



1200 Wilmette Avenue  
Wilmette, Illinois 60091-0040

**MEETING MINUTES**

**ZONING BOARD OF APPEALS**

**WEDNESDAY, JANUARY 20, 2016**

**7:30 P.M.**

**COUNCIL CHAMBERS**

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**Members Present:** Chairman Patrick Duffy  
Mike Boyer  
John Kolleng  
Bill Merci  
Lynn Norman  
Reinhard Schneider

**Members Absent:** Bob Surman

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

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**I. Call to Order**

Chairman Schneider called the meeting to order at 7:33 p.m.

**II. 2015-Z-54 161 Prairie Avenue**

See the complete case minutes attached to this document.

**III. 2016-Z-03 821 Elmwood Avenue**

See the complete case minutes attached to this document.

**IV. 2016-Z-01 3232 Lake Avenue**

See the complete case minutes attached to this document.

**V. Approval of the December 2, 2015 Meeting Minutes**

Mr. Kolleng moved to approve the December 2, 2015 meeting minutes.

Ms. Norman seconded the motion and the voice vote was all ayes and no nays. Motion carried.

**VI. Public Comment**

There was no public comment.

**VII. Adjournment**

The meeting was adjourned at 8:27 p.m.

Respectfully submitted,

Lisa Roberts  
Assistant Director of Community Development

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

**3.1 Persons appearing for the applicants**

**3.2 Summary of presentations**

3.21 Ms. Roberts said that this is a request to continue the case to the February 17, 2016 meeting.

**6.0 DECISION**

6.1 Mr. Boyer moved to continue the case to the February 17, 2016 meeting.

6.11 Ms. Norman seconded the motion and the vote was all ayes and no nays (Mr. Surman was not present).

Motion carried.

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

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

3.11 Mr. Charles Neuhaus, applicant  
832 Elmwood Avenue

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

3.21 Ms. Roberts said that this is a request for a special use for a detached garage in excess of 600 square feet to permit the construction of a detached two-car garage. The Village Board will hear this case on February 9, 2016.

3.22 The applicant said that he is asking for a 122.22 square foot special use for a detached garage in excess of 600 square feet. He has a non-conforming garage and got a variance to put a garage door on the alley side. In restructuring the garage, they made a mistake. They had 2 x 4 rafters on the roofline and they were 24" to 30" on center. They took the roofing off on their own and they took the structure down, which was wrong. They lost their non-conforming structure status. The garage has already been built and is almost finished. The slab is on and the walls are up. It is technically a new garage, but it was an existing garage they were trying to refurbish. They want to take the roof off and put a conforming structure on the garage. They do not want to tear the garage down and want to keep it in its present location and make it conforming.

3.23 Ms. Norman asked if the applicant was asking for a larger garage.

The applicant said they are not asking for a larger garage. It was a non-conforming structure. They are just asking that they not have to tear the garage down and start over again. If the special use is approved they can finish the project. He made a mistake and accepts responsibility for the mistake.

3.24 Mr. Boyer clarified that they deconstructed the original structure and then rebuilt it.

The applicant said that is correct.

3.25 Mr. Schneider asked how much of the original structure is remaining or is everything new.

The applicant said that there is a new slab and new walls.

3.26 Mr. Schneider referenced 1.6 through 1.9 and this does not reflect what he saw when he went to the property. They have dormers and that is not shown on the drawings.

The applicant said that the dormers are coming down.

- 3.27 Chairman Duffy clarified that they had the old structure, they raised it up and poured a new foundation. They set it back and started reconstructing and it went a little too far, so they rebuilt the entire garage. And the applicant was told that because he had done work, it was now non-conforming.

The applicant said that they did not leave the rafters. If they would have left them on it would have been okay.

- 3.28 Chairman Duffy said that the applicant wants to keep the footprint and he will take off the second story and he will now put a conforming roofline on the garage. The footprint is now 120 square feet too large so now he needs a special use to keep the extra 120 square feet.

- 3.29 Ms. Norman said that in the September meeting minutes, it indicates that the existing garage is 709.92 square feet. Now they are asking for 722 square feet. Why is there additional square footage?

