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**VILLAGE OF HINSDALE  
ZONING BOARD OF APPEALS  
MINUTES OF THE SPECIAL MEETING  
Wednesday, August 21, 2013**

**1. CALL TO ORDER**

Chairman Debra Braselton called the special meeting of the Zoning Board of Appeals to order on Wednesday, August 21, 2013 at 7:01 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

**2. ROLL CALL**

**Present:** Chairman Debra Braselton, Members Marc Connelly, Gary Moberly, Bob Neiman and Rody Biggert

**Absent:** Members Keith Giltner and John Callahan

**Also Present:** Director of Community Development/Building Commissioner Robb McGinnis, Village Clerk Christine Bruton, Court Reporters Kathleen Bono and Tara Zeno

**3. APPROVAL OF MINUTES – July 17, 2013**

Due to the lack of eligible voting members present, this item was forwarded to the September 18, 2013 meeting.

**4. APPROVAL OF FINAL DECISION**

**a) V-04-13, 800 Merrill Woods Road**

Due to the lack of eligible voting members present, this item was forwarded to the September 18, 2013 meeting.

**b) V-05-13, 1 S. Monroe**

Due to the lack of eligible voting members present, this item was forwarded to the September 18, 2013 meeting.

**c) V-03-13, 218 Ogden Avenue**

Due to the lack of eligible voting members present, this item was forwarded to the September 18, 2013 meeting.

**5. RECEIPT OF APPEARANCES – All persons intending to speak were sworn in by the court reporter.**

**6. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE PUBLIC COMMENT OF A GENERAL NATURE - None**

**7. PRE-HEARING AND AGENDA SETTING - None**

1 **8. PUBLIC HEARINGS**

2 a) **V-08-13, 5526 S. Washington Street** (A transcript of the following  
3 proceeding is on file.)

4 Mr. Tom Angell, owner and applicant, explained to the Board that he  
5 had originally made this application in July 2009 and the Board  
6 unanimously approved this variance at that time. Unfortunately, he did  
7 not proceed in a timely fashion with permitting and, according to code,  
8 he must reapply. By way of background, he explained that six or seven  
9 years ago he invested a great deal of money into the property; however,  
10 the garage was structurally unsound, and needed to be completely  
11 replaced. He is requesting a decrease in the required side yard setback  
12 of 7.35' to 3.9' feet for the construction of another detached garage  
13 located in exactly the same location as the old one. Chairman  
14 Braselton confirmed that this application is the exact same request as  
15 the 2009 case.

16 **Mr. Walter Mihelich, 5512 S. Washington**, is concerned about  
17 flooding; however, in conversation with Mr. Angell he was assured that  
18 there will be no change in land use and rain gutters will be piped to the  
19 rear of yard. He asked that his driveway not be used during the  
20 construction, but otherwise he supports the request. Mr. Angell  
21 thanked his neighbor and stated that the existing setback will not  
22 worsen the situation and he is sensitive Mr. Mihelich's concerns. He  
23 also commented that all topographicals will be provided pursuant to  
24 code.

25 There being no further questions on the matter, Member Biggert moved  
26 **to close the public hearing for V-08-13, 5526 S. Washington**  
27 **Street**. Member Connelly seconded the motion.

28  
29 **AYES:** Members Connelly, Moberly, Neiman, Biggert and Chairman  
30 Braselton

31 **NAYS:** None

32 **ABSTAIN:** None

33 **ABSENT:** Members Giltner and Callahan

34  
35 Motion carried.  
36  
37

38 **D E L I B E R A T I O N S**

39  
40 The Board agreed that because of the previous approval, they were satisfied  
41 that all criteria for approval had been met. Member Moberly moved **to**  
42 **approve the request known as V-08-13, 5526 S. Washington Street**.  
43 Member Neiman seconded the motion.

1 **AYES:** Members Connelly, Moberly, Neiman, Biggert and Chairman Braselton

2 **NAYS:** None

3 **ABSTAIN:** None

4 **ABSENT:** Members Giltner and Callahan

5  
6 Motion carried.

7  
8 b) **V-07-13, 330 Chestnut Street** (A transcript of the following proceeding  
9 is on file.)

10 Chairman Braselton asked for a motion to open the public hearing. So  
11 moved by Member Moberly, seconded by Member Biggert.

12  
13 **AYES:** Members Connelly, Moberly, Neiman, Biggert and Chairman  
14 Braselton

15 **NAYS:** None

16 **ABSTAIN:** None

17 **ABSENT:** Members Giltner and Callahan

18  
19 Motion carried.

