



1200 Wilmette Avenue
Wilmette, Illinois 60091-0040

MEETING MINUTES

ZONING BOARD OF APPEALS

WEDNESDAY, MAY 17, 2017

7:30 P.M.

COUNCIL CHAMBERS

Members Present: Chairman Patrick Duffy
Mike Boyer
John Kolleng
Michael Robke
Reinhard Schneider
Bob Surman
Christopher Tritsis

Members Absent: None

Staff Present: Lisa Roberts, Assistant Director of Community Development

I. Call to Order

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

II. 2017-Z-19 1529 Elmwood Avenue

See the complete case minutes attached to this document.

III. 2017-Z-17 732 11th Street

See the complete case minutes attached to this document.

IV. 2017-Z-20 500 Gregory Avenue

See the complete case minutes attached to this document.

V. 2017-Z-21 1617 Central Avenue

See the complete case minutes attached to this document.

VI. Approval of the April 19, 2017 Meeting Minutes

Mr. Kolleng moved to approve the April 19, 2017 meeting minutes.

Mr. Schneider 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 8:24 p.m.

Respectfully submitted,

Lisa Roberts
Assistant Director of Community Development

3.0 TESTIMONY, COMMENTS AND ARGUMENTS ON BEHALF OF THE APPLICANT

3.1 Persons appearing for the applicant

3.11 Mr. Doug Harness, owner and president
Harness Real Estate and Construction

3.2 Summary of presentations

3.21 Ms. Roberts said that this is a request for a lot separation variation to separate the ownership of two lots each measuring 50.02' x 140.0', 7,002.8 square feet in area. The Village Board will hear this case on June 27, 2017.

3.22 Mr. Harness is the contract purchaser for the property. It is two separate lots of record, two PINs and has been owned by the Kerrigan family of Kerrigan Plumbing for over 70 years. Staff wrote up the details. Over 92% of the properties with 500' do not comply with the zoning requirements. They meet the 50' minimum but the depth of the lots is only 140' so the lots are over 7,000 square feet instead of 8,400 square feet. As part of their due diligence, he went beyond the 500' radius. He went from 14th Street to Ridge, on Elmwood, on Walnut, on Forest. There are a few lots that meet the minimum requirement but not many. All the lots adjoining them are 50' wide. There are some across the street that are about 36' wide. They made their contract offer to the Kerrigans contingent on the Village granting their request to separate the lots.

3.23 Mr. Kolleng said that new homes would be at 3,670.21 square feet. He asked Ms. Roberts if this was the amount allowed on a 7,000 square foot or an 8,400 square foot lot.

Ms. Roberts said the square footage shown for new homes is what would be allowed on the two lots being discussed tonight.

3.24 Mr. Surman asked if they are able to save any trees on the properties.

Mr. Harness said that one of the big trees towards the front probably cannot be saved. The large one in the back should be able to be saved.

3.25 Mr. Surman said that there is a tree on the far northeast corner but he is not sure which property this tree is on.

Mr. Harness said he was not sure whose property this tree was on. They are not going to cut down a big tree to build a garage. He said that the addresses are 1815 and 1817. The garage for 1817 can be built where the current garage is. The other garage can be built towards the east side.

- 3.26 Mr. Tritsis said it appeared as if they were not building below the drip line of the tree in the back.

Mr. Harness said he did not think so. He has not completed the engineering study. It is pretty far back on the lot so they will try to avoid the drip line. He is not sure what species the tree is.

- 3.27 Mr. Kolleng asked if any variances would be required for the houses they are planning to build.

Mr. Harness said he is a builder and does not ask for variances. He has been told no before.

- 3.28 Mr. Robke asked if it was fair to say that there is no true hardship with the property and that this is strictly a financial consideration.

Mr. Harness said that the hardship would not be his but would be the Kerrigan's hardship. It would be an economic hardship.

- 3.29 Mr. Kolleng said that in the analysis of doing two homes on two lots as opposed to one home on one lot, one home would be over 5,000 square feet. From a financial perspective, where is there more value?

Mr. Harness said that the challenge would be the cost of the larger home. This is not a neighborhood of \$2.5 million or \$3 million homes.

- 3.30 Mr. Kolleng said that one home would not be a real option.

Mr. Harness said that it would not be a real option for him. It would not make financial sense. A home that would be \$2 million or \$3 million is not in character with the neighborhood.

