



1200 Wilmette Avenue  
Wilmette, Illinois 60091-0040

**MEETING MINUTES**

**ZONING BOARD OF APPEALS**

**WEDNESDAY, NOVEMBER 19, 2014**

**7:30 P.M.**

**COUNCIL CHAMBERS**

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**Members Present:** Chairman Dan Sullivan  
Mike Boyer  
Patrick Duffy  
Lynn Norman  
Reinhard Schneider

**Members Absent:** John Kolleng  
Bob Surman

**Staff Present:** John Adler, Director of Community Development

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**I. Call to Order**

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

**II. 2014-Z-51 1047 Linden Avenue**

See the complete case minutes attached to this document.

**III. 2014-Z-48 500 Lake Avenue**

See the complete case minutes attached to this document.

**IV. 2014-Z-53 2216 Thornwood Avenue**

See the complete case minutes attached to this document.

**V. 2014-Z-54 743 8<sup>th</sup> Street**

See the complete case minutes attached to this document.

**VI. 2014-Z-52 514 Gregory Avenue**

See the complete case minutes attached to this document.

**VII. 2014-Z-55 907 Ridge Road**

See the complete case minutes attached to this document.

**VIII. Approval of the October 1, 2014 Meeting Minutes**

Mr. Duffy moved to approve the October 1, 2014 meeting minutes.

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

**IX. Approval of the October 15, 2014 Meeting Minutes**

Mr. Duffy moved to approve the October 15, 2014 meeting minutes.

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

**X. Adjournment**

The meeting was adjourned at 9:58 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 None

**3.2 Summary of presentations**

3.21 Mr. Adler said that the applicant had submitted an email request to continue to December 17, 2014 when more Zoning Board members might be present.

**6.0 DECISION**

6.1 Ms. Norman moved to continue the case to December 17, 2014.

6.11 Mr. Duffy seconded the motion and the voice vote was all ayes and no nays (Messrs. Kolleng and Mr. Surman were not present).

Motion carried.

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

**3.1 Persons appearing for the applicant**

3.11 None

**3.2 Summary of presentations**

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**6.0 DECISION**

6.1 Ms. Norman moved to continue the case to December 17, 2014.

6.11 Mr. Duffy seconded the motion and the voice vote was all ayes and no nays (Messrs. Kolleng and Mr. Surman were not present).

Motion carried.

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

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

3.11 Ms. Lori Iwan, applicant

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

3.21 Mr. Adler said that this is a request for a special use for a roofed accessory structure in excess of 200 square feet, a 94.68 square foot (1.51%) lot coverage variation, a 409.96 square foot (6.72%) total floor area variation, an 8.94' rear yard setback variation, and a 2.75' accessory structure separation variation to permit the installation of a seasonal enclosure on an existing in-ground swimming pool. The Village Board will hear this case on December 9, 2014.

3.22 The applicant has lived in the home for about 18 years. She lives by herself with her two dogs. She has a full-time caregiver seven days a week. She put in the pool in 2013 and was scheduled before the Board for that request.

There is a photo of the pool in the packet. She picked the smallest pool footprint that she could, given the size of the backyard. The pool is for therapeutic purposes.

She is requesting a seasonal enclosure for the pool. A picture of the proposed enclosure is in the packet as exhibit 1.9. That pool is twice the size of hers and the enclosure is twice the size of what she is proposing.

She said that there are two plan options. She spoke with Mr. Adler about both plans. Plan A uses the smallest possible overhead structure that would enclose the pool so she could use it for 12 months. Plan A's track is 15" wide and four movable pieces telescope into one smaller piece. If they are within the 4' deck requirement, the footprint is smaller and nothing needs to be changed in the yard except to lay down the track and put down the retractable removable enclosure up.

Plan B and Ms. Roberts helped her with this plan, is the worst case scenario if they put the 15" track outside of the 4' deck requirement. Then she needs variances for five different elements. Materials were prepared addressing plan B. There is no need for changes to the patio, concrete, deck, flora, fauna, sight lines or safety. That was taken care of when the pool was installed.

Because the enclosure is greater than 200 square feet, it is a special use. There is a lot coverage variation request and a total floor area variation request. If she uses plan A, those two requests would be eliminated. A rear yard setback variation is requested and as is an accessory structure variation of the house to the enclosure when walking out the back door.

- 3.23 Mr. Duffy asked if the structure was temporary and if it was temporary, why is there FAR.

Mr. Adler said that the structure is temporary. There is nothing that would prevent the applicant from leaving the structure up year-round. The structure could be up for longer than six months, depending on the weather, and there has to be the understanding that for some time period, bulk is being added to the property.

- 3.24 Chairman Sullivan said that the structure would be up for 12 months and the applicant would retract the structure at times.

The applicant said that her plan is to take the structure down as it is only four sections. The pool is 20' across and 11' wide. There is an entrance and exit on the east side only. Her intention is that in the good weather, she would take down the structure and store it in the side yard rather than keep it up. As the weather improves, the structure can be telescoped into one piece. If it is telescoped, the pieces would be buried under the bushes at one end of the pool. She said that she could take down the structure during the summer and then put up the structure around October.

- 3.25 Chairman Sullivan referenced the comment about storing the pieces in the yard and asked for further clarification.

The applicant said she would store each piece on its side. She has a 15' wide side yard that is used for nothing except for her dogs. The structure would be turned sideways, tarped and stored. The yard is beautiful with the pool and she would rather not keep the structure up during the summer. She reiterated that the pool is for health-related reasons.

- 3.26 Mr. Schneider asked if the structure would be open at the ends.

The applicant said that the structure is secured down at the ends with locks. It adds additional security for having the pool in the backyard. There is a flap that folds down and is pin secured. The flap is made out of the same material as the structure, which is polycarbonate glass, honeycombed, with aluminum framing. The color picture shows the antique brown aluminum structure that blends into the environment.

- 3.27 Mr. Schneider asked the width of one of the three sections.

The applicant said that the overall dimensions are 28' long and over 17' wide for plan A). Plan B has 30" added to the over 17'. Each section is approximately 7'.

- 3.28 Mr. Schneider noted that the width is almost the same as the height.

- 3.29 The applicant said that her health has improved by having the pool. She has been disabled since 2005 with a very severe non-stop headache. There is no cause or cure for this. She has tried every modality. She has been through experimental and mind-changing programs. When she was on vacation a few years ago, she was swimming in salt water and noticed that the headache goes away in salt water. The relief lasts and it is better than taking a lot of medications. Her disability left her homebound. She cannot drive when taking pain meds. Getting the pain of the headache reduced opens a door to having a life.

There is an engineering statement in the packet. This is a very sturdy structure. The structure exceeds the Village's building code requirements.

The current yard is smaller than others in Kenilworth Gardens because the owner built an addition, which shortened the available setback to the rear yard. When she bought the house, she did not know that she would be disabled. To the north, within her yard, is a long line of Arbor Vitae. Behind them to the north on this neighbor's property is a two-car garage, which eclipses the back sight lines and is taller than the structure. There is a 6' high fence separating her neighbors to the east and to the west. This was done because of the pool. She has bushes and trees for screening. The back of the house is not seen from the street.

