



1200 Wilmette Avenue  
Wilmette, Illinois 60091-0040

**MEETING MINUTES**

**ZONING BOARD OF APPEALS**

**WEDNESDAY, JUNE 6, 2018**

**7:30 P.M.**

**COUNCIL CHAMBERS**

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**Members Present:** Chairman Patrick Duffy  
Mike Boyer  
John Kolleng  
Christine Norrick  
Michael Robke  
Reinhard Schneider  
Bob Surman

**Members Absent:** None

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

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**I. Call to Order**

Chairman Patrick Duffy called the meeting to order at 7:31 p.m.

**II. 2017-Z-65 1020 Forest Avenue**

See the complete case minutes attached to this document.

**III. 2018-Z-25 121 Dupee Place**

See the complete case minutes attached to this document.

**IV. 2018-Z-26 106 16<sup>th</sup> Street**

See the complete case minutes attached to this document.

**V. Approval of the May 2, 2018 Meeting Minutes**

Mr. Kolleng moved to approve the May 2, 2018 meeting minutes.

Mr. Surman 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 8:29 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. Hal Francke, attorney for the applicant

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

3.21 Chairman Duffy said that this case will be continued. The next available date is July 18, 2018.

The applicant said that they are requesting a continuation to this date.

3.22 Chairman Duffy said that Our Place staff should present the following at the July meeting: they have reached out to the neighbors, a plan presented regarding the solution to the issue, and the parking study.

3.23 Mr. Boyer clarified that no traffic management plan had been submitted.

### **4.0 INTERESTED PARTIES**

4.1 Someone in the audience objected to the case being continued since the neighbors had made arrangement to attend the meeting.

Mr. Francke said that in February, village staff directed them to do a traffic and parking study. Kimley Horn was retained by the village to do that study. It is in the packet. The study results were given on May 25, 2018. Staff met with Our Place on June 1, 2018. There has been no opportunity to put together a responsive plan. They have not met with staff to review a plan because there is no plan. The neighbors will get to see the plan. He wants to ensure that there is consensus and that the plan works for everybody. He apologized that people came to the meeting and that the case was continued.

Chairman Duffy apologized to the neighbors who were in attendance, but a continuation is the result and the applicant will return on July 18, 2018. The public can address any concerns at that time.

### **6.0 DECISION**

6.1 Mr. Schneider moved to continue the case to the July 18, 2018 meeting.

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

Motion carried.

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

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

3.11 Ms. Shelly Cellak, applicant

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

3.21 Ms. Roberts said that this is a request for a 205.88 square foot (28.5%) front yard impervious surface coverage variation to permit the installation of a new driveway on the legal non-conforming structure. The village board will hear this case on June 26, 2018.

3.22 The applicant said they bought the property in October 2016. Prior to their purchase, another family bought the home in January 2016 and prior to that purchase, the same family owned the home for over 50 years. The condition of the home's exterior was neglected for many years. They wanted to update the home, modernize the front, and ensure that the home fit with the neighborhood.

She knows that adding impervious surface is a concern. There is a front flower bed that was raised and overgrown. They tore that out and laid down sod and a small level flower bed. It is easier for rain to penetrate the ground. When they bought the home, there was dirt in the backyard. When it would rain, the rain would have difficulty penetrating the ground. The dirt was very dry.

They currently have two 'ribbons' as the driveway and in the middle is a strip of dirt. They thought of replacing the dirt with grass, but they have such high usage of the driveway and the grass would not grow. Their neighbors would love that there is no mud when it rains. When it rains, the dirt gets muddy and she has a hard time pulling out onto the ribbons.

To alleviate some of the impervious surface issues. They will install two rain barrels. It is an environmentally friendly way to use the rain water.

Some of the benefits of having a new driveway include it will allow them better use of the space. Their current driveway abuts with the neighbor's driveway. It is a tight space and difficult to delineate the two properties. If they have a new driveway, that issue will be solved.

Their street is very busy and there are lots of children. Because they want to remain on the ribbons, they are distracted when pulling out onto the street. It is a potentially hazardous situation.

A smooth surface area will allow them better use of the property and the neighbors will appreciate their improvements. She asked the board to grant the request, so they can improve the property.

- 3.23 Mr. Boyer asked if 157.49 square feet was what the existing home contributed to square footage to the front yard coverage.

Ms. Roberts said that this was correct.