The applicant said that he had new plans drawn. Healy Rice drew the plans for a conforming structure. He does not know why there is additional square footage.

- 3.30 Mr. Boyer said that the applicant has a historical coach house-type structure which not many residents have. They want to renovate the existing structure to keep it. The building probably was not built that well. They took off the roof instead of sistering up the rafters and now there is a problem. If they sistered the roof rafters he would not be before the Board.

The applicant said that the above is correct. He told the carpenter they should sister the rafters, but the carpenter said it would be faster to replace them.

- 3.31 Mr. Boyer asked why they were requesting that the current structure remain.

The applicant said that from the attic floor up, they were going to reconstruct that to a conforming roof line. He will still have storage space, but not quite as much.

- 3.32 Mr. Boyer wondered why the applicant was not asking to keep existing structure.

The applicant said that he lost his non-conforming structure when he made the changes.

- 3.33 Mr. Boyer asked if he could ask for a variance.

Ms. Roberts said that staff did not encourage the applicant to make that request.

- 3.34 Mr. Kolleng clarified that they raised the foundation and put in a new slab.

The applicant said it was too low and there were flooding problems.

- 3.35 Mr. Kolleng said that at the last meeting the Board was sensitive to the fact that it was a 100 year-old structure and that the applicant wanted to move the door from the east to the south.

The applicant said that he no longer has the knee walls and there is a small dormer on the west side and a shed dormer on the east side. The roof line is a little lower. He just wants a garage to park his cars. It was a mistake on his part.

- 3.36 Mr. Kolleng said that the mistake is costing the whole second floor.
- 3.37 There were no additional questions for the applicant. There was no one in the audience to speak on this case.

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

- 5.1 Mr. Boyer said he would be okay with the applicant keeping the replica of the historic coach house garage. Alleys can be ugly. Residents spend a lot of money on aesthetic pleasing garages. The detail on the roof line, the sheathing, the Marvin windows mean that the applicant is spending a lot of money on the rehab of the garage.

It does not have the designation of a historical structure, but it is a historical structure. Garage alley coach houses are unique in the Village. It adds to the character of the neighborhood.

But the applicant is not keeping the existing structure. The request is not to keep the existing structure. He is okay with making the structure smaller. The applicant has a large lot. He is 600 square feet away from getting an 800 square foot garage. He is only agreeing to the garage size is because the lot is large – almost 15,000 square feet. The expense is a hardship. The applicant should be commended on what he is doing with the garage. All standards of review are met. He has no problem with the request.

- 5.2 Mr. Kolleng said he sees no hardship. He agreed that the building was really cool and the Board wanted the applicant to maintain that building, but that did not happen. It is no longer a non-conforming use and what the Board tried to work with him on before, he sees no hardship.

Chairman Duffy said hardship is not part of the special use standards.

Mr. Kolleng wanted to hear what his colleagues had to say.

- 5.3 Ms. Norman said she is conflicted about this request. The special nature of the edifice is now gone. He is asking for something really big. But as Mr. Boyer

pointed out, he is so close to being permitted an 800 square foot garage. The lot is large. She wants to her other opinions.

- 5.4 Mr. Schneider said that there are few garages on the alley that are as imposing as this garage. If they are going to move forward with the plans submitted that shows no dormers, it reduces the dominance of the garage. It is essentially new construction – about 80% is new. As he looks at the standards for special uses, none of them would not support his ability to support this request. He recommends approval.
- 5.5 Mr. Merci said that the changes are modest compared to previous approvals. He should not be penalized for the error made.
- 5.6 Ms. Norman said that there is no hardship element for a special use. But they were guided to ask for a special use versus a variance probably for this reason – it is not a hardship if an individual does not have a huge garage.
- 5.7 Mr. Boyer if there was a larger house on a 33' wide lot and more than 40% was damaged in a fire and it had to be rebuilt. If it was non-conforming they would have to get a variance. He does not see any difference between the house and the applicant's request. Why can't a non-conforming historic coach house be rebuilt when a house damaged by fire can be rebuilt?
- 5.8 Chairman Duffy said that from reading the case packet, Board members get a feeling for a case before they visit the site. Once at the site, the opinion may change. When he went by the property, he was impressed by the structure. It was a great old building that needed a lot of work. The applicant decided to do that work. It is a great building. He agrees with Mr. Boyer regarding aesthetics on the alley way. Old structures add something when driving down an alley. He does not generally support 3-car garages, but the lot is very large. Mr. Boyer brought up some great points. He is in favor of supporting this request. The applicant put a lot of money into the structure.