Her proposal is warranted because all standards of review are met or exceeded for variances requested. Regarding the community impact, it is overwhelmingly favorable. If indoor pool use is allowed 12 months per year, this would ensure that the applicant can have a therapeutic pool, of which there are none available to her in the Village. If she sells the house, the new owners could take advantage of the pool year round.

The Village is receptive to new technologies and designs while still keeping the neighborhood character. The structure is both retractable and removable. It is clear for the most part and she is trying to find a color that blends in with the environment. The structure is not visible to the neighbors or from the street. There should be minimal impact to the neighborhood.

When she made the original request for the pool, she submitted extensive real estate studies that show that property values increase 8% to 15% when there is an in-ground pool. The yards are small in this area and it's good to show that things like having a pool can be done. The value of the homes in the area will be enhanced if the pool can be used year round. The Village is willing to accommodate long-term residents. She plans to stay in the Village for as long as she can.

The enclosure has a small footprint as does the pool. The enclosure decreases noise. It cannot be seen from the street so neighbors' views from windows should not be disrupted. It should not be an eyesore to anyone. The neighbors who have spoken to her are in favor of this. She has heard no objections to the pool or to the enclosure. If the Board believes that there is a neighborhood impact, she

emphasized that this is not a permanent structure. It helps the neighbors who have younger children understand that the area is fully enclosed and locked. The enclosure adds another layer of security. In the winter an indoor pool needs to be covered in some way.

Regarding the personal benefits, she has detailed her health problems. An enclosure would provide her with 12 months of relief, which is noticeable and distinct. It would improve her quality of life. She entered an article into the record about the health benefits of swimming on chronic pain, mental health etcetera and strongly endorses swimming pools. She has tried to anticipate and address the Board's concerns.

Regarding Board concerns, she talked about how the variation, if granted, could be misused by future home owners. She does not know who will own the home and what they will do with it. The variations could be limited to the use of a pool enclosure over the existing in ground pool. Someone cannot pull out the pool, put in dirt and turn this into a permanent structure.

The Board might be concerned that she is covering up too much land with the enclosure. The enclosure is going over the existing patio and over the pool. They are already impermeable structures. Putting in a higher enclosure will not change the fact that this is an impermeable structure. They are not covering up grass or moving trees or bushes to do this.

The Board might not want a covered structure in the backyard in a home with limited backyard space. Not a single tree or bush or blade of grass will be impacted with this enclosure. It can telescope to a smaller profile and be stored in a place that is not an eyesore. The enclosure is not that different from the winter cover everyone else has to have. It comes down to a height issue and that gives her the ability to get in and out and use the enclosure. The other variances are for plan B if that is the plan chosen. She does not want to have to return to the Board to ask for another inch or a foot because measurements are off. She asked the Board to grant her requests.

- 3.30 Ms. Norman said that she is confused. If the cover of the pool just covers the pool why is there such a great discrepancy in the lot coverage variation request and the floor area ratio? Does the pool not count?

Mr. Adler said that the pool does not count as floor area. But it counts as floor area once a cover of any kind is put over it.

- 3.31 Ms. Norman asked if there was any way to amend the motion that it only be used as a temporary structure covering an in-ground pool.

Mr. Adler said that this could be done. It is being granted with the plans as submitted and that is for a pool cover.

- 3.32 Chairman Sullivan said that the special use could be limited and the cover could run with the use.
- 3.33 Mr. Duffy said that the special use is for the cover and the special use will run with the use. If someone filled in the pool, they would no longer need a pool covering.
- 3.34 Chairman Sullivan asked if the special use could run with the current owner and if the house was sold, another request would need to be made.
- 3.35 Mr. Duffy asked if the Board had that option.

Mr. Adler said that if the applicant accepted the condition, then the Board has that option. There was a time when a variation for a porch that was over the FAR requirement was requested to be a screened porch because of a particular situation of one of the children. That variation was granted with the understanding that the porch would be removed when the house was sold to a different family.

- 3.36 Mr. Schneider said that he is confused with plan A and plan B, exhibits 1.6 and 1.7. Do either of two drawings say plan A or plan B?

Mr. Adler said that plan options are on exhibits 1.7 and 1.8.

The applicant said that the track is 15" wide and 5/8" inches tall, so you can walk on it without injury. The lines on the north and south ends show where the outside of the structure would be, whether the track is inside or outside of the existing pool deck.

- 3.37 Mr. Schneider asked if 1.7 and 1.8 were the same.

Mr. Duffy said the difference in 1.8 is the structure width. It is wider in 1.8 than in 1.7.

Mr. Adler said that is to allow the 4' walkway to go around the entire structure.

- 3.38 Mr. Schneider said that there is a dimension on 1.8 at the top that shows 101.55.

Mr. Adler said that was the elevation.

- 3.39 Mr. Schneider asked about other dimensions.

The applicant said that the structure dimensions were on 1.5. That is the measurements if she goes with plan A, which is the smaller version.

- 3.40 Mr. Schneider asked for clarification – are the variations requested for plan A or plan B?

The applicant said those were for plan B because that extends to the north and to the south by 15 extra inches.

3.41 Mr. Schneider asked if there were variation requests for plan A?

The applicant said that plan B is the worst case scenario. If the request is granted, then either A or B will fit. She will work with Community Development to determine if they can put the track on the 4' deck or should it be 15" outside.

Mr. Adler said the motion could be worded to ask or require the Building Code Board of Appeals to review the 4' walkway and to see if relief could be granted to allow Plan A versus Plan B. The relief should be spelled out for plan B because it is larger and is the worst-case scenario.

The applicant said that worst-case means an extra 15" on either side for the structure.

3.42 Chairman Sullivan asked if materials were ordered.

The applicant said that materials were not ordered but she has samples of materials. She submitted an article into the record.

(After 4.0)

3.43 The applicant came forward to address the neighbors' concerns.

Regarding concern about height, the tallest piece that the rent telescope into will be at the west end. She referenced the Sanborn drawing, she said that the footprint of 2212 Thornwood, there is no view of the pool from the windows. She knows the renters very well. The renters are moving shortly and the house will be vacant until new renters are found. When she sits on the steps at the east end of the pool and looks, she cannot see that house. She can see a closed bathroom window. Her proposal does not impose on their view any more than the people to the north of her who have a big two-car garage and Arbor Vitaes obstructing. There are plants and trees that exceed the 6' fence because she has tried trimming them.

Regarding flooding issues, she has known many of the renters. She talked about problems with flooding on the Grable's property long ago. This is not a recent problem. She has told renters to protect their belongings in the garage and in the basement because there are huge rains in August and September.

New renters are not aware of flooding issues. When the pool went in, the grading drawings showed no change in grade. Dirt came out of the ground and in its place was a fiberglass pool full of water. When massive rains came, it filled her pool. There was no runoff to other properties. There were no huge flooding pools of water around her property.