- 3.31 The Board had no additional questions.

- 3.32 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. Surman said he does not have a problem with this request. Many lots in the area are of similar size as this lot. This lot was not sold off until this time. If a larger home went on the lot, it would not fit with the neighborhood's character. The request will fit in with the neighborhood. He can support the request.

- 5.2 Mr. Robke said he is troubled because the standards state that the difficulty or hardship resulting from the application of this ordinance would prevent the owner

from making reasonable use of the property. However, the fact that the property could be utilized more profitably with a variance than without a variation is not considered as grounds for granting the variation. The Board spends a lot of time looking at hardship. Typically, the basis of the hardship is that this lot is smaller than what was allowed by zoning so someone could not do something as much as their neighbors. Now they are going to create two parcels that meet the criteria that seems to be the hardship that is typically defined when people request a variance. The Board spends a lot of time trying to interpret and find room for hardships to allow residents and developers to maximize the use of their property. He cannot support this request. It is too much of a stretch to turn the language around. The reason for this request is strictly financial.

- 5.3 Mr. Schneider said he can support this request. The 8,400 square foot standard and the 50' minimum width was intended for larger subdivisions. In this case, there are two lots that are consistent with the predominant size of the lots in the area. To insist that they meet the 8,400 square foot minimum is not what was intended in this situation.
- 5.4 Mr. Kolleng said he is a little troubled by paragraph four, standards of review. In the past, before the change from 60' to 50', there was a lot of discussion about the economic impact and the driver in this type of situation. That is what is at work in tonight's case and what mollifies that somewhat is that the neighborhood has houses in similar situations. The Board does not want to grant variances for new construction, which is why he asked the above questions about whether the applicant would be seeking variations for the houses. He is 50/50 at this time but he can probably support this because of the character of the neighborhood.
- 5.5 Mr. Tritsis said that the Board always struggles with the point that Mr. Robke brought up regarding hardship. Tonight's ask seems significant and they are creating more density. The applicant is creating his own challenge. He does not think that he can support this request.
- 5.6 Mr. Kolleng said that no neighbors are at the meeting to complain about the request. One of the neighbor's light and air could be impacted yet they are not at the meeting.
- 5.7 Mr. Robke said he would define the hardship as shown in the language of the code that if they are commonly held by a common owner for a period of time, they need to be separated in this way. He is not sure that the Board is granting a variance for the hardship is the zoning code that creates that with the section 17.5.B that talks about the continuous lots being held in common ownership. He is not within the purview of the Board to change this. He would not agree with the law if he was making the law, but that is not what the Board is doing.
- 5.8 Mr. Surman said that if one looks at the Sanborn map, it was originally designed as two lots, the owners bought two lots, there are two separate PIN numbers. It aligns

with the north to south direction of lots of the same size. In this case, it was never developed. People along the way might have sold off lots next to their homes and this one was remaining. He views it differently than if the applicant was coming in and saying they have an x-foot wide lot and want to divide it but it was initially planned that way. It did not have a separate PIN. But in tonight's case it was planned that way and there are separate PINs.

- 5.9 Chairman Duffy said that he spoke with Ms. Roberts before the meeting asking why the Board had to hear this case since it is two separate PINs. His opinion, if he was not a Board member, he would say that this is two lots already so what is the point. But the technicality is the wording of the code, which says that if they are continuous lot and they are held by one owner for a period of time then there has to be a subdivision. Even with the technicality he thought that there were two PINs and two lots. As pointed out by Mr. Surman, in the past some of these lots were undeveloped and sold off and houses were built on them. Recently the Board had a case on Lake Avenue just east of St. Joseph Church. The property owner owned 100' along Lake Avenue and the Board allowed him to subdivide his lot and let his son build a house next door to him. That was not a case, however, where the lot was smaller than 8,400 square feet and it was substantially larger because the lots were much deeper. In tonight's case, his opinion is that so many of the lots are of similar size to the two lots.
- 5.10 Mr. Robke said the applicant should be able to develop them as two separate lots. He went through the same process as to why this is even an issue. He does not believe that it is within the Board's purview to grant this request. He disagrees with the wording of the ordinance and would love to find another recourse.
- 5.11 Mr. Schneider said that raises a great point that maybe the intent is for when one is subdividing larger parcels or multiple parcels. This request is kind of an anomaly.
- 5.12 Mr. Robke said he would like to see this section removed from the ordinance. If there are two PINs, they should be two separate parcels.
- 5.13 Chairman Duffy said that PINs are for the county and taxes and not for the local municipality and how the Village determines lots.
- 5.14 Mr. Robke said that his objection is with the language included in the ordinance. Can he abstain so that it doesn't go as a negative vote?
- 5.15 Chairman Duffy said that there have to be four positive votes for a positive recommendation.