## 6.0 DECISION

- 6.1 Mr. Boyer moved to recommend granting a request for a special use for a detached garage in excess of 600 square feet to permit the construction of a detached two-car garage at 821 Elmwood 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
Bill Merci	Yes

Lynn Norman	Yes
Reinhard Schneider	Yes
Bob Surman	Not Present

Motion carried.

6.2 Ms. Norman moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2016-Z-03.

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 meets the special use standards of Section 5.3.E of the Zoning Ordinance. The proposed use of a garage in excess of 600 square feet is consistent with the goals and policies of the Comprehensive Plan for a residential use. The existing lot size is large and a garage of this size fits the scale. The property is less than 1,000 square feet from a lot area where an 800 square foot garage would be permitted. The garage has existed at this size since its construction and the continuation of the structure, now modified to be more conforming, will not be detrimental to or endanger the public health, safety or welfare nor will it be injurious to the use or enjoyment of other property in the neighborhood. The retention of the modified garage will not impede the normal and orderly development of surrounding properties, which are also fully developed. The retention of the garage will not impact property values. Adequate utilities, road access, drainage and other facilities already exist. The property has already been modified to reduce impervious coverage by relocating the garage doors to the alley side. The garage, while having been modified, will continue to be consistent with the community character. The garage will conform to all other requirements of the Zoning Ordinance.

**8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a special use for a detached garage in excess of 600 square feet to permit the construction of a detached two-car garage at 821 Elmwood 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. Bob Fink  
Joseph Freed & Assoc.  
11 E. Madison, Chicago

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

3.21 Ms. Roberts said that this is a request for a 14,727.11 square foot (1.7%) total floor area variation to permit two one-story additions. The Village Board will hear this case on February 9, 2016.

3.22 Mr. Fink said with him at tonight's meeting are Tom Kapkus and Tom Fraerman from his office and Jerod Jensen from the design team. They are asking to construct a 10,000 square foot addition to Edens Plaza. They would be adding retail and the building would be on the north end.

This request under the current zoning meant that they had to request an FAR variance of 14,727 square feet or just under 2%. They had to ask for the variance because they are adding retail. Under the current zoning and the PUD, if they were building for office, they could add 70,000 square feet.

They want to do this now because they need to stay competitive. The center is about 100% occupied. They are proud of that but everyone can remember when the vacancy rate was over 20%. Borders left and there was a vacancy on the north end. This addition will allow them to increase critical mass and add to the center's vitality. They want to encourage cross shopping from new to old tenants and add sales revenue to the Village.

They usually do not talk about names on leases until leases are signed, but they anticipate 2 food uses and 2 to 3 small shops in the additions. They brought a conceptual elevation to the meeting. Final plans are being refined by the design team for submittal to the ARC. They are adding two small shop buildings on either side of the entrance to Carson's and would be creating a similar condition to what exists on Carson's east end. The materials will be consistent with what is currently there. It is a simple addition.

3.23 Chairman Duffy said he wonder why they chose that end of the mall. Why not an out building?

Mr. Fink said they looked at an out building. An out building would impact site lines off of the highway and traffic circulation would be harder.

- 3.24 Chairman Duffy said that there is rarely congestion in the section of the parking lot near where the proposed buildings will be located. With retail they want more street visibility.

Mr. Fink said they will get better visibility from the highway with the proposed location.

- 3.25 Mr. Schneider asked if Joseph Freed owned the Carson's property.

Mr. Fink said that Carson's is the owner of their own property. Joseph Freed has a working arrangement with Carson's to do a ground lease for the little piece of land. Carson's is the applicant. They own the land underneath where they propose to do the addition. Joseph Freed will lease the ground. There is existing REA on the property that handles all that.