If she puts a winter cover on the pool and does not use the pool, all the water and snow and ice accumulate and turn into a frozen pond and water will run and accumulate. She pumps out the cover to the patio area and it then melts. There were no issues around their foundation, which is significantly to the south of the edge of her house and the next 10' to get to the pool.

There is no documentation from an engineer that water was a problem. The grading diagrams went 15' on all sides of his property. During the last rain, her house was the only one on her block that didn't have water in the basement.

3.44 Mr. Adler said that no additional correspondence was received on this case.

(After 6.1)

3.45 Mr. Duffy said that the special use request usually would run with the use or with the land. The difference being that if the special use changes under running with the use, then the special use goes away and someone has to reapply. In this case, he is suggesting that the special use run with the ownership.

The applicant had no issue with Mr. Duffy's suggestion that the special use run with the ownership.

#### **4.0 INTERESTED PARTIES**

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

4.11 Mr. Gary Grable and Ms. Lynn Grable, owners of 2212 Thornwood Avenue  
1384 Ashland Lane

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

4.21 Mr. Grable said they have owned the Thornwood property since 1979 and they lived there for nine years. They now rent out 2212 Thornwood.

Though it is temporary, it looks like it will be up a minimum of 7 months per year or longer. When the pool went it, they were concerned but did not protest about issues related to drainage and an impervious structure. Flooding is often a problem in the Village. They have flooding issues at 2212 Thornwood. His last concern is that the height of the structure is 8'. His house is on the east side and there is an 8' clearance and a 6' fence. He said that the proposed structure is impactful. If the fence was higher than they would not see the structure.

Chairman Sullivan asked if flooding was always a problem or did it start with the pool going in.

Mr. Grable said that flooding is worse with the pool.

Ms. Grable said they put in a sump pump because flooding got so bad.

Mr. Grable said that they have an external sump pump on that side of the house to pump water from back to front. And they have three internal sumps. They jacked up the garage in the rear by 1' because of flooding issues. The outdoor sump is new. They try to take care of the rental property because they lived in the house for many years and want their children to move back to the house.

Ms. Norman asked about the driveway from the back of the house.

Mr. Grable said that the driveway goes along the east side.

Chairman Sullivan asked where the external sump was located.

Mr. Grable said that it was adjacent to the front of the garage. It is next to a side door way.

Mr. Schneider asked to what extent are there increased water issues. Kenilworth Gardens has water issues that have gotten worse in the last two to three big storms. Did the installation of the pool aggravate the water situation?

Ms. Grable said that rains were much more severe.

Mr. Grable said the flooding situation is getting worse. He is not sure what impacts are causing this.

Mr. Schneider said that if the proposal was approved and the structure was up 6 months per year, there would be water draining from the sides and it needs to go somewhere. He is not sure if this would aggravate the issue.

Ms. Grable said that she does not want an 8' high fence because it cuts out sun and landscaping aeration. It is un-neighborly.

Mr. Grable asked the applicant if there was room to plant on the east side of the pool. Since the pool was installed, they have not really been looking at the backyard.

Ms. Grable said that planting of Evergreens would make a difference.

Mr. Grable said that an Evergreen shield would act as a buffer and also allow air flow.

Ms. Grable said she would prefer tall Arbor Vitae. She does not like the idea of setting a precedent. Pools should not go in the small backyards because there is some type of impact. There is no alley so all drainage goes to the back yard.

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

- 5.1 Mr. Duffy said his feeling on this case is that this is a unique circumstance. The use is medical and therapeutic to improve the applicant's life. Is there a hardship? There is a medical hardship. He can support the request, plan B. If this is lessened, the request would still fit within plan B.
- 5.2 Mr. Boyer said that in light of the alteration of the request, running with the use and the owner, he can support the request. He was on the fence, but now can support it. It is an accommodation for the applicant and her medical condition.
- 5.3 Mr. Schneider agrees with the above comments. It is a unique situation and unique to the current owner. It is temporary in terms of season and the current owner. The hardship has to do with the applicant's health. Standards of review are met and he can support the request.
- 5.4 Ms. Norman was also initially opposed to the request, but the pool is already there. She will support the request because of the conditions. She does not like to set a precedent and she does not think that pools belong in Kenilworth Gardens. The applicant does need a pool for health reasons.
- 5.5 Chairman Sullivan said he has concern about the request because the lots are small. He has a harder time with this case because it will impact the neighborhood. He appreciates the need to do this because of a medical condition. There are a lot of variations for this request. He has a hard time supporting this and does not believe that all standards of review are met.
- 5.6 Mr. Duffy said that his understanding is that the Board does not set precedent because every lot is unique due to size, location and how the building is sited.
- 5.7 Ms. Norman said that she brought up the issue of precedent.
- 5.8 Mr. Duffy said that he wants to make sure that people understand that the Board does not set precedents. These are variations for specific unique qualities of a property. He is not attacking anyone's statement.

## **6.0 DECISION**

- 6.1 Mr. Duffy moved to recommend granting a request for a special use for a roofed accessory structure in excess of 200 square feet, a 94.68 square foot (1.51%) lot coverage variation, a 409.96 square foot (6.72%) total floor area variation, an 8.94' rear yard setback variation, and a 2.75' accessory structure separation variation to permit the installation of a seasonal enclosure on an existing in-ground swimming pool at 2216 Thornwood Avenue in accordance with the plans submitted. The use shall run with the owner.

Mr. Adler said that the applicant should be asked about the last part of the motion.

The motion was amended to include: the use shall run with the use.

(After 3.45)

Mr. Adler said that he remembers a condition being placed on a motion that upon sale of the home, the structure that required the variation would be removed. That case also dealt with a health issue. That was not a special use and only a variation. He does not recall something running with ownership, but it could be stated both ways and if the applicant is okay with that, he would work with corporation counsel.

There was discussion regarding running with the use due to a medical condition versus the use running with the owner.

Chairman Sullivan said that the word 'use' has to be part of the motion, either running with the use or with the land.

Mr. Duffy asked if there was a requirement that it has to be removed upon sale. He would prefer that it run with the owner so if she sells the house and the new owners wants to keep that structure, they would have to ask for permission again. What is the best way to do that? It is a special use that runs with the use and the current owner.

Mr. Adler said that could be stated: runs with the use and the current owner. The applicant has accepted a condition that upon change of ownership, the structure would be no longer used and there has to be another application if the new owner wants to keep the structure.

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

Chairman Dan Sullivan	No
Mike Boyer	Yes
Patrick Duffy	Yes
John Kolleng	Not Present
Lynn Norman	Yes
Reinhard Schneider	Yes
Bob Surman	Not Present

Motion carried.

