this is straightforward and is replacing an existing fence. There is no additional construction. In keeping with his previous votes, he can support the request.

5.2 Mr. Kolleng agreed with the above. They thought that they were repairing the fence. He has no problem with the request. Standards of review were met.

5.3 Mr. Schneider referenced the house across the street to the west where a similar situation arose with the fence adjoining Wilmette Avenue. It was rejected and the applicants had to comply with the ordinance. If one drives east to the new development of homes, there are two houses that need to comply with regulations of 4' high fences.

- 5.4 Chairman Duffy noted that the above-referenced homes are new construction and this is replacing an existing fence.
- 5.5 Mr. Schneider said he is generally not comfortable with building something and then coming to ask for permission. It does not set a good precedent.
- 5.6 Mr. Robke said that he had nothing additional to add.
- 5.7 Chairman Duffy is in favor of the request. They are replacing an existing fence. There was an oversight in not realizing that a permit is required to install the fence. He favors replacing something that was existing. Wilmette Avenue is a busy street. The fence was up for many years. He can support the request.

**6.0 DECISION**

6.1 Mr. Boyer moved to recommend granting a request for a 2.0’ fence height variation and a fence openness variation to permit the repair and replacement of a 6.0’ tall stockade fence in the side yard adjoining Wilmette Avenue at 446 Sandy Lane in accordance with the plans submitted.

6.11 Mr. Kolleng seconded the motion and the vote was as follows:

Chairman Patrick Duffy	Yes
Mike Boyer	Yes
John Kolleng	Yes
Michael Robke	Yes
Reinhard Schneider	No
Bob Surman	Not Present

Motion carried.

6.2 Mr. Boyer moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2016-Z-46.

6.21 Mr. Kolleng seconded the motion and the voice vote was all ayes and no nays.

Motion carried.

**7.0 FINDINGS OF FACT UPON WHICH DECISION WAS BASED**

A majority of the Zoning Board of Appeals finds that the request meets the variation standards of Section 5.4.F and the fence variation standards of Section 5.4.F.h of the Zoning Ordinance. The particular physical conditions of the property, it’s location as a corner lot with the backyard along Wilmette Avenue, impose upon the owner a practical difficulty. The plight of the owner was not created by the owner and is due to the

orientation of the lot. The difficulty prevents the owner from making reasonable use of their property with some privacy for their backyard. The proposed variations will not impair an adequate supply of light and air to adjacent properties or otherwise injure other properties and its use. The variations if granted will not alter the essential character of the neighbor.

The fence provides privacy from Wilmette Avenue, which is a busy street at that point. The new fence replaces one of the same height and style resulting in no change to the neighborhood. The previous fence had been in place for 20 years.

A minority of the Zoning Board of Appeals finds that the request does not meet the variation standards of Section 5.4.F and the fence variation standards of Section 5.4.F.h of the Zoning Ordinance. Specifically, the applicants created their own situation by replacing the non-conforming fence without a permit. Other similar lots along Wilmette Avenue have had to comply with the fence requirements. There is nothing unique about this property that necessitates the variations.

## **8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a 2.0' fence height variation and a fence openness variation to permit the repair and replacement of a 6.0' tall stockade fence in the side yard adjoining Wilmette Avenue at 446 Sandy Lane in accordance with the plans submitted.

**3.0 TESTIMONY, COMMENTS AND ARGUMENTS ON BEHALF OF THE APPLICANT**

**3.1 Persons appearing for the applicant**

3.11 Mr. John Korzak, applicant

**3.2 Summary of presentations**

3.21 Ms. Roberts said that this is a request for a special use to allow the relocation and operation of a printing and photocopying establishment (Mid-Central Printing and Mailing). The Village Board will hear this case on October 25, 2016.

3.22 The applicant said he wanted to move his business from 1225 Central to 1211 Wilmette Avenue. They have been in business since 1910 and at their current location for 54 years.

3.23 There were no questions for the applicant. Chairman Duffy clarified that this is an existing business moving over a block from its current location. The applicant said that the Village owns the current site and their plan is to tear the building down.

3.24 There was no one in the audience to speak on this case. There was no additional communication on this case.

**5.0 VIEWS EXPRESSED BY MEMBERS OF THE ZONING BOARD OF APPEALS**

5.1 Mr. Robke said that the applicant is a long time community member and moving one block away to a new site. He supports the business remaining in the Village and can support the request. Standards of review are met.