- 3.26 Mr. Schneider asked how much land Carson's owned.

Mr. Fink said his company owns just under 20 acres and he would have to get the information as to how much Carson's owns.

- 3.27 Chairman Duffy said that the Sidwell shows which lot is the Carson's property.

- 3.28 Mr. Schneider asked if the addition was one story.

Mr. Fink said that it was one story.

- 3.29 Ms. Norman clarified that the buildings are off of the north side of the Carson's building.

Mr. Fink said he had the plot plan for the buildings and showed it to the Board.

- 3.30 Chairman Duffy said that in 2006, they were granted a floor area variance of 4,800 square feet when they did the Fresh Market. Now they are adding 10,000 square feet.

- 3.31 Mr. Boyer asked when the original PCD-1 put in place.

Ms. Roberts said that there was a new zoning ordinance in 1990 and she is not sure if it was PCD before that. But in 1990 it become PCD-1.

- 3.32 Mr. Boyer clarified that anything they do requires a variance.

- 3.33 Mr. Merci said he wanted to hear the explanation about traffic and parking with respect to the kind of tenant they anticipate.

Mr. Fink said that when people come to the Center more often, cross traffic improves. They found the swim club was a great promoter of cross shopping. They will lose some spaces, but still are 200 spaces over what they need per the code. Regarding circulation, they shared all truck and emergency turning radiuses with staff.

- 3.34 Mr. Merci asked when Gewalt did the traffic study, did they anticipate maximum traffic and parking?

Mr. Fink said that Gewalt anticipated maximum traffic and parking.

- 3.35 Ms. Norman asked if any of the configuration would be changed because they anticipate greater traffic in the corner.

Mr. Fink said that the drive aisle coming in will turn a little and will smooth out the process. There will be better circulation. There currently is a 3-way stop in that area.

- 3.36 Mr. Merci said that a 3-way stop is awkward for functioning. The new entry point will have a right angle access to the arterial.

Mr. Fink showed how traffic circulation would work with less congestion.

- 3.37 Ms. Norman said it seems like a lot of traffic in that little section.

Mr. Fink said that the proposed fast food tenants want to be on the west.

- 3.38 Mr. Merci asked about income generation production per square foot.

Mr. Fink said they would hope that they are in excess of \$400 to \$500/square foot. It depends on uses.

- 3.39 Chairman Duffy said that hardship is a variance criteria. They touched on this a little. They got a variance previously, which was understandable. Now they are asking for an additional 10,000 square feet. He asked Mr. Fink how it could be made easier for the Board to make this decision.

Mr. Fink said they hear from tenants and area residents that there is no food in the area. They asked themselves that when there was a vacancy on the north, could they fit a signature restaurant into the rotunda building. The addition is an opportunity. Marketing and timing are right. They don't want to do something when it is too late.

- 3.40 Chairman Duffy said that perhaps they could speak to hardship and say that this benefits the Village with services and sales tax generation. The big struggle for him is that he wants to see this happen. But the Board's job is to apply rules and

make a recommendation to the Village Board. The Village Board could overturn the ZBA's vote. He wants to get through the hardship issue.

Mr. Fink said they had 20 to 30% vacancy. They need to be offering an attractive product to retailers so someone wants to be at the center if there is a vacancy. Vacancy negatively impacts the center and the community because sales tax will drop off.

- 3.41 Mr. Kolleng said that they could say that some of the hardship is the changing nature of these types of malls. It is a smaller mall.

Mr. Fink said they competing with Northbrook Court and Old Orchard. They want to attract those kinds of tenants, but they have to provide the environment.

- 3.42 Mr. Boyer asked if these two buildings would have been added back when the area was zoned PCD-1.

Mr. Fink said he was not part of that zoning process, but he assumes the answer is yes. The buildings are short on critical mass.

- 3.43 Mr. Schneider pointed out that there is nothing else like Edens Plaza in the Village regarding scale and size. He would rather see retail opportunities versus a dental office or another office function. They would be permitted to have this without a variation. The more retail helps the center be more successful and improves the tax income for the Village. There is no issue with parking or traffic on the site.