6.0 DECISION

- 6.1 Mr. Surman moved to recommend granting a request for a lot separation variation to separate the ownership of two lots each measuring 50.02' x 140.0', 7,002.8

square feet in area at 1817 Elmwood Avenue in accordance with the plans submitted.

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

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

Motion carried.

6.2 Mr. Kolleng moved to authorize the Chairman to prepare the report and recommendation the Zoning Board of Appeals for case number 2017-Z-24.

6.21 Mr. Surman 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 non-conforming lot variation standards of Section 17.5 of the Zoning Ordinance. The physical conditions of the property, the common ownership of two 50-foot subdivided parcels, impose upon the owner a practical difficulty in redeveloping the vacant lot. This condition is based on the ownership of the property and is not actively caused by the owner. The difficulty is peculiar to the lot in question. The difficulty prevents the owner from making reasonable use of the property with redevelopment that is economically viable. The applicant is unable to purchase property either from the east or the west to create a conforming situation. Approximately 93% of the properties within 500' are non-conforming in lot area. Any new construction will be conforming and will have no negative impact to light and air on neighboring properties. Any new construction will be infill on the lots in a pattern consistent with the rest of the lots on the south side of Elmwood Avenue. The neighborhood character thus will not be altered.

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 non-conforming lot variation standards of Section 17.5 of the Zoning Ordinance. Specifically, the fact that the owner or applicant can make more money by separating off lot 4 is not a reason to grant a variation.

8.0 RECOMMENDATION

The Zoning Board of Appeals recommends granting a request for a lot separation variation to separate the ownership of two lots each measuring 50.02' x 140.0', 7,002.8 square feet in area at 1817 Elmwood 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. Abraham Kelly, landscape architect
The Arrow Shop

3.2 Summary of presentations

3.21 Ms. Roberts said that this is a request for a special use to expand the existing special use (townhouse) and a 6.33' rear yard pergola setback variation. The Village Board will hear this case on June 13, 2017.

3.22 Mr. Kelly said he was hired by the applicants to replace their rear terrace and to put a pergola over the top. Originally, they were told that the setback was 40' but when he received the paperwork he learned that the setback is 34'. They are not requesting as much as they originally thought they would need. They want the pergola because one of the applicants has a condition where he cannot be exposed to sunlight. For him to be outside they need a covered pergola.

The pergola conforms to height, FAR and impervious surface coverage requirements.

3.23 Mr. Boyer clarified that there was construction done in 1998 and this was conforming at that time.

Ms. Roberts said it was conforming at that time but with new zoning ordinance, it is no longer conforming.

3.24 There were no additional questions from the Board.

3.25 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. Surman said this is a minor request. It is nicely designed. He has no issue with it, but he has no context as to whether there are other pergolas like this in the development.

5.2 Chairman Duffy said he didn't see any other pergolas.

5.3 Mr. Boyer said that the request is minimal. It is a good addition to the property. All standards of review are met. There is no issue with impacting neighboring properties.

5.4 Chairman Duffy said that the way the development is set up and this unit is notched back, it will not impact the adjacent neighbor to the south. To the north, there is a single-family home with dense trees and shrubbery. He can support this and the request is reasonable.

6.0 DECISION

6.1 Mr. Surman moved to recommend granting a request for a special use to expand the existing special use (townhouse) and a 6.33’ rear yard pergola setback variation at 732 11th Street in accordance with the plans submitted. The use shall run with the use.

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	Yes
Christopher Tritsis	Yes

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 2017-Z-22.

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 and the variation standards of Section 5.4.F of the Zoning Ordinance. The request is consistent with the Comprehensive Plan. The proposed pergola will not be injurious to other property, impede normal and orderly development, or diminish property value. The request will not impact the adequate provision of road access, utilities, and adequate ingress and egress. The request will be consistent with community character. There are no known archaeological, historical, or cultural resources that will be impacted by this request. No other provisions of Article 12 apply.