5.2 Mr. Kolleng agreed with the above comments and can support the request.

5.3 Chairman Duffy said this is an easy decision and can support the case.

**6.0 DECISION**

6.1 Mr. Robke moved to recommend granting a request for a special use to allow the relocation and operation of a printing and photocopying establishment (Mid-Central Printing and Mailing) at 1211 Wilmette Avenue in accordance with the plans submitted. The use shall run with the use.

6.11 Mr. Kolleng seconded the motion and the vote was as follows:

Chairman Patrick Duffy	Yes
Mike Boyer	Yes
John Kolleng	Yes

Michael Robke	Yes
Reinhard Schneider	Yes
Bob Surman	Not Present

Motion carried.

6.2 Mr. Boyer moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2016-Z-47.

6.21 Mr. Schneider seconded the motion and the voice vote was all ayes and no nays.

Motion carried.

**7.0 FINDINGS OF FACT UPON WHICH DECISION WAS BASED**

The Zoning Board of Appeals finds that the request meets the special use standards of Section 5.3.E of the Zoning Ordinance. The proposed use is a use that has been in business for over 100 years. The use is relocating due a change in the building ownership. The proposed use is consistent with the goals and policies of the Comprehensive Plan. The continued operation of the use is beneficial to the Village and will not be detrimental to or endanger the public health, safety, and welfare nor will the use be injurious to other property and uses. The relocation of the use will not impede the normal and orderly improvement of surrounding properties nor substantially diminish property values. Adequate utilities and site access already exist. Adequate ingress and egress already exists. The relocation of the use will be consistent with the community character. It will not adversely affect any known archaeological, historical or cultural resources. No other use standards apply.

**8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a special use to allow the relocation and operation of a printing and photocopying establishment (Mid-Central Printing and Mailing) at 1211 Wilmette Avenue in accordance with the plans submitted. The use shall run with the use.

### **3.0 TESTIMONY, COMMENTS AND ARGUMENTS ON BEHALF OF THE APPLICANT**

#### **3.1 Persons appearing for the applicant**

3.11 Mr. Tim Sheridan, architect

3.12 Ms. Eunmi Lee, applicant

#### **3.2 Summary of presentations**

3.21 Ms. Roberts said that this is a request for a 4.69' front yard setback variation, a 343.92 square foot (16.97%) front yard impervious surface coverage variation, and a variation to permit parking spaces in a required front yard to permit the construction of a two-car attached garage. The Village Board will hear this case on October 25, 2016.

3.22 Mr. Sheridan said the current impervious surface in the front yard is 728 square feet and the proposed is 729 square feet. They were able winnow down the turn-around so they could still get a large enough portion in front of the garage so people can back out safely.

3.23 Chairman Duffy said the request states the front yard impervious surface is 952 square feet.

Mr. Sheridan said that the above number includes other parts of the project. They need a garage of a certain depth and that is straightforward. The hardest part was to get the driveway to work. The turn-around exists. That is important. There are two curb cuts.

Part of the overage is the public sidewalk to the west of the house. It goes from Wilmette Avenue to Glenview Road. That counts against the front yard coverage.

3.24 Mr. Boyer noted that the public sidewalk is about 84 square feet of impervious surface coverage.

Mr. Sheridan said that it is about 112 square feet based on plat of survey.

3.25 Mr. Schneider clarified that the lot dimension is 166' deep. What is the variance request for the public sidewalk?

Mr. Sheridan said that the public sidewalk in the front yard is 112 square feet. The rest of the sidewalk is behind that in the side yard.

3.26 Mr. Schneider said he read the letter in terms of what the options were for placing the garage in different locations including locating in the rear. What was the issue about relocating the garage to the rear?

Mr. Sheridan said that the biggest issue of putting the garage in the rear and entering from Wilmette Avenue is the sidewalk to the west. There is only 9' between the farthest protrusion of the house and the sidewalk. This is not a safe condition. The driveway is in the front and it would be nice to keep it there.

Coming in from Glenview Road has its own issues. Based on the way the trees work in the back, one would have to come in from the west side of the lot and up against that sidewalk. It is a county road and there are other issues dealing with that.