20  
21 Mr. Peter Coules, attorney for the applicant, Mr. David Habiger,  
22 addressed the Board. He provided an illustration showing the small  
23 buildable area of this B3 zoning district parcel. His client's proposal is  
24 to build one structure on the property which would cover only 35% of  
25 90% allowable lot coverage. A variance is necessary because of the  
26 thinness of the lot; they are asking for a setback of 5.5' feet instead of  
27 the 25' feet required. He stated that the parking lot would require a 10'  
28 foot landscape buffer and would be located at an existing cut. No sewers  
29 would be moved; they will be able to provide additional green space by  
30 building only one small structure. The uniqueness of the property is  
31 because of the depth. Mr. Coules reported that neighbors and BNSF are  
32 all in favor, there have been no objections. Mr. Habiger pointed out that  
33 the building profile is no higher than any other structure along the  
34 tracks and conforms to the 30' foot height restriction in the code. Mr.  
35 Bernie Bartelli, architect with Culligan Abraham, stated that the single  
36 story building will be about 25' feet from existing grade with a solid wall  
37 facing the tracks. To soften reverberation from the train, this wall will  
38 be covered with ivy. That side of the building was designed to have no  
39 windows other than an interior light source. The ivy will address some  
40 of the noise.

41  
42 **Mr. Tom Hines of 116 S. Vine**, the resident of the second house from  
43 the tracks, asked if this will be a business use. Mr. Bartelli explained

1 what the building will look like and what its purpose will be. Mr.  
2 Coules pointed out that site plan and exterior appearance will be  
3 addressed at the Plan Commission. It was noted that this structure  
4 would only occupy 12.5% of the allowable 50% buildable area. Mr.  
5 Habiger said he has spent a lot of time with the railroad working toward  
6 approval. The site is not zoned for retail. It was confirmed that the  
7 pedestrian walkway would remain intact. Mr. Hines would like to see  
8 trees planted as a buffer. Mr. Habiger noted that you don't want to look  
9 at the railroad tracks from the inside of the building either, and while  
10 he does not have a legal document of agreement with the railroad for  
11 trees, he intends to plant appropriate trees.

12 There being no further questions on this matter, Member Biggert moved  
13 **to close the public hearing for V-07-13, 330 Chestnut Street.**  
14 Member Moberly seconded the motion.

15  
16 **AYES:** Members Connelly, Moberly, Neiman, Biggert and Chairman  
17 Braselton

18 **NAYS:** None

19 **ABSTAIN:** None

20 **ABSENT:** Members Giltner and Callahan

21  
22 Motion carried.

## 23 24 25 **DELIBERATIONS**

26  
27 Member Neiman thinks this variance deserves approval. The owner and the  
28 architect have done a great job taking a wasteland to a useful purpose while  
29 being sensitive to the neighbors. Member Moberly moved **to close the public**  
30 **hearing for V-07-13, 330 Chestnut Street.** Member Neiman seconded the  
31 motion.

32  
33 **AYES:** Members Connelly, Moberly, Neiman, Biggert and Chairman Braselton

34 **NAYS:** None

35 **ABSTAIN:** None

36 **ABSENT:** Members Giltner and Callahan

37  
38 Motion carried.

39  
40 c) **V-06-13, 14 Glendale Avenue** (A transcript of the following proceeding is  
41 on file)

42 Chairman Braselton asked for a motion to open the public hearing. So  
43 moved by Member Moberly, seconded by Member Neiman.

1       **AYES:** Members Connelly, Moberly, Neiman, Biggert and Chairman  
2       Braselton

3       **NAYS:** None

4       **ABSTAIN:** None

5       **ABSENT:** Members Giltner and Callahan

6  
7       Motion carried.

8  
9       Mr. Scott Day, attorney for the applicant, addressed the Board stating he  
10      was here tonight with his colleague, Christina Morrison. The application  
11      before the Board is a petition for a variation within the R4 zoning district  
12      to increase the height of a residential home above the allowable 30 feet. To  
13      consider is the definition of grade, Hinsdale code utilizes existing contours  
14      prior to any reshaping of the natural contours of the property, but there  
15      are no good records of what those were at the time the house was  
16      constructed. However, the home was constructed in accordance with the  
17      then region-wide DuPage County Stormwater Management Ordinance  
18      which adherence to should have protected the basement and first floor in a  
19      100 year rain event. The second definition is height, which the Hinsdale  
20      code defines as the vertical distance as measured from the grade. This  
21      property measures at 30 feet.

22      Mr. Marc Marcucci, property owner, addressed the Board stating he moved  
23      into his home in 1998 with his wife and six children. While out of the  
24      country on vacation in 2010 he got a call from his neighbor who was  
25      checking his home. There was a severe rainstorm in progress and Mr.  
26      Marcucci's basement was full of water. By the time it was over, the flood  
27      had inundated the first floor, too. To remedy the problem, he consulted  
28      FEMA engineers and, working with the County and the Village, he created  
29      stormwater compensation on the property. Additionally, he expanded  
30      window wells, added pump systems and resealed all settling cracks. The  
31      engineer at the time stated this was a once in a lifetime storm event,  
32      however, during the April 2013 storm, they ended up with a full basement  
33      and 5 inches of water on the first floor. Everything was destroyed again.  
34      He explained that he and his family are attached to their home and in  
35      order to solve the problem drastic measures would need to be taken. He  
36      hired more engineers who determined the only solution is to raise the  
37      house. He noted that the water comes from Salt Creek; the water from the  
38      west does not inundate the property.

