

**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
September 19, 2007**

1. Call to Order

Chairman Nelson called the meeting of the Zoning Board of Appeals to order on Wednesday, September 19, 2007, at 7:29 p.m., in the Memorial Hall, Memorial Building, 19 East Chicago Avenue, Hinsdale.

2. 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, Building Commissioner Robb McGinnis, Staff Secretary Christine Bruton and Trustees Orler & Schultz

3. Chairman's Opening Remarks

Chairman Nelson announced the decision of Judge Kenneth Popejoy in the declaratory judgment case as it applies to APP-02-07. As a result of the Judge's ruling the Zoning Board of Appeals has no jurisdiction in this case; therefore the Hinsdale Club item is removed from the ZBA agenda, unless and until there would be an appeal of the judges ruling. That decision is a matter of law, we respect the law. So, to the full extent possible, this Board will be mindful of the decisions reached in Wheaton. It should be understood by the citizens, this decision only applies to that parcel. The rights of the citizens remain the same for any other property. They still have the same right to come before the Zoning Board. The purpose of the appeal process under our Village Code remains the same; the appeal procedure is a safeguard against erroneous ill-conceived administrative decisions. The Board, setting aside the decision already reached regarding the Hinsdale Club, will be mindful of their oath.

Member Saigh distributed to the Board copies of the Closed Session Minutes he took from August 8, 2007. Chairman Nelson explained that the Board would take a five minutes break to review the minutes. If there were no changes, a motion would be made in open session to approve the minutes. If approved, the minutes will be kept in the vault until approved for release. If the Board decides to change them, they will adjourn to closed session for approval. That motion will be made in open session and final action will be taken in open session.

Mr. Richter moved to **accept the notes on the back of the agenda & prefatory note as accepted policy approved and accepted by our Board as operating procedures.** Chairman Nelson seconded the motion. Chairman Nelson explained the rules of small boards per Roberts Rules of Order which allow him to second motions. He said the tape could be turned off if someone didn't want to be taped.

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

ABSENT: None

NAYS: None

Motion carried.

4. Approval of Minutes

a. July 18, 2007

Member Callahan moved to **approve the minutes of July 18, 2007.** Member Angelo seconded the motion.

AYES: Haarlow, Callahan, Angelo, Richter, Connelly, Saigh, Nelson
ABSENT: None
NAYS: None

Motion carried.

b. August 8, 2007

Member Richter moved to **approve the minutes of August 8, 2007**. Member Haarlow seconded the motion.

AYES: Haarlow, Callahan, Angelo, Richter, Connelly, Saigh, Nelson
ABSENT: None
NAYS: None

Motion carried.

c. August 8, 2007, Closed Session

A five minute recess was taken to allow the Board to review the August 8, 2007 Closed Session minutes. Upon reconvening, Member Callahan moved to **adjourn to closed session to discuss the minutes**. Member Richter seconded the motion.

AYES: Haarlow, Callahan, Angelo, Richter, Saigh, Nelson
ABSTAIN: Connelly
NAYS: None

Motion carried.

Regular meeting adjourned to Closed Session at 7:55 p.m.

Member Richter moved to **reconvene the regular meeting of the Zoning Board of Appeals at 8:16 p.m.** Member Connelly seconded the motion. Voice vote taken, all in favor, motion carried.

Member Callahan moved to **take a month to review and edit minutes and reconvene in closed session next month**. Member Angelo seconded the motion.

AYES: Haarlow, Callahan, Angelo, Richter, Connelly, Saigh, Nelson
ABSENT: None
NAYS: None

Motion carried.

5. Receipt of Appearances - None

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

This item will resolve itself with the decision at the public hearing for V-10-07.

2. Hinsdale Club, APP-2-07 Status

Item removed from agenda.

3. 225 N. Park Avenue, V-9-07

Mr. Jack Krasuski, owner of the property, addressed the Board. He described his dilapidated garage that was built in the 1890's which he wants to replace on the same spot at the same size. It is not contiguous to the property of the home, but rather a separate parcel. He stated the neighbors are supportive and understand this is a replacement project only, no change in size. V-9-07 is set for public hearing on October 17, 2007.

4. 222 E. Fourth Street, V-10-07

This item is set for a special meeting on October 10th at 6:00 p.m. in the Old Board Room. This will be the only item of business on that date.