- 3.27 Mr. Schneider asked if this case was subject to the new ordinance that requires garages to be set back 5' from the front.

Ms. Roberts said that this case is not subject to that requirement. It is not new construction.

- 3.28 Mr. Boyer asked if an addition was put on the house.

Mr. Sheridan said that an addition was put on the house but he does not know when it was put on.

- 3.29 Mr. Kolleng asked if they would have to keep the u-shaped drive was part of the request.

Mr. Sheridan said that is their intention.

- 3.30 Chairman Duffy said that it was a desire as opposed to a need to keep the U-shaped drive.

Mr. Sheridan said that by shrinking the dimensions of the driveway where they are only 1' greater than they are now. The existing part in the front setback is about 728 square feet and the proposed would be 729 square feet. They would go from an 11' wide u-shaped drive to an 8' wide drive, which is like a parking space. You can navigate it but it's much smaller.

- 3.31 Mr. Robke said that to him the parking space in the front yard is the issue. The U-shaped drive is an exception because they don't have the garage, but if there is a provision being made for the garage that requires the setback variance, he is not sure why they would also want to have the front yard parking situation.

Mr. Sheridan said they have front yard parking now.

- 3.32 Mr. Robke said there is no garage at this time.

Mr. Sheridan said they park in the front yard and the turn-around is in the front yard.

Ms. Lee said that they wanted some area so that it is easier to get in and out of cars. She said they did not necessarily want a parking space so perhaps that was some miscommunication about what they wanted.

Mr. Sheridan said that was how the code was interpreted, that the driveway can function as a parking space.

- 3.33 Chairman Duffy said that because they have the extra space, it is considered as parking.

Mr. Sheridan said that there is a lot of traffic in the area and backing out of the garage is not safe.

Ms. Lee said they want to keep the circular drive so they don't have to back out. Wilmette Avenue has a lot of traffic and backing out can pose a safety problem. They wanted to keep the existing structure but a little smaller.

- 3.34 Chairman Duffy said that there is approximately 350 square feet being talked about and some Board members believe if that section that goes past the front walk was taken out, it still gives them room to turn around and they would eliminate the variance request for front yard impervious surface. That gets rid of the U-shaped drive, but they will have a space to turn around. The Board is going to ask them to be as close to conforming as possible. What is the hardship that says they need to keep the u-shaped drive that would be more compelling? The Board is looking at strict interpretation of the rule.

Ms. Lee said she understood the above comments. She said that many neighbors have some area so they could back out but it doesn't really work. Her immediate neighbor, he could not back out and go forward. He has tall trees that block his vision. He always has trouble pulling out. You would think it could be done but she has SUVs and it would be hard to turn-around. Having the circular drive would be much easier for them to get in and out of their property.

- 3.35 Chairman Duffy said if they were eliminate the western access and they kept the driveway to or past the new front walk, there would be room. They would be eliminating almost 300 square feet of impervious surface.

Mr. Sheridan said that backing out of the garage, especially from the west spot in the garage and trying to make a turn-around with a larger car would make them go onto the front sidewalk.

3.36 Chairman Duffy said the driveway space in front of the house could be made deeper towards the street to get a turning radius but they eliminate the whole part to the west and they cut down or eliminate the request.

3.37 Mr. Schneider said if there are two cars in the garage facing towards the house and now they want to drive out of the garage – what would they do?

Mr. Sheridan said they would back out into a 19' spot and move forward and go out through the west part of the driveway. Backing out onto Wilmette Avenue is not an option.

3.38 Mr. Schneider suggested that they could make a three-point turn.

Mr. Sheridan said there is not enough room in the front yard to do a three-point turn or a T-driveway this especially from the west parking spot. Maybe from the east parking spot, but not from the west spot.

3.39 Mr. Kolleng said he thought Chairman Duffy was recommending that perhaps if they made this a little deeper in front of the stairs, they could eliminate the difficulty and get rid of the west part of the drive.

3.40 Chairman Duffy asked if there was sidewalk that runs across the front.

Mr. Sheridan said yes.

3.41 Chairman Duffy said the public sidewalk is not shown on figure 1.4.

3.42 Mr. Robke said that it shows on 1.3.

3.43 Chairman Duffy said that they have 28' less the 2' of the front edge of the garage to create the turn-around spot. Could it be redrawn so there is not an extra access and they have the space? There is room for it. What do you need, 18'? 20'?

