

VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
July 18, 2007

1. Call to Order

Chairman Nelson called the meeting of the Zoning Board of Appeals to order on Wednesday, July 18, 2007, at 7:25 p.m., in the Memorial Hall, Memorial Building, 19 East Chicago Avenue, Hinsdale.

2. Swearing in of new Board Member

Chairman Nelson thanked former Members Michael Ripani and John Ochoa for their hard work and dedication. He welcomed new members Marc Connelly and John Callahan. Deputy Village Clerk Bruton administered the oath of office to new Board member Mr. John Callahan.

3. Roll Call

Present: Chairman Thomas Nelson, Members William Haarlow, John Callahan, Kim Angelo, John Richter, Marc Connelly, Bob Saigh

Absent: None

Also Present: Director of Community Development Timothy Bleuher, Village Manager Dave Cook, Attorney Steven Ruffalo, Staff Secretary Christine Bruton and Court Reporter Kathy Bono

4. Approval of Minutes

1. June 20, 2007

Chairman Nelson introduced the item. Member Saigh moved to approve the **ZBA Minutes of June 20, 2007**. Member Angelo seconded the motion.

AYES: Haarlow, Angelo, Richter, Connelly, Saigh, Nelson

ABSTAIN: Callahan

ABSENT: None

NAYS: None

Motion carried.

2. July 11, 2007

Chairman Nelson introduced the item and commented on the newly adopted ZBA Rules and Procedures. Member Richter moved to approve the **ZBA Minutes of July 11, 2007**. Member Connelly seconded the motion.

AYES: Haarlow, Angelo, Richter, Connelly, Saigh, Nelson

ABSTAIN: Callahan

ABSENT: None

NAYS: None

Motion carried.

5. Receipt of Appearances

Mr. Nick Etten filed another appearance on behalf of the remaining 28 petitioners of the Hinsdale Club appeal. He stated that Mr. Robert O'Donnell, attorney, will also file on behalf of these petitioners.

6. Receipt of Requests, Motions, Pleadings, or Requests to make Public Comment of a General Nature – None

7. Pre-Hearing and Agenda Setting

1. 222 E. Fourth Street, APP-1-07

Chairman Nelson remarked on the many outstanding matters in regards to this appeal. Attorney David Freeman addressed the Board, outlining the details of Johannesen I and II: The Circuit Court sustained the decision of the ZBA regarding Johannesen I on July 3rd, that has been

1 appealed to the Appellate Court. Johannesen II involves an appeal filed by the Eddins and a
2 complaint was filed in the Circuit Court, too. The Village and Johannesen have both filed
3 motions to dismiss. Mr. Freeman said the Chair has no authority to issue a stay before the Board
4 convened. Chairman Nelson agreed, but stated that appeals do not always reach the ZBA, and,
5 in this case the appeal triggered the stay. Attorney Mark Daniel stated that no decision was
6 made by the Village Manager and this is the central issue. The Village filed a motion to dismiss
7 on June 25th. Discussion followed regarding the various motions and stays before the courts in
8 this matter. Attorney Steven Ruffalo indicated that the attorneys representing all parties in this
9 matter would talk this week. Chairman Nelson asked if it would help to set up a pre-hearing
10 conference call to iron out some issues. Mr. Freeman suggested an in-person meeting, not a
11 phone call, and invited the Chair to participate in this conference. Mr. Ruffalo will arrange such
12 a meeting. The item will appear on the ZBA agenda in August.

13
14 Member Richter moved to **allow the Chair to discuss APP-1-07 with the attorneys on behalf**
15 **of the Zoning Board of Appeals.** Member Saigh seconded the motion.

16
17 **AYES:** Haarlow, Angelo, Richter, Connelly, Saigh, Nelson

18 **ABSTAIN:** Callahan

19 **ABSENT:** None

20 **NAYS:** None

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22 Motion carried.