- 3.24 Chairman Duffy clarified that the front yard setback is 18' so the whole front porch area is in the front yard.

- 3.25 Mr. Boyer said that the house was 9.45' from the front lot line.

- 3.26 Chairman Duffy said he spoke with Ms. Roberts prior to the meeting. The front yard setbacks of houses on the block, the average is about 10', but with the new zoning ordinance, the minimum front yard setback for this area is 18'. All of the houses will have structure in the front yard setback because of that. The board granted a garage request on the property in 2017 and the applicants got a rear yard impervious surface coverage variation for that garage. It was 8.5%. Do the applicants use the garage for cars?

The applicant said that they would use the garage for cars.

- 3.27 Chairman Duffy said that they currently park on the side of the house.

The applicant said they just laid new sod and put up a new fence. They are not using the space yet.

- 3.28 Mr. Schneider asked if they planned to repave with asphalt.

- 3.29 Chairman Duffy said they would pave with concrete.

The applicant said they would have concrete from the rear of the house to the street.

- 3.30 Mr. Schneider referenced two houses, one on the applicant's side of the street, two houses down, and another one on the opposite side of the street that have similar ribbons with beautiful lawn in the middle.

The applicant said that her property is narrow, and the grass is a high traffic area and they could not keep the grass alive.

- 3.31 Mr. Schneider asked if they considered pervious paving.

The applicant said that they had a quote for pavers, but it was out of their budget.

- 3.32 Chairman Duffy asked if just the front yard section could be pervious pavers versus the whole driveway. It would be about 18'.

The applicant said she didn't like the look. It would be pavers and then cement and there would not be a seamless flow to the driveway.

- 3.33 Mr. Surman asked about keeping the concrete ribbons and filling in the center portion.

The applicant said they would take the ribbons out and then replace the ribbons. They will fill in the middle and also 1' to the north. They would then have more driveway space.

- 3.34 Chairman Duffy said that the front corner of the house is 10.06' off the lot line. From that point forward, it appears as if there is 11.78' from the side.

- 3.35 Mr. Robke said that the 11.78' dimension is to the corner of the front extension.

- 3.36 Mr. Kolleng said that there is a letter from the neighbor indicating that the applicant's cars are always in the driveway. He is trying to figure out if they are using the garage and the pad. Is it going to be a play area for the kids?

The applicant said they will use the pad. They extended the backyard. Before they had a one-car dilapidated garage. Now they have a new two-car garage. That was finished in the spring 2018. They got the sod down about a week ago. She said that the neighbor indicated that the applicant parks in the driveway.

- 3.37 Mr. Kolleng said that the neighbor indicated that the applicant was also on the neighbor's driveway.

The applicant said that the letter indicated it was from the homeowner. The person who wrote the letter is not the homeowner. The person who wrote the letter is the daughter of the owner. The person who wrote the letter lives in Kenilworth. Julia Collins, a daughter of the owner, lives there. Jean may be a co-owner.

- 3.38 Chairman Duffy said that the applicant is not sure if Jean is the owner.

The applicant said that Jean's mother is the owner. When she looked up property records sometimes it showed Jean as the owner. She could be a co-owner. She said they have done all that they can to be very neighborly. She said that having more space in the backyard will create a delineation between the driveways. Some of the neighbor's asphalt is on the applicant's property. The applicant's children do not touch the neighbor's property. The neighbor has given rules to the applicant and the applicant has tried to comply.

- 3.39 Chairman Duffy said that according to the letter the applicant does not follow the requests that the neighbor made. But the requests seem nominal. There is a lot of nit-picking going on.
- 3.40 Mr. Robke clarified that the intent is to extend the driveway all the way back to the garage and eliminate the ribbons. He asked about the prior variation that was granted.
- Ms. Roberts said that the prior variation was not for the driveway and only for the garage in the rear.
- 3.41 Mr. Robke said he understood that there was pavement in the hatched area.
- 3.42 Chairman Duffy said that from the front yard setback to the back-yard setback, there is no impervious surface issue. All the board is talking about is the front area in the front yard setback. From the back corner of the house to the new garage is new concrete. The survey is from 2016 so it doesn't show the correct garage. In the previous application when the board granted the impervious surface for the garage, the driveway to access the garage was not a factor.
- 3.43 Mr. Boyer said that none of the houses on the block have a side drive in concrete or asphalt. The applicant's house is about 9' away from the front lot line. Would most of the houses need a variance for impervious surface coverage if they were to replace their existing driveway?
- Ms. Roberts said that if an existing condition, it does not require a variation. If it was a new condition like adding paving they would require a variation.
- 3.44 Mr. Boyer said that the neighbor at 117 would need an impervious surface front yard coverage variation if they wanted to replace their driveway.
- Ms. Roberts said that no variation would be needed if they were replacing as is. The home most likely is nonconforming.
- 3.45 Mr. Robke asked what approval was granted to extend the curb cut. Has the larger driveway been reviewed?
- Ms. Roberts said she does not know if it has been reviewed, but this would be part of the building permit process.
- 3.46 Chairman Duffy referenced the pictures that the applicant submitted. There is a large tree adjacent to the driveway on their lot. He does not know what expansion of the curb cut and width of the apron they can achieve.
- 3.47 Mr. Surman said that referenced 1.4, which shows a larger apron.