Mr. Sheridan said that a parking space is 18'. When they take the car back out of the garage they then don't want to hit the garage. They are already 18' into the 28' setback. The turning radius is at least 15'. The full turning radius of a car is 30'. The applicant's car is on the larger side.

3.44 Chairman Duffy said that the Board is looking at the case with strict applications. They are trying to ensure that the request is minimized. The architect is saying that the 26' from edge of garage to the sidewalk is not enough room to create a turn-around area.

Mr. Sheridan said that having a straight shot is a huge hardship because of the traffic.

- 3.45 Mr. Schneider asked the difference between 1.4 and 1.5 of the packet.
- Chairman Duffy said it looked like one diagram had extra dimensions.
- Mr. Robke said the shape was different between the two plans.
- Mr. Sheridan said exhibit 1.4 was an earlier design. The driveway on 1.4 is much larger at 945 square feet. They knew they had to decrease square footage as much as they could to make it more conforming. That is shown as exhibit 1.5.
- 3.46 Chairman Duffy said that 1.4 gives a perspective of how much space they have to work with.
- 3.45 Mr. Schneider referenced 1.5. The driveway comes in at 9' from the street. He referenced the jog into the driveway. It looks like the plan is for them to be able to park a third car behind. Otherwise why that configuration?
- Mr. Sheridan said that 19' would allow them to get out of the driveway. Instead of having a two-car access, they are working with the current curb cut, which is not changing. He is trying to create something where there is enough room for the car to get out and it has to meet up with what is on the other side of the sidewalk.
- 3.46 Chairman Duffy asked if 1.5 accurately depicted the whole front yard setback.
- Mr. Sheridan said the whole front yard setback was accurately depicted. It's the same drawing, it just shows different information.
- 3.47 Chairman Duffy said that in 1.4, it looks as if there is more distance between the garage and the edge of the property.
- Mr. Sheridan said that is not correct.
- 3.48 Mr. Schneider said that on 1.5, the depth of the garage is 22'9" and on 1.4 it shows at 20'.
- Mr. Sheridan said that it is a bigger garage. Would the Board feel better if it was 20'-deep versus almost 23'-deep garage? Is the garage the issue?
- 3.49 Chairman Duffy said that the impervious surface is the issue. His initial thought was that if they went from the new walk to the front door and everything west of the driveway is gone to fill into the east of the walk to provide more turning room, how much is it saving? Maybe 100 square feet.
- Ms. Lee asked the Board to consider the inconvenience of getting out of the driveway.

- 3.50 Chairman Duffy said that this about hardship and convenience is not a hardship.
- Ms. Lee said what the Board envisioned would only reduce the request by about 200 square feet.
- Mr. Sheridan said he couldn't say for sure how much of a decrease there was until the plan was drawn.
- 3.51 Mr. Robke said that the square footage saved is not the issue for him. Cars park in a circular driveway; it's the concept of front yard parking. Everyone on that street has a straight driveway going in. They can manage getting out of the site. There are few circular driveways in the area if any. Would a circular drive be allowed today?
- 3.52 Mr. Schneider talked about a recent case on Illinois Road where they wanted to keep the circular drive.
- 3.53 Chairman Duffy said that applicant did not have a circular drive and wanted to add a new drive.
- Mr. Sheridan said that the difference between this property and the other property is that the way Glenview Road winds. The lots become more standard at certain points.
- 3.54 Mr. Robke does not have a problem with the garage, but it is the asphalt in front and cars parked in the circular drive that concerns him. The cars are being moved 15' closer to the street. He said it would be more consistent with what is in the neighborhood to not have a circular drive.
- 3.55 Chairman Duffy clarified that Mr. Robke does not have a problem with the front yard setback. The second variation is part of the third variation is what concerns him. He would less of an issue with a reduced square footage request but still have an issue with the front yard parking request. By allowing the garage in the setback, it takes the existing condition and move it about 20' closer to the street. If that could not occur or be greatly reduced, this would address the impervious area variation.
- 3.56 Chairman Duffy said that he is not sure how a t-shaped drive would keep cars out of the 15' closer to the sidewalk issue.
- 3.57 Mr. Kolleng said that it reduces the opportunity, but it has to work.
- 3.58 Mr. Robke said that there are a lot of driveways on the block that are not t-shaped.
- 3.59 Chairman Duffy said that some neighbors have to back into the street, probably most of them. Most of them don't have two curb cuts.