- 3.44 Chairman Duffy said he was glad that Mr. Schneider brought up the uniqueness of the property. That should be part of the discussion about hardship. He needs to point out that 2,500 square foot spaces are easier to find tenants for than 20,000 square foot spaces. There is no question that this will be a good development. He is looking for a way to apply the Board's rules and then move it to the Village Board.

- 3.45 Mr. Kolleng said that from a traffic perspective, he noticed traffic problems at the center on Christmas Eve. He could not get in or out.

Mr. Fink said that is a good thing for his company. But no center is designed to hold 100% capacity 100% of the time. Traffic is not always like that however. The center functions well. Christmas is the busiest time of the year.

- 3.46 There was no one in the audience to speak on this case.

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

- 5.1 Mr. Merci said that the proposal provides the improvement of critical mass and it will provide opportunity for successful retail now and in the future. The comment

made by Mr. Kolleng about changes in malls and centers can be attended to by this variation. It is more than a matter of math computation, but it goes beyond just a square footage variation. It is improvement to the center's environment. He supports the request.

- 5.2 Mr. Boyer said this is the only large center in the Village and these issues are not shared by other property owners. The hardship is the application of the planned commercial development. Once they apply zoning codes they cannot do anything with the property. If they started over on the site it would be a new PCD and the codes would be written differently and it would look different. Adding these small retail structures and needing a variance, the hardship is applying the old PCD to this property. That is unique to this property. All standards of review are met. He can support the request. There is no impact on property values or light/air to adjacent properties. It is surrounded by commercial or the highway.
- 5.3 Ms. Norman said the strict application of the variance standards make sense in this situation because the property is so unique. Mr. Fink said they could add 70,000 square feet of office and not have to come before the Board. She can support this request.
- 5.4 Mr. Kolleng said it is a win/win situation. They can expand in a good environment. Part of the hardship is being in their kind of business. Food will help drive traffic. The north end parking is underutilized and sales tax revenue will be increased. He can support the request.
- 5.5 Mr. Schneider will support the request for all reasons given.
- 5.6 Chairman Duffy said that a number of good points were brought up. He could not initially see the hardship, but as Mr. Schneider said, this is a very unique property. As Mr. Boyer said, the code was written in 1990 and specific for the site and development. This is the only parcel with these zoning rules. Shopping has changed since the plans were put in place. Mall developers try to retrofit older malls as they design new centers. Some strip centers have smaller businesses because they are easier to rent. The proposal is a benefit to the Village. Neighbors will not be impacted. There is sufficient parking. Slight challenges might be ingress/egress. He will support this request because of the center's uniqueness.

## **6.0 DECISION**

- 6.1 Mr. Merci moved to recommend granting request for a 14,727.11 square foot (1.7%) total floor area variation to permit two one-story additions at 3232 Lake Avenue in accordance 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
Bill Merci	Yes
Lynn Norman	Yes
Reinhard Schneider	Yes
Bob Surman	Not Present

Motion carried.

6.2 Mr. Schneider moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2016-Z-01.

6.21 Ms. Norman 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 variation standards of Section 5.4.F of the Zoning Ordinance. The particular physical conditions of the property, the PCD-1 designation that limits the floor area to what it was at construction, imposes upon the owner a practical difficulty. The plight of the owner was not created by the owner and is due to unique circumstances. Those unique circumstances include the uniqueness of the property and the changing nature of shopping. The difficulty is peculiar to the property in question. The Edens Plaza shopping center is a unique use in the Village. The difficulty prevents the owner from adapting to changing retail trends, which ultimately impacts their ability to attract and retain commercial tenants, which in turn supports the goal of having a strong tax base for the Village and providing desired commercial services to residents. The proposed floor area variation will not impair an adequate supply of light and air. The proposed additions conform to the setback requirements and will not negatively impact any other tenants or uses. The variation if granted will not alter the essential character of the neighborhood. The additions are relatively small and will fit with the design and function of the shopping center.

## **8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting request for a 14,727.11 square foot (1.7%) total floor area variation to permit two one-story additions at 3232 Lake Avenue in accordance with the plans submitted.