3.48 Mr. Schneider reference 1.5, top left photo, which shows the driveway.

3.49 Mr. Surman asked if the intention was to make a wider apron.

The applicant said that that is not part of their plan.

3.50 Chairman Duffy clarified that the work would take place from the sidewalk to the front of the house.

3.51 Ms. Norrick clarified that the applicant noted that they would use the garage. She noted that a fence currently blocks access to the garage.

3.52 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 the block was originally plotted without an alley. All of the homes need side drives to access their garage. The block has homes with narrow lots, side drives to a garage or parking pad. What they proposed fits with the neighborhood character. It is not a large request. The size of the home contributes 157 square feet to the impervious surface calculation, so the net ask is about 48.39 square feet. Based on the siting and the reasonable request, standards of review are met. He can support the request.

5.2 Mr. Schneider said he generally is not in favor of increasing impervious surface because of drainage and sewer issues, especially on the east side of the village. The request is small, and Mr. Boyer noted the small net ask, he can support this although he has trouble seeing the actual hardship. But the variation request is small.

5.3 Mr. Kolleng agrees with Mr. Schneider. He agreed that the request was small. He has some trouble with the hardship as well as with the neighbor's letter, which indicates that there is not the level of neighborliness there should be. But he will support the request.

5.4 Chairman Duffy said he noticed that the south side of the roof, the gutter runs to the front of the house and then to the street. When the applicant talked about a river of mud, it is the doing of the applicant that causes this. This is an existing issue. By putting cement where they are proposing, nothing is really changing because the water is rushing fast and is not soaking into the front yard. It would be nice for a solution to that. He said that he does not know if residents are encouraged to hook up their gutters to the storm sewer. The request was minimal. Every house on that side of the street would have that same issue given the same circumstances. He did not think that the request would negatively impact the neighborhood.

**6.0 DECISION**

6.1 Mr. Boyer moved to recommend granting a request for a 205.88 square foot (28.5%) front yard impervious surface coverage variation to permit the installation of a new driveway on the legal non-conforming structure at 121 Dupee Place in accordance with the plans submitted.

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

Chairman Patrick Duffy	Yes
Mike Boyer	Yes
John Kolleng	Yes
Christine Norrick	Yes
Michael Robke	Yes
Reinhard Schneider	Yes
Bob Surman	Yes

Motion carried.

6.2 Mr. Kolleng moved to authorize the chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2018-Z-25.

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**

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 lot, the width and depth of the lot and the location of the house on the lot, 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 though not unusual on the block. Most nearby properties do not have ribbon driveways. The hardship prevents the owner from making reasonable use of the property with a full-width paved driveway. The proposed variation will not impair an adequate supply of light and air nor otherwise injure adjacent property. Water currently does not get absorbed into the unpaved area between the driveway ribbons; the new driveway will continue to direct runoff to the street. The variation, if granted, will not alter the essential character of the neighborhood. Most neighboring driveways are fully paved. The new driveway will clean up the appearance of dirt and mud that currently exists between the driveway ribbons.