Ms. Lee talked about cars backing out, but she likes her existing driveway and does not want to lose it.

After 6.11

3.60 Mr. Schneider asked if there was a chance for the applicant to modify their request.

3.61 Chairman Duffy asked the architect if the applicant wants to amend their request before the Board takes a vote.

The architect and the applicant conferred. Ms. Lee said she does not want to back out and wants to keep her drive. She does not know what else to say.

Mr. Sheridan said they would keep the request as is.

#### **4.0 INTERESTED PARTIES**

##### **4.1 Persons speaking on the application**

4.11 Mr. William Hodges  
2407 Wilmette Avenue

##### **4.2 Summary of presentations**

4.21 The neighbor said that what is proposed is okay with him.

#### **5.0 VIEWS EXPRESSED BY MEMBERS OF THE ZONING BOARD OF APPEALS**

5.1 Mr. Boyer said that there are three variance requests. The first is for the 4.69' front yard setback variation. It comes about because of garage location and he has no problem with that request. There is practical difficulty of where to place the garage because of certain issues of where house is sited, utility easement issues, and the envelope of the lot is somewhat unique. The other two requests should be together. Having parking in the front yard brings about the front yard impervious surface coverage variation to a degree. He is not in favor of having more front yard parking. He understands the desire to retain the current driveway. But the circular driveway was there because they did not have a garage. Adding a garage should mean that the circular drive is not necessarily needed. He knows that Wilmette Avenue is busy but it is not the busiest street in the Village. He named busier streets. Rush and school hours are the busiest times for Wilmette Avenue. He is not in support of the other two variances.

5.2 Mr. Kolleng agreed and said he could support the first variation. It is a unique situation. Given the lot, the proposed location seems to be the best place. There is an existing circular drive. On one side, he does not see that big of an issue leaving

it because it is already there, but on the other side, all of the other neighbors back out onto Wilmette Avenue and it seems to work fine for them. They are looking at about 17% impervious surface coverage in their request and this is larger than most that the Board grants. There is no hardship in backing out onto Wilmette Avenue and the size of the impervious surface coverage variation, he has a hard time supporting this.

- 5.3 Chairman Duffy said he knows that the circular drive exists, but they are taking it all out and putting in a new drive. If they take it out and replace it, they should try to meet the ordinance as best as they can.
- 5.4 Mr. Robke said he agrees with Messrs. Boyer and Kolleng. He thinks that pushing the circular drive and the part that is perpendicular to the street does change the character of Wilmette Avenue. He can support the first request but not moving a circular drive 20' closer to the street. The standards are not met.
- 5.5 Mr. Schneider said he agrees with the comments. He wants to reiterate what Chairman Duffy said in that they are rebuilding the western part of the circular driveway. It is like they came to the Board asking for both a garage and a circular drive. The existing circular drive will be largely torn up. The Board has been very reluctant to approve new circular drives unless hardship is shown and that is not apparent in tonight's case.
- 5.6 Chairman Duffy said that the only circular drive approved was out by Indian Hill Golf Club. It wasn't in the front yard setback. The Board approved it.
- 5.7 Mr. Boyer said the above-referenced lot was two acres, the house was set back, and the parking area was barely visible.
- 5.8 Chairman Duffy said he understands the concern about pulling back onto Wilmette Avenue and that the applicant has not done this before. He was trying to work in a turnaround, but that does not address Mr. Robke's concern about parking. He could not support the request as proposed.
- 5.9 Mr. Boyer said that the applicant will have the chance to speak in front of the Village Board.

## **6.0 DECISION**

- 6.1 Mr. Boyer moved to recommend granting a request for a 4.69' front yard setback variation, a 343.92 square foot (16.97%) front yard impervious surface coverage variation, and a variation to permit parking spaces in a required front yard to permit the construction of a two-car attached garage at 2411 Wilmette Avenue in accordance with the plans submitted.

6.11 Mr. Kolleng seconded the motion and the vote was as follows:

Chairman Patrick Duffy	No
Mike Boyer	No
John Kolleng	No
Michael Robke	No
Reinhard Schneider	No
Bob Surman	Not Present

Motion failed.