The physical conditions of the property, the siting of the townhouse on the lot, impose upon the owner a practical difficulty. The plight of the owner was not created by the owner and

is due to the circumstances of the lot. The difficulty is peculiar to the property in question. The difficulty prevents the owner from making use of their outdoor space. The proposed variation will not impair an adequate supply of light and air to adjacent properties. The variation, if granted, will not alter the essential character of the neighborhood.

8.0 RECOMMENDATION

The Zoning Board of Appeals recommends granting a request for a special use to expand the existing special use (townhouse) and a 6.33' rear yard pergola setback variation at 732 11th Street 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. Andrew Venamore, applicant
Mach 1

3.2 Summary of presentations

3.21 Ms. Roberts said that this is a request for a 293.35 square foot (5.64%) total floor area variation to permit the construction of a new one-car detached garage on the legal non-conforming structure. The Village Board will hear this case on June 13, 2017.

3.22 Mr. Venamore said that the owners plan to replace an existing decrepit one-car garage. The garage will be in approximately the same location as it currently is. The existing structure is 18' deep, which is impractical. The goal of the project is to build a new and more usable garage.

The variation is for FAR which is related to lot size at 5,200 square feet and rather small. The house is not large but has some spaces that contribute to FAR including over 700 square feet in the attic, which is not usable or practical square footage. By replacing the structure, they hope to get to a depth that is more practical. They kept the 14' width and made it a little deeper. Staff report indicates that the allowance for the garage changes based on its size so it is now 280 square feet. But they cannot get around the essential issue that the house is driving the FAR non-conformity. If the garage was to be rebuilt from scratch to a conforming situation, it would be limited to 120 square feet, which is not practical.

The garage currently has two small setbacks, one to the rear – west of 1.54' and to the north, which is the interior side yard, of 1.35'. It is also nonconforming with regard to these two setbacks. The new garage will comply with setbacks. They will have 3' setback from the rear and 3' setback from the side yard.

3.23 Chairman Duffy asked about the existing rear lot line setback.

Mr. Venamore said it is hard to read on the survey but it is 1.54' and that will become 3' from the side, which brings it forward about 1.5'.

3.24 Chairman Duffy clarified that they are adding another 2' to the garage.

Mr. Venamore said that the front yard setback drops down to 17'.

3.25 Chairman Duffy asked if the garage would no longer line up with the adjacent garage.

Mr. Venamore said that the two garages would no longer line up. He continued and said that the hardships are related to small lot size and the way the house is sited on the lot and the way that the FAR is calculated and the use of attic space is driving the request. They are replacing the current structure with something that is more practical.

3.26 Chairman Duffy asked when the house was built.

Mr. Venamore said that the house was built in 1911.

3.27 Mr. Kolleng asked if the garage was currently used.

The applicant said they do not use the garage because it is too small. It currently serves as a shed.

3.28 Mr. Surman asked about the elevation of the new floors. Does it impact drainage around the property?

Mr. Venamore said existing slab height with an assumed benchmark is 101.51 and they are going up to 101.75. They are running down spouts.

3.29 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 that this is a case that shows the need for the variance process. The large attic is driving the FAR non-conformity. Even though they do get the bonus, it does not cover the total size of the attic. The request is reasonable and they are asking for a replacement of what they currently have. The additional square footage comes from needing to have a slightly deeper garage so they can still use their garage. All standards of review are met and he can support the request.

5.2 Mr. Robke agreed with the above and he can support the request.

5.3 Chairman Duffy said this is straightforward. They are replacing existing and making it functional. They are complying with setbacks. He can support the request.

6.0 DECISION

6.1 Mr. Boyer moved to recommend granting a request for a 293.35 square foot (5.64%) total floor area variation to permit the construction of a new one-car detached garage on the legal non-conforming structure at 500 Gregory Avenue in accordance with the plans submitted.

6.11 Mr. Robke 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	Yes
Christopher Tritsis	Yes

Motion carried.

6.2 Mr. Surman moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2017-Z-20.

6.21 Mr. Boyer 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 physical conditions of the property, the lot size and the house size, impose upon the owner a particular hardship. The plight of the owner was not created by the owner and is due to the unique circumstances of the lot. The hardship is peculiar to the property in question and not generally shared by others. The hardship prevents the owner from making reasonable use of the property with a functional garage. The proposed variation will not impair an adequate supply of light and air. The proposed garage is adjacent to the neighbor’s detached garage. The proposed garage also moves the garage to a conforming location, improving the situation. The variation, if granted, will not alter the essential character of the neighborhood.