**8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a 205.88 square foot (28.5%) front yard impervious surface coverage variation to permit the installation of a new driveway on the legal non-conforming structure at 121 Dupee Place 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. Michael Venechuk, architect  
1615 Highland Avenue

3.12 Mr. Matt Pope, applicant

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

3.21 Ms. Roberts said that this is a request for a 24.5 square foot (0.78%) total floor area variation, 1.69' combined side yard setback variation, a 0.41' combined side yard eave setback variation, a 3.43 square foot (0.55%) rear yard structure impervious surface coverage variation, a 5.0' side yard air conditioner condenser setback variation, a variation to allow the expansion and relocation of windows in a non-conforming wall, and a variation to the requirement that a new home provide two enclosed parking spaces to permit the construction of a substantial addition and remodel that is classified as a new home and the retention of an existing one-car detached garage. The Village Board will hear this case on June 26, 2018.

3.22 The architect said they want to build a second floor above the existing first floor of a one-story home with a small porch in front. He said that they meet the front and rear setbacks and they meet minimum side yard setback, but they don't meet the combined side yard setback. The lot is 25' wide. He talked about maximum allowable floor area of about 25 square feet. By building directly above, they are over by about 25 square feet. They looked at clipping the ceilings in the front bedroom and then they would not need a variation. These rooms are already small.

3.23 Chairman Duffy asked if the attic dormer area counted.

The architect said it counts for nothing. It is non-habitable storage space.

3.24 Chairman Duffy said that the design indicates that it is a finished attic. It says carpeted.

The architect said it would be plywood and not carpeted. The area needs to be insulated and to meet energy code, they will cover the insulation with dry wall. But there were only be a few outlets up there. The house is over a crawl space. They are trying to create additional storage up there.

3.25 Chairman Duffy asked if the attic ceiling height was 6'9".

The architect said it was 6'8-3/4".

Ms. Roberts confirmed that 6'9" and higher counts as floor area.

- 3.26 Chairman Duffy asked the total height of the house.

The architect said that it is 28.5'.

- 3.27 Mr. Robke asked if they were trying to meet energy code or be energy efficient. He said that an open stair is not energy efficient.

The architect said they want to meet energy code.

- 3.28 Chairman Duffy said they are just under the required height to be counted for floor area. They are under the total allowed building height of 35' by a few feet.

- 3.29 Mr. Surman wanted to know if the plans stated that the ceiling height was just under 6'9".

The architect said that dimension was on the plan. They do not get an attic bonus in the zoning district.

- 3.30 Chairman Duffy noted that air conditioner units were part of the request.

The architect said that the lot is 25' wide and they have to be 10' from the property line so there's only a 5' wide swath in the middle of the lot. The units are proposed back by the garage. That is the only logical place to put them. It's farther away from the neighboring houses than if it was in a conforming location.

- 3.31 Mr. Boyer asked if the a/c units were set against the house under a window, would they need a variance?

The architect said they would require a variance unless it was right in the middle of the lot up against the house. They already do not have much of a usable backyard.

- 3.32 Mr. Schneider said that they are tearing down the existing house and referenced exhibit 1.6.

The architect said the north exterior wall is less than 3' from the property line. The windows and wall would have to be fire rated. They could inset the windows to get them 3' away. But then the walls have to get thicker. They then decided to take that wall down. The foundation remains. It is 10" wide and they plan to pull it in by 3".

- 3.33 Mr. Schneider asked about how much attic area is 6'8".

Ms. Roberts said that she does not know.

The architect said it would be on the zoning calculations. The flat roof area is limited to 25% of the second floor area. The dormers are also limited to 25% of the second floor area.

Ms. Roberts said that the last page of the report has the attic calculations.

The architect said that the flat roof is about 160 square feet.

- 3.34 Mr. Schneider said that this is one of the smallest lots in the village. With new construction they should have a two-car garage. They are asking for a variation to maintain the existing one-car garage. He understands why they are asking for this. To comply with setbacks and coverage, they would need other variations for a two-car garage.
- 3.35 Mr. Schneider said he assumes they will continue to use the space to the north as a pad to park a second car.
- 3.36 Chairman Duffy asked if they are taking down the whole house and leaving the foundation?

The architect said they are keeping the foundation and the floor of the first floor. They will keep the front elevation that faces 16<sup>th</sup> Street and will keep the west, south, and east walls. If they tore the house down, they would need a two-car garage and another variation for that. The house would get smaller. They are trying to make it work with what they have.

- 3.37 Mr. Schneider said they are taking a small house and now it will become a three-bedroom house. They did a very good job and there will be storage in the attic.
- 3.38 Mr. Schneider asked if the applicant spoke with neighbors.

The architect said that neighbors are aware and no one has said anything negative about the proposal.