6.2 Mr. Boyer moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2016-Z-42.

6.21 Mr. Kolleng seconded the motion and the voice vote was all ayes and no nays.

Motion carried.

**7.0 FINDINGS OF FACT UPON WHICH DECISION WAS BASED**

The Zoning Board of Appeals finds that the request does not meet the variation standards of Section 5.4.F of the Zoning Ordinance. The board members supported the request for the front yard setback variation for the garage addition but did not support the variations that would allow for the circular driveway, for the following reasons. There were no particular physical conditions of the lot that necessitated the circular driveway. The applicants are creating their own situation by requesting to retain a circular driveway when a conforming driveway could be installed. The existing circular driveway will need to be substantially removed due to the addition therefore, it is not an existing condition that will remain unchanged. Relocating the circular drive will alter the essential character of the neighborhood.

Regarding the front yard setback variation for the garage, the Zoning Board of Appeals found that the physical conditions of the property, the location of the house on the lot and the location of the lot as a double-frontage lot, impose upon the owner a particular hardship. The lot currently does not have a garage and there are no good alternatives to locate a conforming garage. The plight of the owner was not created by the owner and is due to the unique circumstances of the lot. The difficulty is peculiar to the property in question. The difficulty prevents the owners from making reasonable use of the property with a two-car garage. The proposed variation will not impair an adequate supply of light and air to adjacent properties. The proposed variation will not alter the essential character of the neighborhood.

**8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends denying a request for a 4.69' front yard setback variation, a 343.92 square foot (16.97%) front yard impervious surface coverage variation,

and a variation to permit parking spaces in a required front yard to permit the construction of a two-car attached garage at 2411 Wilmette Avenue in accordance with the plans submitted.

### **3.0 TESTIMONY, COMMENTS AND ARGUMENTS ON BEHALF OF THE APPLICANT**

#### **3.1 Persons appearing for the applicant**

3.11 Mr. Matt Cavalier, applicant

3.12 Ms. Bridie Cavalier, applicant

#### **3.2 Summary of presentations**

3.21 Ms. Roberts said that this is a request for a 316.32 square foot (6.02%) total floor area variation to permit the construction of a two-story addition. The Village Board will hear this case on October 25, 2016.

3.22 Mr. Cavalier thanked the Board for hearing their request for an addition on their home. He talked about the highlights of his letter. They are a family of six – two parents, four children. They moved into the house in April 2014. During the buying process they learned that there was an addition to the house in the late 70s with a family room in the back of the house with a plan that a second story would go over the family room. There are drawings on file for that second story addition but the previous owner did not go forward with this over the family room.

The write up for the case indicates that they are doing a tear off and a rebuild of two stories. They are actually tearing off the roof and go up and over the existing family room.

When they started this process in April 2015, they had a preliminary zoning review done. In that, the original formula was used and it said that they had 3,040 total FAR available. They then designed plans based on this and submitted plans to the Village. The actual number is 3,036.47 total FAR available. They are on a small lot in the R1-D district, which has much larger lots. The minimum lot area for R1-D is 8,400 square feet. R1-B and R1-C are 6,000 square feet. They are at 5,250 square feet. Their lot would better match a zone with a smaller lot area.

When talking to the Village, he was told that it has come up before that there are some small lots in R1-D that the Village has discussed about moving into a separate zone because they don't fit in the R1-D zone. If they were in R1-B or R1-C, they would use the original formula and they wouldn't need a variation. They then found out that they had to use the modified formula. The way the modified formula works is that if the house is within 250' [editor's note: 100' is the distance to qualify for the contextual option] of your house with an average height of over 30', they have to use a modified formula, which puts them at a total allowable of 2,720 square feet and they are asking for 3,036 square feet. Under the original formula, they would be okay and would not have to be at the meeting. Under the modified formula, they are over by 6.02% due to the height of neighboring houses. This is a hardship that

they have to endure. They would like another bedroom and bathroom. Six of them share one full bathroom and that gets complicated.

- 3.23 Chairman Duffy said that the applicants currently have a three-bedroom, one and one half bath house. The full bath is upstairs and the half bath is downstairs by the front door.

Mr. Cavalier said that was correct.