23
24 **2. Hinsdale Club, APP-2-07**

25 Mr. Nick Etten, on behalf of the 28 remaining petitioners, reported on the status of the matter.
26 As of the last meeting, apparently the Village has not complied with the notice of stay nor with
27 the request that officers forthwith transmit to this Board all papers constituting the record of
28 appeal. He asked the Board to consider a directive to the Village President and the Village
29 Manager to urge their compliance. Additionally, there was reference to written communications
30 that are part of the Boards file, and he requested copies.

31
32 Chairman Nelson asked Village Manager Cook if he was in a position to send the file to the
33 ZBA. Attorney Ruffalo commented that this is a matter pending in litigation and it would be
34 imprudent to respond.

35
36 Mr. Etten stated the statute is clear; the President and Trustees must provide the official records.
37 He encouraged the Village to comply with the statute. Chairman Nelson said that he was served
38 with an amended complaint on Sunday. Today he met with attorneys Shaller and Murphy, of
39 Baker & McKenzie, in Chicago, who will be representing the ZBA and there is a hearing July
40 25th. Member Angelo would like a copy of the lawsuit. Mr. Ruffalo said copies would be
41 provided to the ZBA. There was concern expressed as to ZBA jurisdiction in this matter.
42 Chairman Nelson said this will be set for public hearing on August 15th with the understanding
43 and expectation that the official records will be provided. He asked for a resolution to strongly
44 request the file be provided.

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46 Member Angelo moved to issue a directive that the Village provide the file on APP-2-07 to all
47 parties in furtherance of State law. The Board agreed to amend the motion and change
48 'directive' to 'strongly request'. Member Haarlow seconded the amended motion.

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50 **AYES:** Haarlow, Angelo, Richter, Connelly, Saigh, Nelson

51 **ABSTAIN:** Callahan

52 **ABSENT:** None

53 **NAYS:** None

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55 Motion carried.

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1 Member Haarlow moved that **the ZBA supply the ex parte file on APP-2-07 to Mr. Etten.**
2 Member Angelo seconded the motion.

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4 **AYES:** Haarlow, Callahan, Angelo, Richter, Connelly, Saigh, Nelson

5 **ABSENT:** None

6 **NAYS:** None

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8 Motion carried.

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10 **8. A. Public Hearings:**

11 **1. 2 S. Thurlow, V-4-07** (Continued to August 15, 2007)

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13 **2. 124 E. Sixth Street, V-5-07**

14 Mr. & Mrs. Keith Kushner, property owners, are asking for a variance of front yard set back
15 to build an open porch. The lot is large but narrow and they would prefer to update the
16 home not tear it down. Court Reporter Bono administered the oath. Chairman Nelson asked
17 the Kushners to address the hardship requirement. Mr. Kushner explained that theirs is one
18 of the oldest homes in the neighborhood; they had no control on where it was built and it
19 predates the current setback stipulations. Further, he believes that denial of their request
20 would adversely affect the market value of the home. Chairman Nelson read into the
21 record the enthusiastic approval of the neighbors. Director of Community Development
22 Tim Bleuher said the Village has looked at the request and was successfully able to reduce
23 the setback request, and is supportive of the variation. Regarding the size of the porch, the
24 Kushners stated that they wanted a useful space and not a decorative porch.

25
26 Member Callahan moved to close the hearing on V-5-07 and deliberate in open session.
27 Member Richter seconded the motion. Voice vote taken, all in favor, motion carried.

28
29 Trustee Angelo moved to approve **124 E. Sixth Street, V-5-07**. Member Saigh seconded the
30 motion.

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32 **AYES:** Haarlow, Callahan, Angelo, Connelly, Saigh, Nelson

33 **ABSENT:** None

34 **NAYS:** Richter

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36 Motion carried, variation approved.