8. A. Public Hearings

B. New Business

1. Retention of substituted attorney in Johannesen I, II and/or Garfield

Chairman Nelson stated that on August 23rd, Judge Wheaton is scheduled for final oral argument and decision on the ZBA decision regarding Garfield. It may or may not be necessary to have someone at the table representing the ZBA at further proceedings in November 2007. It is important to this Board to get the correct language on the final order from the Judge's ruling on August 23rd. Mr. Cook has said that Mr. Daniel and Mr. Florey have submitted a draft order at this time that affirms the ZBA decision. We could ask the Village Board to appropriate funds to hire Attorney Ken Vanko, or ask the Village Board to assign special counsel. Members of the Board suggested that someone should appear on our behalf to make sure the wording is appropriate and that the ZBA should have representation because it would compliment the representation of the Village.

Member Angelo moved to **write a letter asking the Village Board to appoint special counsel to represent the ZBA in the event it is still necessary to resolve the dispute of the writing the final language of the order.** Member Saigh seconded the motion.

Member Richter is not comfortable with creating additional legal expense. Board discussion followed. Member Angelo withdrew his motion.

Member Saigh made a **motion to convey our concerns over representation of the final order to the Village Board.** Member Connelly seconded the motion.

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

ABSENT: None

NAYS: None

Motion carried.

C. Unfinished Business

1. 114 S. Stough, Final Decision V-01-07

The Board is waiting for a staff memo resolving inconsistencies in height measurements. Director of Community Development, Tim Bleuher said this was done and memorialized in an email on September 14th. Member Angelo moved

that this Village staff report is the final fulfillment of conditions of approval. Member Richter seconded the motion.

AYES: Haarlow, Callahan, Angelo, Richter, Connelly, Saigh, Nelson
ABSENT: None
NAYS: None

Motion carried.

2. 22 N. Lincoln, Final Decision V-09-06

This variation was approved with conditions as follows; perimeter landscaping, a landscape plan and to get all first year plantings in by the fall. Member Haarlow will coordinate with Mr. Bleuher for inspection. A call has been made to Mr. Fuller to comply with this request. If they don't comply, a letter and ticketing would be the next course.

3. Approval of Final Decision V-13-06, 111 E. Fuller Street, nunc pro tunc

Chairman Nelson noted the late transcript on this case and that to vote nunc pro tunc is the solution for this problem. Member Angelo moved **to approve the Final Decision for V-13-06, nunc pro tunc.** Member Haarlow seconded the motion.

AYES: Haarlow, Angelo, Richter, Saigh, Nelson
ABSTAIN: Callahan and Connelly
NAYS: None

Motion carried.

4. Approval of Final Decision V-06-07, 710 S. County Line Road, nunc pro tunc

Member Angelo moved to **approve the Final Decision on V-06-07, nunc pro tunc.** Member Haarlow seconded the motion.

AYES: Haarlow, Angelo, Richter, Saigh, Nelson
ABSTAIN: Callahan, Connelly
NAYS: None

Motion carried.

5. Approval of Final Decision, 124 E. Sixth Street, V-5-07

Member Angelo moved to **approve the Final Decision on V-05-07, nunc pro tunc.** Member Connelly seconded the motion. Member Saigh asked for correction of the language regarding the covered unenclosed front porch addition. Member Angelo withdrew the motion on the table.

Member Saigh moved to **approve the Final Decision on V-05-07, as amended.** Member Richter seconded the motion. Motion carried.

AYES: Haarlow, Callahan, Angelo, Connelly, Saigh, Nelson
ABSENT: None
NAYS: Richter

Motion carried.

6. Approval of Final Decision, 126 W. 7th Street, V-7-07

Member Angelo moved to **approve the Final Decision on V-07-07**. Member Callahan seconded the motion.

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

ABSENT: None

NAYS: None

Motion carried.

7. Approval of Final Decision, 222 S. Monroe Street, V-8-07

Mr. Bleuher noted that the permit was issued on September 18th. Member Angelo **moved to approve the final decision on V-08-07, nunc pro tunc**. Member Richter seconded the motion.

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

ABSENT: None

NAYS: None

Motion carried.

8. 426 Clay, fence; compliance with Final Decision F-01-05

Chairman Nelson ruled to delete this item from the agenda.

9. Adjournment

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

Voice vote taken, all in favor, motion carried.

Chairman Nelson declared the meeting adjourned at 9:22 p.m.

Christine M. Bruton
ZBA Staff Secretary

Approved: _____