- 3.24 Mr. Boyer said that this is a brick Georgian with no attic with a one-story addition off of the back.

Mr. Cavalier said that the one-story addition does not have heating or cooling. They need to figure out how to get hot and cold air into this area of the house.

- 3.25 Chairman Duffy said that the applicant noted they were taking the roof off of the house and then going up. He read this as they were starting over.

Mr. Cavalier said that the exterior walls would stay the same but they will use energy efficient windows instead of sliding glass doors.

- 3.26 Mr. Boyer asked if they could use existing footings or is that why there is a jut out and they are pouring new footings and adding a support column.

Mr. Cavalier said that had been modified and they do not need all new footings except for the mudroom. They do not need new footings for the second story to go up and over. They currently have a soft wooden siding but will replace this with something more durable. From a hardship standpoint, if they were using the original formula, they would not be making this request. With the new formula, they would have to ask for a variation for almost everything they did. They have an oversize garage off of the alley, which is almost three-car sized. Taking out the garage would cost them a lot of money.

- 3.27 Chairman Duffy asked the size of the garage.

- 3.28 Mr. Schneider said that the size of the garage is 24.3' x 22.3'.

- 3.29 Chairman Duffy said that the garage is about 100 square feet over the allowable bonus. He was trying to see if they had a conforming garage what is the difference between that and their current garage. It is about 100 square feet and that might be considered as part of a hardship. The garage counts against the FAR by about 100 square feet.

- 3.30 Mr. Robke said that one of the comments in the write up is that there had been plans for this. Did the earlier plans cantilever so that the second floor was larger than the first floor?

The applicant said that the earlier plans also cantilevered and had a walk out deck off the second floor, which they are not doing.

3.31 Chairman Duffy said that the overhang counts against them, which is about 50 square feet.

3.32 Chairman Duffy said that the Board understands the plight with the older layout of the house and they are trying to make it more modern for today's standards. They are trying to get the house to work better for their family. The Board is trying to justify a hardship. They understand that practically it is a hardship. Under a strict interpretation of the code, how does the Board make this work? There is about 150 square feet that counts against them towards the over 300 square feet they are requesting.

Mr. Cavalier asked what would happen if they said that the mudroom is not critical. It would be nice to have. The mudroom is about 54 square feet. It is the only part that extends out over the existing footprint except for the cantilever.

3.33 Mr. Schneider said he would not give that up yet.

3.34 Mr. Schneider asked Ms. Roberts for clarification on the issue related to FAR and average height.

Ms. Roberts said that each zoning district has a default floor area option. Many have the 2003 formula [editor's note: also referred to as "modified" formula] and some have the 1990 formula [editor's note: also referred to as "original" formula]. In 2003, they implemented a contextual option when they went from 1990 to 2003. The 1990 formula became the contextual option.

In 2014, they assigned each zoning district one or the other formula as their default, they clarified that the contextual option was the other option. In this district, the 2003 is the standard formula and the 1990 formula is the contextual formula. The base 1990 formula provides for a larger amount of floor area on the first and second floor, a small porch bonus, and no attic bonus. It was designed like the Kenilworth Gardens style house. The height is lower since there is not a high attic.

To use the contextual option, in this case the 1990 formula, the average height of the homes on either side and within 100' needs to be 30' or less. If your house is this style, you can use this formula to keep it consistent with other houses of the same style. It helps some homeowners, but may not work for everyone.

3.35 Chairman Duffy said that if all the houses are shorter houses it gives them the opportunity to go deeper into their lot. It gives the chance to have more house.