8.0 RECOMMENDATION

The Zoning Board of Appeals recommends granting a request for a 293.35 square foot (5.64%) total floor area variation to permit the construction of a new one-car detached garage on the legal non-conforming structure at 500 Gregory 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. Mark Miller, architect

3.12 Mr. Cary Kelly, owner

3.2 Summary of presentations

3.21 Ms. Roberts said that this is a request for a 9.49' front yard setback variation and a 3.49' combined side yard setback variation to permit the construction of a second-story addition and a 3.84' combined side yard deck setback variation, a 3.84' combined side yard pergola setback variation, and a 0.96' combined side yard stair setback variation to permit the construction of a new deck and pergola on the legal non-conforming structure. The Village Board will hear this case on June 13, 2017.

3.22 Mr. Miller said that they are adding a master bath adjacent to the master bedroom, a new deck and pergola so they can dine at kitchen height level and a mudroom. The deck and master bedroom will require a variance due to the home being on a substandard width lot. The lot is 40' wide. If they had the extra 10' some of the issues could be eliminated. They are in compliance with FAR and permeable surfaces. They are not asking for additional square footage. They are simply looking to do what is logical. There is a one-story office on the first floor and they want to build on top of that to get the master bath. They are staying within the home's footprint. The footprint is not in compliance with the front yard setback or the combined side yard setback requirement.

3.23 Chairman Duffy said that the architect addressed the combined side yard setback for the addition but he did not say why it was a hardship for the deck and pergola in the application.

Mr. Miller said that if they had the additional 10' in lot width they would have more side yard to meet the side yard combined variance setback. The house is tight to the existing property lines so that is causing the issue with noncompliance of the combined side yard setback.

3.24 Chairman Duffy said his issue was that there is a lot of room behind the house for the deck and pergola and that it does not have to be on the side.

Mr. Miller said that there is an existing egress to the basement that comes out of the rear elevation of the home so the deck would be covering that egress point, which did not seem like a good idea. A favorable solution would be on the east side as proposed.

- 3.25 Chairman Duffy asked how much the deck expanded beyond the existing structure. The proposed deck sticks out further into the side yard than the office.
- Mr. Miller said that the amount that it sticks out further is small – less than 24” but he does not have the exact number in front of him.
- 3.26 Chairman Duffy said that the dimension looks larger on the drawing.
- Mr. Miller said that decks can extend 2’ beyond the side yard setback.
- 3.27 Chairman Duffy said that this deck has a pergola on it so that is bulk that comes into the side yard.
- Mr. Miller said that the pergola is airy. Bulk is a strong word. It is not mass, it is sticks.
- 3.28 Mr. Robke asked where the stair was located that comes out of the basement.
- Mr. Miller showed the location to the Board and showed a photo.
- 3.29 Chairman Duffy asked if that was the only access to the basement.
- Mr. Miller said that there is an interior stair down to the basement. The exterior stair is not the only access to the basement. But it is the only access to get equipment in and out of the basement.
- 3.30 Chairman Duffy asked if there is a workshop in the basement.
- Mr. Kelly said he has a workshop in the basement. He does not build cabinets but he does need to get items in and out of the basement. The deck that they have is decrepit and falling apart. They want to fix that.
- 3.31 Chairman Duffy said if they look at the east elevation, 1.8. To him it looks like a box on top of a box. When they look at the front of the house which is 1.7, it is a little bit softer of a look. It seems to not fit in with the house. Were there any additional attempts to soften it like adding a peak? 1.8 really shows what he is talking about.
- Mr. Miller said that an earlier scheme had a gabled look to the structure. But it made interior usage of the bathroom not useful.
- Mr. Kelly said that the neighbors to the east are at the meeting and they can speak if the Board wants to hear their thoughts on the proposal.
- 3.32 Chairman Duffy said that the addition is 8.5’ x 14.8’.

Mr. Miller said that the addition matches what is below.

- 3.33 Mr. Surman asked if they had considered having the deck not quite as deep.

Mr. Miller said that there is not enough passage space if they have a dining space to get to the side entry of the house. They needed walkway and dining widths. That's how they came up with the size.

- 3.34 Chairman Duffy said it looks like the widest part of the deck is 10'.