6.2 Mr. Duffy moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2014-Z-53.

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**

A majority of 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 proposed use is consistent with the goals and policies of the Comprehensive Plan for a largely single-family community. The establishment, maintenance, or operation of the proposed use will not be detrimental to or endanger the public health, safety, and welfare. The proposed use will not be injurious to the use or enjoyment of other property. The establishment of the special use will not impede the normal and orderly development or improvement of surrounding properties. The proposed use will not substantially diminish property values. No additional utilities, access or facilities are necessary. No change to ingress or egress is necessary. The proposed use is consistent with the community character. No known archaeological, historical or cultural resources will be impacted. No additional buffers, landscaping or public open space are required.

The particular physical conditions of the property, the size and layout of the lot, and the owner's health, 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 and her health. The difficulty is peculiar to the property in question and to the owner. The difficulty prevents the owner from otherwise enjoying the medical benefit provided by the existing swimming pool. The proposed variations will not impair an adequate supply of light and air. The structure is 7' tall, limiting the visual impact on adjoining properties. The enclosure is proposed to be placed largely or entirely on existing impervious surfaces resulting in no change to grading and drainage on the property. The variations, if granted, will not alter the essential character of the neighborhood for the same reasons.

A minority of the Zoning Board of Appeals finds that the request does not meet the special use standards of Section 5.3.E and the variation standards of Section 5.4.F of the Zoning Ordinance. Specifically, there are no conditions of the property that impose a hardship on the owner.

## **8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a special use for a roofed accessory structure in excess of 200 square feet, a 94.68 square foot (1.51%) lot coverage variation, a 409.96 square foot (6.72%) total floor area variation, an 8.94' rear yard setback variation, and a 2.75' accessory structure separation variation to permit the installation of a seasonal enclosure on an existing in-ground swimming pool at 2216 Thornwood Avenue

in accordance with the plans submitted. The use shall run with the use and the current owner.

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

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

3.11 Ms. Healy Rice, architect

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

3.21 Mr. Adler said that this is a request for a 336.04 square foot (3.9%) total floor area variation to permit the construction of a second-story addition on the legal non-conforming structure. The Board will hear this case on December 9, 2014.

3.22 Ms. Rice said that they are seeking permission to exceed the floor area ratio requirement by 336 square feet to put a second floor on an existing one-story ranch house. There are practical difficulties with the property. The house is a slab on grade with no basement. The applicants have three children and need adequate space for bedrooms, revamping the existing first floor to have a first floor master bedroom, kitchen, family room, living room and dining room with nothing extraordinary in terms of size or scope. They plan to have three bedrooms on the second floor as well as an office and a playroom.

The 336 square foot overage is created from areas like mechanical rooms and laundry that could be in a basement. A playroom could also be in the basement. The basement is not present so they are asking to create that space in other locations. They have to sacrifice space on the first floor. The livable space will be great. The house is quite wide and in creating the second story, the aesthetics are a factor in what they want to create. The other homes in the neighborhood are two or more stories. The overall height of the house is 27'6" so it lower than most neighbors including the two adjacent neighbors. The house will be in keeping with the neighborhood, which is comprised of mostly two-story homes. There is one home that is a Cape Cod. They looked at other options for space but could not create a plan that satisfied the family's needs. The applicants spoke with adjacent neighbors and everyone is in favor of the improvements. No light or air is impacted to adjacent neighbors. The house is more in keeping with the neighborhood by creating a second story.

3.23 Ms. Norman asked if the extra floor area was solely because they want to make the house look architecturally pleasing from the street beside the benefit of having more room.

Ms. Rice said that the playroom is the driver in the second story space and not having a basement. The house is 60' wide so it is wider than an average home. If they had a narrower addition, it would look awkward.

3.24 Mr. Boyer asked if there was any structural necessity.

Ms. Rice said that it helps working from a front-to-back and side-to-side standpoint. The house has a bearing wall that runs through the middle of the north/south area and they are working with that in terms of spans and structure.

3.25 Mr. Boyer asked where the mechanicals would go.

Ms. Rice said that they are on the first floor right off of the garage. They are there at this time.

3.26 Chairman Sullivan asked about the size of the bedrooms on the second floor.

Ms. Rice said that there are two at 11' x 15', one 12' x 18', and the playroom is 18' x 25'.

3.27 Ms. Norman asked if there was a second story over the living room.

Ms. Rice said it is not over the living room or the garage and is just over the back part of the house.

3.28 Mr. Duffy said that Ms. Rice indicated that the hardships include laundry room, mechanical room, and storage being equal to 300 square feet.

Ms. Rice said that all of the above would be in the basement if they had one. This would change the home's layout. They are restricted without having space elsewhere. There is no wasted space on the first floor. Having a mudroom is key. They could put the laundry upstairs, but not having extra space on the first floor creates the need to have space on the second floor.

3.29 Mr. Schneider referenced exhibits 1.4 and 1.5. They are pulling in the second floor outside wall of the north and south 2' from the edge of the first floor walls in order to comply with setbacks. They will have to do structural gymnastics to support the second floor.

Ms. Rice agreed with Mr. Schneider's comments. The spans are 14' and she can span without difficulty.

3.30 Mr. Schneider said that the 2' setback determined the envelope for the second floor.

Ms. Rice said even if she shaved some dimensions she would still need a variance for the second floor. They want to fill out the envelope.

3.31 Mr. Boyer asked if they looked at designs that did not need a variance.

Ms. Rice said they started there and thought that what the family needed would exceed what was permitted. They would have 1,200 square feet to play with if they went with a conforming FAR design.

- 3.32 Ms. Norman asked how long the applicants have lived in the house.

Ms. Rice said they just purchased this house but currently live in the neighborhood. They have lived in the Village for six years.

- 3.33 Ms. Norman asked if the plans could be shrunk.

Ms. Rice said plans could be shrunk a little bit, 1' on either side. If she starts pulling in the addition, she will have a big wide first floor with a funny chimney on the top. It would not be her best design. She is trying to create a functional home.

- 3.34 There was no one in the audience to speak on this case and no communication was received on this case.

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

- 5.1 Ms. Norman said she is conflicted about this case. The applicants could have looked at a larger house. She understands the problem with no basement. She understands the aesthetics, but is not sure she sees the hardship in this case. She understands why they want to do what they are proposing and that it will look nice. It's nice to have more room, but she remains conflicted on this case.

- 5.2 Mr. Boyer said this issue is brought in front of the Board with ranch style homes. Ranches do not do well with the zoning code. This is an example. The home can be used, but not for the modern family. The bigger issue is that because of unintended consequences with lot subdivisions done a long time ago. The lot is smaller than what should be there. Exhibit 1.1 shows the original lots. He does not know when this was subdivided. The lots on Central and Lake were probably large lots that were subdivided. The ranch was built at some point. Now there is this home on this lot. In looking at the overall request, it is not that big of a request. If there was a conforming addition, no one would see it from the street. There is no impact on impervious surface because it is being built within the envelope. There is already a two-car attached garage. Some people might have issues with the house becoming larger and ballooning up, more and more is being put on smaller houses and on antique lots. The lot cannot be made bigger. If there was a conforming addition, there would be no difference in the design. A conforming addition might look strange. It is a minimal request for this problematic lot with this ranch home.