- 3.39 Mr. Schneider noted that the houses on either side are two stories.

The architect said that the house is cute but needs some work.

The applicant said that the neighbor on the corner at 100 16<sup>th</sup> Street and the neighbor to the north were noticed and there was no negative feedback. They have gotten positive feedback from many individuals.

- 3.40 Mr. Robke said he wanted to confirm that the applicant would use the attic for storage.

The applicant said it would be used for storage.

3.41 There was no one in the audience to speak on the case.

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

5.1 Mr. Surman said that is one of the smallest lots that the board has seen. Currently the house appears to be in a canyon because the houses next door are two-story. The variations are minimal. He does not know what else they could do with the house. If they tore it down, it would be smaller. A one-car garage would be fine. He can support the request.

5.2 Mr. Robke said he is troubled by the application. He agrees that the lot is very small and this is a hardship. He is troubled when applicants ask for something and then try to take maximum advantage of something else like a ceiling height just under 6'9". He asked the architects on the board if this looks like it was being built out as storage space. He is skeptical that it is. He said it would have been easier to support this if the applicant had come in asking for the additional floor area as they are actually going to use it. He said they are taking maximum advantage of a technicality to squeeze a couple of hundred square feet and then say they have a hardship. This troubles him.

5.3 Mr. Boyer said that the design and plan are within code. There is a technicality. There are existing conditions with the house setbacks and the detached garage. Most of the variation requests are due to existing conditions.

5.4 Mr. Robke said that his only exception is to the FAR, otherwise he agrees that all the other items would be easy enough to support.

5.5 Mr. Boyer agrees with Mr. Robke, but the even the floor area ask is small.

5.6 Chairman Duffy said that the area under the roof was 432 square feet plus the 24 square feet. Some of that is a cover over the front door that is over 40 square feet that count against them. There is no basement in this house. Many people can build out their basement and make it a livable area. They are not exceeding total height for the property. He can justify it in his mind because most everyone has a basement and they don't.

5.7 Mr. Surman said he agrees with Mr. Robke. He said that it was designed it appears as if it is living space. There would always be a door at the bottom if it was going to be attic and storage. They cannot just add a door due to the way that the stair is laid out.

5.8 Mr. Boyer said the design fits the character of the neighborhood and the character of traditional homes in the village. A contemporary home would not have fit with the neighborhood.

## 6.0 DECISION

6.1 Mr. Surman moved to recommend granting a request for a 24.5 square foot (0.78%) total floor area variation, 1.69' combined side yard setback variation, a 0.41' combined side yard eave setback variation, a 3.43 square foot (0.55%) rear yard structure impervious surface coverage variation, a 5.0' side yard air conditioner condenser setback variation, a variation to allow the expansion and relocation of windows in a non-conforming wall, and a variation to the requirement that a new home provide two enclosed parking spaces to permit the construction of a substantial addition and remodel that is classified as a new home and the retention of an existing one-car detached garage at 106 16<sup>th</sup> Street 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
Christine Norrick	Yes
Michael Robke	No
Reinhard Schneider	Yes
Bob Surman	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 2018-Z-26.

6.21 Mr. Boyer seconded the motion and the 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 particular physical conditions of the property, the lot width and area and the siting of the house on the lot, 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 second-story addition and other improvements to the home that will modernize and improve its function. The proposed setbacks are maintaining the existing conditions therefore they will not impair an adequate supply of light and air to adjacent properties, which are already two-story homes. The variations, if granted, will not alter the essential character of the neighborhood. The house will be improved in appearance, consistent with the other homes in 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, the applicant is creating their own hardship with the request for a floor area variation. There is no hardship of the property as it relates to the floor area request; the applicant could have modified the design to be conforming. Though the attic technically does not count as floor area, this area will be functional, so they are already getting more floor area than is being counted.

## **8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a 24.5 square foot (0.78%) total floor area variation, 1.69' combined side yard setback variation, a 0.41' combined side yard eave setback variation, a 3.43 square foot (0.55%) rear yard structure impervious surface coverage variation, a 5.0' side yard air conditioner condenser setback variation, a variation to allow the expansion and relocation of windows in a non-conforming wall, and a variation to the requirement that a new home provide two enclosed parking spaces to permit the construction of a substantial addition and remodel that is classified as a new home and the retention of an existing one-car detached garage at 106 16<sup>th</sup> Street in accordance with the plans submitted.