3.36 Mr. Boyer said that the master bedroom size is 14'6" x 14'2".

- 3.38 Chairman Duffy said that the bathroom cannot be made smaller.
- 3.39 Mr. Robke said there is nothing overly generous for the second floor design. It is compact and functional. They could not take off a few feet and make it worth doing the work.
- 3.40 Mr. Boyer said that the house is a little over 25' wide.
- 3.41 Chairman Duffy asked if they could say that part of the hardship is the lot size. They are one of the two smallest lots in the area. Where is the hardship to make this work?
- 3.42 Mr. Robke said he is not understanding the issue about the applicants getting penalized for what they can do because others around them built too tall.
- Ms. Roberts said that this is not exactly the situation. She assumes neighbors are conforming in height. When this district was created as a 2003 ordinance area, they looked at the character of the neighborhoods. The R1-D developed over a long period of time. There are a lot of different types of houses. At the time they thought that on average the 2003 formula would be more beneficial for most people because it provides a bigger porch bonus and an attic bonus. The contextual option was put in place to have that outlet for those who might be in a neighborhood where the houses are of a different character. The applicants' situation is not being driven by the neighboring houses, it's that the contextual opportunity is not available to them.
- 3.43 Mr. Robke said that the neighbors seem to have larger houses on larger lots. They are significantly taller. He doesn't see how this addition would have a negative impact on neighbors or context. But he is struggling with the hardship.
- 3.44 Chairman Duffy asked how the hardship should be justified.
- Ms. Cavalier said that many neighbors told them they support the proposal.
- 3.45 Chairman Duffy said that no one will notice an addition on the rear except perhaps for immediate neighbors. No one is at the meeting to argue against the proposal.
- 3.46 Mr. Boyer said that there is not one hardship to hang one's hat on. If one looks at the totality, all of the pieces that count against them is the perfect storm of zoning issues. There is not one issue to point to. Everything that goes against them is the hardship.
- 3.47 Chairman Duffy said they are not going to get to be able to justify 300 square feet.
- 3.48 Mr. Schneider said that they are down to 150 square feet.

- 3.49 Chairman Duffy said that the Board has given variances like this in the past. Part of the issue is that the house was sited too close to the side yard. They are building straight in line with the current house.
- 3.50 There was no one in the audience to speak on this case. There was no additional communication on this case.

## **5.0 VIEWS EXPRESSED BY MEMBERS OF THE ZONING BOARD OF APPEALS**

- 5.1 Mr. Kolleng said there appears to be a 'perfect storm' of hardships in this case. The garage and overhang hardships reduces this to 150 square feet, which falls within variances that the Board has granted. In his mind, there are some formulas that come into play and the applicants do not qualify for the original formula. If they did, they would not be at the meeting. They are not being excessive in their request. There is a hardship. Standards of review are met and he will support the application.
- 5.2 Mr. Boyer agrees. There are a lot of issues that count against them. The plan is reasonable and not oversized. There are no issues with neighbors. The addition meets the standards of review. There is not generally one thing, but a lot of small things that count against it which creates the hardship.
- 5.3 Mr. Schneider agrees with above comments and he will support the request.
- 5.4 Mr. Robke also supports the request. They are trying to do something that is consistent with the intent of what is allowed in the zoning district and within the context of neighbors.
- 5.5 Chairman Duffy can support the request. It is frustrating when one owns a home and it feels like the odds are stacked against them to make something work that is reasonable. He sees a hardship. Standards of review are met.

## **6.0 DECISION**

- 6.1 Mr. Kolleng moved to recommend granting a request for a 316.32 square foot (6.02%) total floor area variation to permit the construction of a two-story addition at 1728 Walnut Avenue in conformance with the plans submitted.

- 6.11 Mr. Boyer seconded the motion and the vote was as follows:

Chairman Patrick Duffy	Yes
Mike Boyer	Yes
John Kolleng	Yes
Michael Robke	Yes
Reinhard Schneider	Yes
Bob Surman	Not Present

Motion carried.

6.2 Mr. Kolleng authorized the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2016-Z-45.

6.21 Mr. Robke seconded the motion. The voice vote was all ayes and no nays.

Motion carried.

**7.0 FINDINGS OF FACT UPON WHICH DECISION WAS BASED**

The Zoning Board of Appeals finds that the request meets the variation standards of Section 5.4.F of the Zoning Ordinance. The particular physical condition of the property, the lot size, imposes upon the owner a practical difficulty. The plight of the owner was not created by the owner and is due to the development of the lot. The difficulty is peculiar to the property in question. The difficulty prevents the owner from making reasonable use of the property with an addition to improve the home. The addition conforms to the setbacks and is proposed above an existing first floor room. The proposed variation therefore will not impair an adequate supply of light and air to adjacent properties. The addition is at the rear of the home and is consistent with other larger homes on larger lots within the neighborhood and therefore will not alter the essential character of the neighborhood.

**8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a 316.32 square foot (6.02%) total floor area variation to permit the construction of a two-story addition at 1728 Walnut Avenue in conformance with the plans submitted.