- 5.3 Ms. Norman said that when the Board grants these types of request for variations, there are two other requirements: a non-conforming structure should not undergo any actual alteration unless it was to make it conforming and the non-conforming structure should not be enlarged in any manner unless to make it conforming. She

spoke with Ms. Roberts about this and Ms. Roberts got an answer from Mike Zimmermann as to why this was not in the motion.

- 5.4 Chairman Sullivan said that the non-conformity is less than 1”.
- 5.5 Mr. Adler said that one of the reasons it’s been presented like over the years is that it is very rare to have a conforming home unless it was built within the last 26 years. Lot requirements have changed over the years. The point is well taken in that there is that requirement.
- 5.6 Mr. Duffy said that his thoughts are similar to Ms. Norman’s. The lot is a certain size and someone can have a house of a certain size on that lot. All that the Board sees are requests that step outside the bounds. There are no requests for houses that are conforming because no variations are needed. There are rules for bulk and density for a reason. Mr. Boyer has a point that this is 300 square feet and is that significant? He struggles with the hardship issue. What is the hardship? The lot is 8,600 square feet and they can have a 3,800 square foot house. That is a big house.
- 5.7 Mr. Schneider said he looked at percentages of variation for floor area coverage granted in the past. He looked at variations granted that were over 3% to 3.5%. He said that those were not the incremental addition that caused a large variation in many cases. In tonight’s case 100% of the variation is due to what is being proposed. 3,800 square feet is permitted and 3,900 square feet would be much more reasonable than to request such a large variation. He also has some issues with the request. If they brought in the addition 5’ on each side, it would reduce the variation. It might be more amenable to the Board.
- Mr. Adler said that it is dangerous to look at cases listed because there are unique situations with each case. In this case tonight, the house is really at grade. Other houses might be 3’ out of the ground. Or maybe houses that could take advantage of the porch or attic bonus. It is hard to figure out the cases granted unless full facts are disclosed.
- 5.8 Chairman Sullivan said he is with Mr. Boyer on this case. He looked at all ranches that were approved and this is the smallest request. The hardship is that there is no basement and they could build a 3800 square foot home. Accommodations have to be made for family lifestyles. The proposal is a benefit to the neighborhood and he can live with 300 square feet. A ranch was approved with a 500 square foot FAR variance and was well received in the neighborhood. The hardship is the basement and limited space/options. He can support it. He does not want to redesign the house.
- 5.9 Mr. Schneider asked if neighbors opposed the request.

Ms. Rice said that neighbors supported the request.

## 6.0 DECISION

6.1 Ms. Norman moved to recommend granting a request for a 336.04 square foot (3.9%) total floor area variation to permit the construction of a second-story addition on the legal non-conforming structure at 743 8<sup>th</sup> Street in accordance with the plans submitted.

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

Chairman Dan Sullivan	Yes
Mike Boyer	Yes
Patrick Duffy	No
John Kolleng	Not Present
Lynn Norman	No
Reinhard Schneider	No
Bob Surman	Not Present

Motion failed.

6.2 Ms. Norman moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2014-Z-54.

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

A majority 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 are no conditions of the property that impose a difficulty or hardship on the property owners. The applicants have created their own plight by purchasing a home that does not meet their needs. The applicants could construct an addition that conforms to the floor area requirement but are choosing a design that requires relief.

A minority 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 design of the home as a ranch and the absence of a basement, impose upon the owner a practical difficulty. The plight of the owner was not created by the owner and is due to the unique circumstances of the lot. The difficulty is peculiar to the property in question as ranch homes and homes without basements are relatively uncommon. The difficulty prevents the owners from making reasonable use of the property with improvements consistent with other homes in the area. The proposed variation will not impair an adequate supply of light and air to adjacent property. The variation, if granted, will not alter the essential character of the neighborhood.

**8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends denying a request for a 336.04 square foot (3.9%) total floor area variation to permit the construction of a second-story addition on the legal non-conforming structure at 743 8<sup>th</sup> Street 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. Cyrus Rivetna, Rivetna Architects

3.12 Ms. Amanda Svarczkopf, applicant

3.13 Mr. Ben Svarczkopf, applicant

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

3.21 Mr. Adler said that this is a request for a 279.26 square foot (5.97%) total floor area variation, a 0.9' rear yard detached garage setback variation, a 4.11' accessory structure separation variation, a 3.33' detached garage height variation, and a 27.59 square foot (1.84%) rear yard structure impervious surface coverage variation to permit the construction of a replacement one-car detached garage on the property. The Village Board will hear this case on December 9, 2014. There is a letter regarding this case at the Board member's places.

3.22 The applicants have lived in the Village since 2009 at the property being discussed at the meeting. They have two small children and want to stay in this neighborhood. This is their long term home. There was an electrical fire in the home in July 2014 which damaged the wood frame one-car garage. It had to be torn down. All that is left is the existing concrete slab. The existing garage was 12' x 18' interior space to fit one car and not much else in terms of storage. He was asked to design a new garage to be a little bit larger so they could have some storage for lawn tools, lawn mower, bikes, and other children's items.

They have maintained the existing setbacks with a slightly larger garage. On the north side there is an existing setback of 2.1'. They have asked for a variance of .9'. The distance to the house was 5.89'. They maintained that same distance but it does not comply with the current ordinance. They are asking for a height variance and this is only needed for the dormers. They put dormers on the building so that it matched the character of the existing house. The overhangs match the character of the existing home.

The upstairs area is for more storage space. They have a basement that is partially finished but need storage for something that would not usually go into a basement.

The new addition is stucco. They put on some brackets to make it look good and match the existing house. The garage is viewed from the house.

3.23 Mr. Boyer asked about the existing slab depth and existing foundation.

The architect said that the garage was built in the 1930s so they would estimate this depth to about 4". The new slab is also about 4". The existing foundation is about 12" to 18". For this type of structure, they would like to do a 36" deep foundation. If that is an issue, they could reduce the foundation depth.

3.24 Ms. Svarczkopf said that the floor is cracked, which is common in their area.

3.25 Mr. Duffy asked if they took the tree into consideration.

The architect said that the intent was to not exceed the existing setback of 2.1'.

3.26 Mr. Duffy said that to put in the garage they would have to cut all the roots on that side of the tree to put in the foundation. When he drove by, he said it looks like the tree has grown on the property line. The neighbor said in their letter that it is their tree and the cost of removing the tree if something happens to it after the garage is built could be expensive.

The architect said that this is a boundary tree per the survey.

3.27 Mr. Duffy asked if anyone spoke with the neighbor.

Ms. Svarczkopf said they have spoken with the neighbor. They paid to trim part of the tree to improve its health. They were concerned about a heavy branch over their bedroom. The tree had some fire damage and Com Ed asked them to trim the tree back from the power lines. If the wind were to break the tree their house would be in danger. The current orientation is after they took some weight off of the tree. They care very much about the tree's health.