37
38 **3. 126 W. 7th Street, V-7-07**

39 Court Reporter Bono administered the oath. Mr. Tschosik, property owner, addressed the
40 Board. He is requesting a front porch on his corner lot; he described the narrow lot with no
41 side yard. He wants the porch so as to create usable outdoor personal space. He has spoken
42 to the neighbors and they are supportive. The proposed porch will enhance home and the
43 neighborhood. Ms. Kim Haig, the architect on the project, stated this is a legal non-
44 conforming lot and the existing home is already over in FAR and lot coverage. They
45 have removed a mud room thereby reducing lot coverage by 230 sq. feet. It was noted that
46 this is a very busy area on Seventh Street, and a compelling reason to configure the porch as
47 proposed.

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49 Member Angelo moved to close hearing on V-7-07 and deliberate in open session. Member
50 Saigh seconded the motion. Voice vote taken, all in favor, motion carried.

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52 The Board agreed that this was a creative solution, hardship has been established and the
53 safety issue is compelling. Trustee Connelly moved to approve **126 W. 7th Street, V-7-07**.
54 Member Richter seconded the motion.

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56 **AYES:** Haarlow, Callahan, Angelo, Richter, Connelly, Saigh, Nelson

57 **ABSENT:** None

1 **NAYS:** None

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3 Motion carried, variation approved.

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6 **4. 222 S. Monroe Street, V-8-07**

7 Court Reporter Bono administered the oath. Mr. Ron Christoph, property owner, addressed
8 the Board, stating they are trying to build a garage where the current garage exists. They
9 originally wanted to build on the back 20 percent of the yard, but there is a 100-year old
10 sewer line under that portion of the yard, therefore they would like to use the current site.
11 The existing garage is dilapidated and too small. The new garage will have a wider door and
12 will be higher, but still code compliant. The gable was added as an architectural
13 embellishment Mr. Christoph reported that his neighbors are supportive of the proposed
14 garage. Discussion followed regarding the responsibility of the Village in regards to the
15 sewer.

16
17 Member Angelo moved to close hearing on V-8-07 and deliberate in open session. Member
18 Richter seconded the motion. Voice vote taken, all in favor, motion carried.

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20 It was noted that the need for a variation is miniscule; however, the Zoning Code doesn't
21 allow for major or minor variations. Trustee Connelly moved to approve **222 S. Monroe**
22 **Street, V-8-07.** Member Haarlow seconded the motion.

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24 **AYES:** Haarlow, Callahan, Angelo, Richter, Connelly, Saigh, Nelson

25 **ABSENT:** None

26 **NAYS:** None

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28 Motion carried, variation approved.

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30 **B. New Business - None**

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32 **C. Unfinished Business**

33 **1. 114 S. Stough**

34 Director of Community Development Tim Bleuher said the problem is the issue of
35 determination of height; the submittal of drawings for permits are 1 foot 5/16" off. This
36 needs to be remedied. The homeowner understands this must be done. Mr. Bleuher will
37 check what the two-year old plans state. The clock is running on this item, and a revised
38 staff report was requested. Mr. Bleuher stated the discrepancy was the result of the
39 architect's quick measurement.

40
41 **2. Adoption of Rules & Procedures**

42 Chairman Nelson stated that Member Saigh did all the work compiling changes.
43 Chairman Nelson distributed copies of the adopted rules to the Board and asked that copies
44 be sent to former Board members Ripani & Ochoa asking them for their review and
45 comments.

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47 **3. Approval of Final Decision V-13-06, 111 E. Fuller Street, nunc pro tunc – Item continued**

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49 **4. Garfield Proceedings in Wheaton, status – Item continued**

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51 **5. 426 Clay, fence – Item continued**

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9. Adjournment

With no further business coming before the Zoning Board of Appeals, Member Callahan made a motion to adjourn. Member Richter seconded the motion.

Voice vote taken, all in favor, motion carried.

Chairman Nelson declared the meeting adjourned at 9:47 p.m.

Christine M. Bruton
ZBA Staff Secretary

Approved: _____