- 3.35 Mr. Surman said it is 10'10" deep.

Mr. Miller said that there is an existing dining room bay that cuts into that dimension.

- 3.36 Chairman Duffy asked what the width of the stairway opening that goes into the backyard.

Mr. Miller said it is about 7'. It is close to the dimension of the existing office.

- 3.37 Mr. Schneider asked if the deck was permeable.

Mr. Miller said that rain can go through that and they don't know what the surface is below – gravel or ground cover but it will allow rain to get back into the soil. It will not be solid.

- 3.38 Mr. Boyer asked if the lot was 50' wide there would be no issues. It would be conforming?

- 3.39 Mr. Surman said that the dining table is more of a want than a need.

Ms. Roberts said that what is giving them trouble is the existing west side yard setback. They have to make up the difference on the west side because they are short on the other side. The combined setback would be 12.5' whether it is 40' or 50' wide.

- 3.40 Discussion regarding setback if the house was centered then the setback would move further to the east, which would put it up to or close to the property line.

- 3.41 Mr. Boyer asked if the Board usually allowed for a 6' deep front porch.

Ms. Roberts said that is the allowable encroachment.

4.0 INTERESTED PARTIES

4.1 Persons speaking on the application

4.11 Mr. Jim Schmid
1611 Central Avenue

4.2 Summary of presentations

4.21 Mr. Schmid lives just to the east of the applicant. They want to extend the house a little to the east. They hardly look at their neighbor's house and it's fine if they want to extend the house a little to the east. He has plenty of side yard between his house and his lot line – maybe about 10'.

Chairman Duffy asked Mr. Schmid how long he has lived in his house.

Mr. Schmid has lived in his house since 1975. His house was built in 1926.

Chairman Duffy said that Mr. Schmid's house is on a 50' lot. At some point in time someone may say that Mr. Schmid's house is ripe for development.

Mr. Schmid said that his house will be torn down at some point in time.

Chairman Duffy said that additions and encroachments would impact those building a new house.

Mr. Schmid said they have a driveway on the east side that could be eliminated to make more room for a new house. There is an alley behind him. Garbage pick-up is off the alley.

5.0 VIEWS EXPRESSED BY MEMBERS OF THE ZONING BOARD OF APPEALS

5.1 Mr. Boyer said he would like to hear what his colleagues must say. There are five requests and two are for the addition, which seemed reasonable due to home siting and lot width. The proposed addition is going over the existing footprint. The deck, although nice, there are issues. In looking at the size of the request, the request is causing the need for the variances. They are creating their own hardship by asking for such a large deck. For front porches, 6' is allowed. This functions in the same sort of way. The request could be minimized. They must balance private property rights with the zoning code and what people can do with their home. It is a reasonable request in some ways but he is on the fence.

5.2 Mr. Kolleng said as it relates to the stair setback, it is only 1' so that is very small. Do they need a 10' wide deck? There might be a lack of a hardship. The neighbor spoke and had no issue and that moves him a little more that he could support the request. Regarding future development on the neighbor's site, someone will have to replace the deck and pergola. They will have to come to the Board. He is okay with the request and will support it.

- 5.3 Mr. Robke said that everyone is talking about the 10' depth on the deck, which is not being caused by a hardship and is also being caused by a mud room. They chose to configure everything on the side when they could have gone to the rear. He understands the issue of the door going down the basement, but there is a lot of space to create a deck in the back. The current neighbors have no objection to the request. But in 15 years someone might take advantage of full development potential on the adjacent structure this becomes close and seems more like the city than the Village. He is troubled. He does not have a problem with the addition request but is concerned about the deck and the pergola. He worries about the impact in the future and is troubled by it.
- 5.4 Mr. Schneider asked Ms. Roberts why if the deck juts out 2' beyond the east wall of the existing office and the bathroom on top, why is the setback variation almost the same given that it is 2' further.
- Ms. Roberts said they take the required combined setback for the house which is 12.5' and subtract 2.37' which is the existing setback on the other side and then they take that 2' encroachment that the deck is allowed to go. That gets them to a requirement of 8.13'.
- 5.5 Mr. Schneider asked if there was a patio and no pergola would there be an issue.
- Ms. Roberts said that there would not be an issue.
- 5.6 Mr. Schneider asked how high a patio can be before it becomes a deck.
- Ms. Roberts said that patios are defined as being less than 1' off the ground.
- 5.7 Mr. Schneider said that the pergola is an addition and is also a variation request. If the pergola were to stop 2' west of the deck would that be a problem.
- Ms. Roberts said that they need 8.13'.
- Chairman Duffy said that the pergola setback is 3.8'.
- 5.8 Mr. Schneider said that if it was a patio, 1' or less above grade, and there was a pergola, the issue would be the pergola or 30 square feet. But because the patio is 3' above grade, it is a deck and there is a variation request. His view is that it is permeable and there is no water runoff issue. It is a minimal request to make the space more usable. The addition of the mud room is important to the home's function. He can support this.
- 5.9 Mr. Surman has no problem with any of the variances except for the pergola. He is on the fence. If the request was being made and it was a front yard issue would the Board consider putting the deck this size in front of the house. Is that a want or a