3.28 Mr. Schneider referenced exhibit 1.7. If the edge of the foundation wall is 2.1' from the property line, the eave will encroach further. Will the tree be impacted by the garage eaves?

The architect said that they are still far enough away from the tree with the eaves. The eave is about 12".

3.29 Mr. Boyer asked if they thought about taking down the tree.

The applicant asked their neighbor if that would be okay and she preferred to keep it. If there is damage to the tree and it dies, something will need to be done. But they are trying to be good neighbors since the neighbor does not want the tree removed.

3.30 Ms. Norman said that on exhibit 1.5, the garage will have second floor storage as well as space in the garage for storage.

The architect said that is correct and there is additional storage for what they need to keep in the garage. The new garage is slightly larger than the previous garage.

- 3.31 Ms. Norman asked if the second floor of the garage counted.

The architect said that there is about 15 square feet on the second floor.

- 3.32 Mr. Duffy asked about a bonus in this case.

Mr. Adler said they do get a bonus. The property is already over so the house is already over.

The architect said that the property is already over the allowed FAR.

Mr. Svarczkopf said that the lot is very small.

- 3.33 Mr. Boyer asked the height of the original garage.

Mr. Svarczkopf said it was about 13' to 14', but he is not sure. They could park an SUV in the garage. It was a wooden garage with stucco on the outside and a pitched A-frame roof.

Ms. Svarczkopf said that their current minivan would not fit in the previous structure. They park that car on the parking pad. A garage is important for them having two small children.

Mr. Adler said that the height variation is also necessary because the exterior wall frame exceeds 9'4". They are proposing a greater exterior wall than anything above 15' would require a variation. In the previous code there was no requirement to match the pitch of the roof. The height requirement was 18', but the exterior wall is limited to 9'4" and no dormers above 12'. If they are 15' or below, dormers could be at 15' and the exterior wall is not limited.

- 3.34 Mr. Boyer said they could have a 20' high to the peak without any dormers.

There was discussion about the requirements for a 20' height versus an 18' height.

(After 4.0)

- 3.35 The architect said that instead of using the 2.1' setback, they would amend their request to use a larger setback. They will bring it back to the northeast corner of the existing slab, about an additional 4". The number is not listed on the survey. They could decrease the size of the garage slightly to accommodate the neighbor's request.

Mr. Svarczkopf asked the neighbor if she was okay if they stuck with the existing slab size and angle. He added that the new foundation would go deeper.

The architect said that the new foundation would be deeper, between 12” and 24” deeper.

- 3.36 Mr. Boyer referenced a house on Greenwood that had a 400 year old Oak tree on a 100’ x 176’ lot. He put in a basketball court underneath and went down 15’. In that case, the owner had a certified arborist come out and say that no trees were susceptible to movement or the cutting of the roots. Maple trees are more hearty and fast growing. He is not sure that the Board should be concerning itself with the foundation.

Mr. Svarczkopf said they would make the foundation the minimum depth allowable by code. He wants to ensure structural stability.

Ms. Getch asked if the arborists could come to cut roots, if needed, when framing is being done.

The architect said that was agreeable.

- 3.37 Chairman Sullivan said this motion is not being amended to select an arborist. The applicants and their neighbor can decide on this.

Mr. Svarczkopf wants to preserve the health of the tree. It is a boundary tree.

- 3.38 Mr. Duffy referenced impervious surface. Gutters will catch the rain. Where will rain be directed?

The architect said that they could direct rain to the alley.

Mr. Adler said that the Engineering department would get involved with this.

- 3.39 Mr. Duffy said that the applicants will take care of any potential water issue with the new construction. The standard is higher now than it was for the old garage.

The architect said that there is quite a lot of open space on the lot. They are over for coverage in the rear yard, but there is open space on the rest of the property.

- 3.40 Mr. Duffy asked about the amended motion.

Mr. Svarczkopf said that they would amend it so that it matches the distance of the existing northeast corner.

Mr. Adler said that the applicant would need to have the corner measured so that a number can be given. 4” was the number discussed tonight, but the survey shows

a greater distance. An exact number has to be known. Whatever that number is, the rear yard impervious surface would be revised to make the garage smaller by that amount.

3.41 Ms. Norman asked if they were moving the garage location.

The architect said they were willing to make the garage smaller.

3.42 Mr. Duffy asked how this should be read.

Mr. Adler said that is a problem because the number is not known.

3.43 Ms. Norman asked if the motion could include the words: to match existing.

Mr. Adler said that it could be a variation to match the existing northeast setback. The numbers will have to be resolved by the time of the December 9, 2014 Village Board meeting.

The architect said that the neighbor asked for a 3' setback, which removes the variance. They are comfortable with moving that back to 3'.

3.44 Mr. Duffy said that would not be what they had suggested.

Mr. Svarczkopf said that is what the neighbor had wanted in her letter.

3.45 Ms. Norman said that variation is now eliminated.

Mr. Adler said that numbers have to be modified. The staff prepared what the variations would be with a 3.0' setback. The rear yard impervious surface coverage is eliminated, the rear yard setback is eliminated, and the floor area variation is reduced.

3.46 Mr. Duffy said they are eliminating the 0.9' rear yard detached garage setback variation.

Mr. Adler said that it gets rid of the 27.59' variation in its entirety. It reduces the FAR. Mr. Adler said that number is 251.26.

3.47 Chairman Sullivan said that the first variation changes to 261.26 square foot FAR variation, a 4.11' accessory structure separation variation, and a 3.33' detached garage height variation.

The architect accepted these changes. He clarified that the materials for the garage will mimic the house.

3.48 Mr. Adler said that there was no additional communication on this case.

#### **4.0 INTERESTED PARTIES**

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

4.11 Ms. Cathy Getch  
207 5<sup>th</sup> Street

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

4.21 Ms. Getch said that she has lived in her home over 14 years. She has a concern about the rear yard setback which borders her rear yard to the south. They are asking for a continuation of the non-conforming 2.1' setback instead of the conforming 3' setback. She is the owner of that tree and is concerned. She said that the northeast corner of the garage is actually further away than 2.1' because it is slightly angled. Her concern is that the tree might be harmed. She was also concerned about the depth of the slab. This could kill or injure the tree.

The tree is about 75' tall and 10' in circumference. It has been deemed a healthy tree by an arborist. It shields a view of the alley from the back rooms of her home. It provides shade to her garden. She cannot replace that tree in her lifetime. Even if they split the cost of taking the tree down, the cost is a hardship for her. She is the single mother of two college-aged sons. Most importantly, she has taken trees down because of disease and she does not have that many trees left. This tree is healthy.

There is an increase in impervious surface coverage and a variance is being requested. What impact would that have on flooding? She already floods in her rear yard.

With regard to the rear yard setback, she asked if they could take 1' off of the width of the garage and that would still allow a 3' clearance on each side of the car.

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

5.1 Mr. Boyer said that in the beginning there were a lot of requests, but when it was broken down, the request was not that large. And if more changes, the request was minimized which the Board likes to do. This is an antique lot with modern family needs. There was a lot that was subdivided long ago. Now needs are different from the past. This is the hardship. The lot is small for the area. The previous garage was damaged. Houses need to have garages. Rebuilding the same garage causes some issues. The additional size is not a problem. This is a minimal request. He does not have problems with the setbacks. Regarding the height, he understands how codes are written and that they are written for a purpose. It boils down to aesthetics. They are creating a garage that matches the home. When height variation are requested for garages, the Board can give leniency. They are trying

to keep in character with their house and thus, with the neighborhood. He is okay with the height variation. Overall they have a hardship of how the lot is configured. He has no problem with this request.

- 5.2 Mr. Duffy said he will support the request because in this case, the hardship is the lot. The lot is 4,600 square feet. The other lot was 8,600 square feet. They are over on FAR because the house is so large. The garage bonus exceeds the garage size. They are not making a strange request. They want to rebuild the garage and make it slightly larger. He 100% supports the application.
- 5.3 Ms. Norman agrees that the hardship is the property itself and where it is situation. She initially was opposed to the height, but will support the request. Standards of review are met.
- 5.4 Mr. Schneider said that he will support this. They could not replicate the burned down garage. They could not fit a modern car into it. They are doing a slightly larger garage and almost all standards are met. He can support this case.
- 5.5 Chairman Sullivan agrees with all of the above comments. He commended the applicant and the neighbor on the compromise. No one wants the tree to come crashing down or to lose the tree.

## **6.0 DECISION**

- 6.1 Mr. Boyer moved to recommend granting a request for a 279.26 square foot (5.97%) total floor area variation, a 4.11' accessory structure separation variation, and a 3.33' detached garage height variation to permit the construction of a replacement one-car detached garage at 514 Gregory Avenue in accordance with the plans as amended.

6.11 Mr. Duffy seconded the motion and the vote was all ayes and no nays (Messrs. Kolleng and Surman were not present).

Motion carried.

- 6.2 Mr. Boyer moved to authorize the Chairman to prepare the report and recommendation for the Zoning Board of Appeals for case number 2014-Z-52.

6.21 Mr. Duffy 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 condition of the property, the lot size, imposes

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 existing garage was lost to a fire and needs to be replaced. The hardship is peculiar to the lot in question. The hardship prevents the owners from making reasonable use of the property with a replacement detached garage. The proposed variations will not impair an adequate supply of light and air. The plan was amended for the garage to have a 3.0' rear yard setback to protect an existing tree and eliminating the need for one variation. The garage size was reduced to eliminate the impervious surface coverage variation. The variations, 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 279.26 square foot (5.97%) total floor area variation, a 4.11' accessory structure separation variation, and a 3.33' detached garage height variation to permit the construction of a replacement one-car detached garage at 514 Gregory Avenue in accordance with the plans as amended.

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

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

3.11 Mr. Michael Freiburger, applicant  
Building owner and 2<sup>nd</sup> floor tenant

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

3.21 Mr. Adler said that this is a request for a 277.3 square foot (6.0%) total floor area variation, a 5.0' side yard parking space setback variation, a 5.0' rear yard parking space setback variation, and a variation to allow parking spaces to open directly upon an alley to permit the construction of a one-story addition at the property. The Village Board will hear this case on December 9, 2014.

3.22 The applicant said that all of the variations come down to the fact that the site is existing non-conforming in parking requirements. It is landlocked on three sides – north, south and east. Originally the site only had three parking spaces. Their intention is to try to get the proposed 5.5 or 6 spaces in this case. The only way they can see that working within the rules of allowable parking layout is the way they have designed it with a two-sided parallel drive aisle. It does not meet the side yard setbacks or the rear, but he does not see other options. There are also two parking spots in the garage.

The size of the garage increase in FAR is dictated by the fact that if they made it any smaller and make it usable, it would not function properly with parallel parking spaces to get in and out.

3.23 Mr. Duffy asked the applicant to demonstrate what he just said. How does making the garage smaller make it more difficult to accommodate the spaces?

The applicant referenced 1.4. The way one would pull into a parking space is to pull forward and back in. If they made the garage the required 10' shorter, there would only be 55'. Once the third parking space is added to the east of space 2, one could not pull forward to get in that space if there was a car behind.

3.24 Mr. Duffy said that would give them six exterior spaces.

The applicant said that they need a spot for the trash.

3.25 Mr. Duffy said that the applicant has a spot for trash.

The applicant said that he would not then get his sixth space.

- 3.26 Mr. Duffy said they could get two in the garage and four outside if the garage is 10' shorter.

The applicant said that if the garage was 10' shorter and he continued parking in spaces one, two, and another to the east, the one to the east would not function.

- 3.27 Mr. Duffy said that there is 35' from the rear of the building to the end of the garage as proposed.

The applicant said that in a specific orientation, when they go to add another third parking space in a specific location and move that garage back another 10', the garage would be in a certain location and the car in a specific space could not move forward to this location.

- 3.28 Mr. Duffy is saying that there is a garage and there will be two cars in the garage, even if it was 10' shorter.

The applicant said that was correct.

- 3.29 Mr. Duffy said that there is parking for four cars outside even if the garage is 10' shorter.

The applicant said that was correct. When the garage gets 10' shorter to 25' that becomes a non-usable garage space for him to park cars as well as equipment. They are a design/build general contractor and his intention was to build a garage of adequate size that they could store equipment, not just cars or trucks. The original proposal was for six tandem parking spaces in the back, which did not pass code.

- 3.30 Mr. Duffy apologized and said he did not do the math, but said that there is 250 square feet of additional garage space. Does he not get a garage bonus?

Mr. Adler said that there is no floor area bonus for a commercial space. The FAR is 1.0, which is the size of the lot.

The applicant said it is a hardship on him. The building is 100 years old. The building's construction has him sacrificing hundreds of square feet because of the wall width. They did not know how thick the walls were when they went into the project.

- 3.31 Mr. Duffy asked if they could argue that the hardship is that they do not get a garage bonus.

The applicant said that Mr. Adler indicated that they do not get that bonus.

- 3.32 Mr. Duffy said that variations are granted based on hardship. Where is the hardship in this case?

- 3.33 Ms. Norman said that part of the hardship is that the existing wall thickness counts against their square footage. He is saying that he would have 3,500 usable square feet if the walls were not so thick.

The applicant said that they are giving up a significant amount of square footage.

- 3.34 Mr. Schneider clarified that the applicant said that the walls of the existing building are 2'.

The applicant said that this was true in some cases. Most of them are 16", but are 2' in some areas.

- 3.35 Mr. Schneider said that from Ridge it looks like one building to the corner. So they have a party wall. Is it 2' on both sides.

The applicant said that in that case it is 12". It is on the remaining three elevations that the walls are 24" thick in some areas.