need? They could maybe wrap a deck. He does not see the need to extend further out than the line of the house.

- 5.10 Mr. Robke referenced 8.32' and there is an extension on the pergola that goes further into the side yard setback.
- 5.11 Mr. Surman said that it then is close to the neighbor.
- 5.12 Mr. Tritsis said that the second story addition makes sense. The pergola is a challenge for all reasons mentioned.
- 5.13 Chairman Duffy said that he has seen decks to accommodate an exterior entrance to the basement where the deck opens and there is a gate that opens and then you can put the deck back down and close it. They could ask for no variances and have the deck and pergola off the back and still accomplish the goal of having the deck and using it for eating. They could have a larger deck if they go off the back. Then they are not impacting the side yard. Regarding the addition, he thought it was kind of blocky but he does not have a problem with the setbacks. He thought that maybe he could live with the deck being in line with the addition. Then they lose 2.5' to 3' of the deck, which makes it 7.5' of width. Is that bad? It is wider than an allowed front porch.
- 5.14 Mr. Schneider asked if the deck was in line with the addition what would be the variance request.
- Ms. Roberts said it would be 1.49' versus 3.8'.
- 5.15 Mr. Kolleng said that the Board should not get hung up on the pergola piece of the request because it is not a solid structure. It is open. If this was a cement slab there would not be an issue with the pergola. No one eats on their front porch and the proposal is off the kitchen and mud room so the location makes sense. Maybe the Board is overthinking this.
- 5.16 Mr. Tritsis said that the current neighbor supports the request and that is a strong statement. He is okay with the request.

6.0 DECISION

- 6.1 Mr. Boyer moved to recommend granting a request for a 9.49' front yard setback variation and a 3.49' combined side yard setback variation to permit the construction of a second-story addition and a 3.84' combined side yard deck setback variation, a 3.84' combined side yard pergola setback variation, and a 0.96' combined side yard stair setback variation to permit the construction of a new deck and pergola on the legal non-conforming structure at 1617 Central 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	Yes
John Kolleng	Yes
Mike Robke	No
Reinhard Schneider	Yes
Bob Surman	No
Christopher Tritsis	Yes

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 2017-Z-21.

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 of the Zoning Ordinance. The physical conditions, the lot width, the siting of the house on the lot, and the location of exterior basement stairs, impose upon the owner a practical difficulty. The plight of the owner was not created by the owner and is due to unique circumstances. The difficulties are peculiar to the property in question and not generally shared by others. The difficulties prevent the owner from making reasonable use of the property with master bathroom addition and with a deck and pergola. The addition is above an existing first floor and the pergola is an open structure; neither will impair an adequate supply of light and air to adjacent properties. The variations if granted will not alter the essential character of the neighborhood.

A minority of the Zoning Board of Appeals finds that the request does not meet the variation standards of Section 5.4.F of the Zoning Ordinance. Specifically, there is no hardship on the lot that is preventing the owners from doing a conforming deck and pergola. The owners are creating their own plight with the proposed size of the deck and pergola. It may be possible to construct a deck and pergola in a more conforming location and working around the exterior basement stair.

8.0 RECOMMENDATION

The Zoning Board of Appeals recommends granting a request for a 9.49’ front yard setback variation and a 3.49’ combined side yard setback variation to permit the construction of a second-story addition and a 3.84’ combined side yard deck setback variation, a 3.84’ combined side yard pergola setback variation, and a 0.96’ combined side yard stair setback

variation to permit the construction of a new deck and pergola on the legal non-conforming structure at 1617 Central Avenue in accordance with the plans submitted.