- 3.36 Mr. Schneider said that when he looked at the request, what came to his mind was why they were doing such a big structure to house two cars. On further understanding about the business, they really want a building that holds the functional side of the business. Cars are secondary.

The applicant said that he is trying to accomplish the six parking spaces legally versus doing the tandem.

- 3.37 Mr. Schneider asked if the building height was due to the nature of the type of equipment stored.

The applicant said that they are specifically trying to store ladders.

- 3.38 Mr. Schneider referenced the west side of the existing building and asked if the first floor had an opening.

The applicant said that the first floor has one opening that accesses into a service location for first floor tenant, who has no problem with them closing off that portion.

- 3.39 Chairman Sullivan asked when they bought the building.

The applicant said that they bought the building on August 1, 2014.

- 3.40 Chairman Sullivan asked where the applicant's place of business was before that.

The applicant said that they were originally in West Wilmette and then they were in Skokie for five years. Most of their work is on the North Shore and they are trying to get a permanent residence. They will occupy the whole second floor.

3.41 Mr. Schneider asked how many tenants there were on the first floor.

The applicant said that there is one tenant on the first floor, North Shore Fitness. He has been there for 3 to 4 years and intends to stay as long as he can.

3.42 There was no one in the audience to speak on this case. There was no communication received on this case.

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

5.1 Mr. Duffy said that he has no problems with the parking variations. Because the building is about 115 years old, this is the way those buildings were built. The applicant needs to have some parking and he has no issues with the parking requests. He brought up his thoughts about the 277 square feet of floor area and wants to hear what his colleagues have to say about that.

5.2 Mr. Boyer said it is an interesting commercial area. There is no parking on Lake or Ridge. There is really no access to a parking lot. This is the same for the adjacent building. It is a tight area and parking is a large issue. With all of the variances requested for parking, he has no issue. Current conditions make it a necessity.

There really is not that much of an impact to the neighborhood with a project like this. This backs up to commercial. There are deliveries going on and cars being moved back and forth. There is some parking happening at the antique mall. There is the rear area of a commercial area and those areas do not have the best aesthetics. He does not think that adding the garage will have an impact on the area and could have a positive impact on how the area looks. The practical difficulty is the lot. The building itself and the land does not render itself for an appropriate use. The difficulty and hardship relate to the lot size for this commercial building.

He is leaning towards supporting the application.

5.3 Mr. Schneider said that this is an example of looking at the standards of review. This request does not impact the character of the neighborhood. It will not impair an adequate supply of light and air. He referenced the other standards and said that he does not see the hardship. The applicant said that he bought the property and he wants to put his office on the second floor and have his tenant on the first floor and he wants to run a business out of there. To run a business he needs a shed so he can park his truck, his ladders, and other equipment. He needs a certain amount of space for that. He chose the property for whatever reason and now he needs a variance for storage space. He does not see the hardship.

- 5.4 Ms. Norman is also torn. She sees the hardship. The commercial nature of the property makes this unique. The hardship is that there is unusable space because of the thickness of the walls. But she has an issue in that the applicant bought the building knowing the situation. She has no problem with the parking variations.
- 5.5 Mr. Duffy asked if this applicant was being held to a higher standard. He talked about other FAR cases this evening. The struggle is that someone buys a building or a house and knows going in that it is not giving someone what they need. The person makes some plans to improve it. He is in support of having the business move in because it would be beneficial to the location and the building needs some TLC. He will be a beneficial owner. The garage is not going to impact anyone. But on the other hand, where is the hardship.
- 5.6 Ms. Norman said that the hardship is the measurement of the interior of the building. He does not have normal sized walls.
- 5.7 Mr. Schneider asked if he knew that when he bought the building.
- 5.8 Chairman Sullivan said that the unusable space is what is counting against him. He said Mr. Boyer raised a good point in that the building is in a commercial area. They cannot park anywhere else. He was okay with the request because it will not impact the neighbors.
- 5.9 Mr. Boyer said if the applicant had owned the building for 15 years and then said that he needed a garage, would that make any difference on the Board's opinion? Or if he owned the building for 15 years and a tenant wanted to move in but the tenant needed a garage?
- 5.10 Ms. Norman said she believes that everyone should have a garage. Since there is no garage allowance for a commercial building, was that ever taken into consideration?
- 5.11 Chairman Sullivan said that no commercial properties get a bonus. But that is a good point. The style of this building is a two-flat with a façade that was bricked over in the front so it is one building. But it is a two-flat on a 30' lot. So when there is commercial property, there is no need for a garage in the back because there are not a lot of two flats in the Village. Usually those type of buildings have the benefit of public street parking. There is no street parking in this case.
- 5.12 Mr. Boyer said there are not that many of these properties in the Village.
- 5.13 Mr. Duffy said that a bonus is 440 square feet. If this property was governed like a residential property, then the Board would not be dealing with the FAR issue. He is struggling how to get comfortable with a hardship. Could the hardship be that the building is 115 years old and this was not designed for today's standards. And now they want to put an addition on the back to accommodate a construction

company. The applicant is not parking cars there. This is about storage of equipment for the business. He wants to encourage the business and wants to support this case, but is struggling with hardship.

5.14 Chairman Sullivan said that each Board member knows where they are and the job is not to convince each other, but to make their individual points. The Board will then assess the opinions.

5.15 Mr. Schneider said if the applicant wanted some storage he could reduce the space to 20' x 25' and park six cars outside.

The applicant said that he could not do this and then the parking would not work. He is in this predicament because he had to accommodate the parking.

**6.0 DECISION**

6.1 Mr. Duffy moved to recommend granting a request for a 277.3 square foot (6.0%) total floor area variation, a 5.0' side yard parking space setback variation, a 5.0' rear yard parking space setback variation, and a variation to allow parking spaces to open directly upon an alley to permit the construction of a one-story addition at 907 Ridge Road in accordance with the plans submitted.

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

Chairman Dan Sullivan	Yes
Mike Boyer	Yes
Patrick Duffy	Yes
John Kolleng	Not Present
Lynn Norman	Yes
Reinhard Schneider	No
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 2014-Z-55.

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**

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 of the property, the size of the lot and the design of the building, impose upon the owner a

practical difficulty. The plight of the owner was not created by the owner and is due to the unique circumstances of the lot. The difficulty is peculiar to the property in question. The difficulty prevents the owner from making reasonable use of the property for a general contracting business and in providing the necessary parking. The proposed variations will not 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, the applicant created his owner hardship by purchasing the property and in pursuing the proposed design. The applicant could reduce the size of the garage so that the floor area would be conforming and still provide six parking spaces. There is no difficulty or hardship present except that created by the applicant.

## **8.0 RECOMMENDATION**

The Zoning Board of Appeals recommends granting a request for a 277.3 square foot (6.0%) total floor area variation, a 5.0' side yard parking space setback variation, a 5.0' rear yard parking space setback variation, and a variation to allow parking spaces to open directly upon an alley to permit the construction of a one-story addition at 907 Ridge Road in accordance with the plans submitted.