39      Mr. Dan Lynch from Christopher Burke Engineering, explained that the  
40      flood insurance rate map from 1981 was in effect when the house was built,  
41      and the house was designed with the best information available at the time  
42      to protect it from flooding. In 2004 new maps were issued, however  
43      Hinsdale was excepted because it is a dual county community. Mr. Lynch

1 noted that even after raising the elevation of the Marcucci home, theirs  
2 will still be lower than all others in the area. He explained it is a complex  
3 procedure to raise a home; the house will be separated from the foundation  
4 and raised by hydraulic jacks, the existing foundation will be extended  
5 with cement to the new elevation and the house is set back down. Member  
6 Neiman asked how raising the house will affect water runoff to the  
7 neighbors. Mr. Lynch said the grading remains essentially the same in full  
8 compliance with DuPage County guidelines; the perimeter yard drainage  
9 won't change. The only place the grading is changing is with the driveway  
10 because as the garage floor is raised up, the slope of the driveway will  
11 increase. The driveway slope will run north to the street as it does now  
12 where there is roadside drainage along Glendale. Mr. Lynch said it will  
13 not affect runoff to the neighbors. Raising the top of the foundation will  
14 increase the flood elevation above first floor, well in excess of the April  
15 2013 event. Additionally, retaining walls will be built to prevent the water  
16 from reaching the foundation. Member Biggert speculated this isn't a  
17 runoff problem; it's an encroachment issue from Salt Creek. Mr. Lynch  
18 confirmed that is exactly the case. Discussion followed regarding the  
19 function of the retaining wall and where water will go and dissipate. Mr.  
20 Marcucci noted when the house was built he put a storm water tank in his  
21 yard to compensate for the displaced water at 1 ½ times. There are  
22 200,000 gallons of water retained under his backyard, but this isn't  
23 enough. Mr. Day explained the regulatory scheme and standards; a  
24 retaining wall within 10' feet of the foundation of the home complies with  
25 the regulations of the DuPage County Stormwater Management Ordinance.  
26 Displacing the water in his basement will not affect the neighbors, said Mr.  
27 Marcucci; Mr. Lynch agreed because this water is dispersed throughout the  
28 entire Salt Creek watershed.

29 Mr. Day addressed the criteria for approval of the variation request. The  
30 hardship is obvious, \$800,000 of flood damage and the unique physical  
31 condition which requires relief from the existing topography. The problem  
32 is not self-created and this solution is a reasonable and minimal approach.  
33 If the Marcucci's had known in 1998 what the flood elevation was going to  
34 be today, the home would have been built higher at that time.  
35 Additionally, granting the variation will avoid a situation that might create  
36 blight for this area from an unusable house.

37 **Mr. Terrence Heuel, attorney for Perry and Kathryn Accettura of 19**  
38 **E. Birchwood**, addressed the Board. In the last flood, the floodwater  
39 came up to their retaining wall, it was two steps away from coming in the  
40 kitchen. What will happen to the water that used to be in Marcucci's  
41 basement? There was 150,000 gallons of water in Marcucci's basement,  
42 where will it go? This entire area is a problem. It is a hardship, but is it  
43 self-created? No one is upset about the change in height; the problem is

1 what to do about the water in his basement.

2 **Mr. Michael Capp, engineer for the Accettura's**, said he is sensitive  
3 and conversant with flood plain issues. He believes zoning issues deal with  
4 dimensions, bulk describes volume, the variance is for height, but we're  
5 really talking about the volume of water that will be displaced by his  
6 proposal. He showed pictures of the flooding in the area and stated, in his  
7 opinion, the water will go south to the neighbor's back yards. Mr. Marcucci  
8 is creating an island and that will displace the water in the immediate  
9 neighborhood to an elevation that it currently attains under these  
10 conditions.

11 Member Neiman noted that the retaining wall is perfectly legal and raising  
12 the house is added protection, but will not change the diversion of water.  
13 Chairman Braselton reminded the Board they are not granting the  
14 variance, but only making a recommendation to the Village Board. Mr.  
15 Capp commented that without opportunity to analyze the data he cannot  
16 answer Mr. Marcucci's question about how much of a difference this  
17 displacement would be over the neighborhood. Mr. Lynch stated he did do  
18 the calculations of displaced volume; he looked at the area between the  
19 Marcucci residence and Salt Creek and determined that at most the  
20 displacement would fill this area floodplain approximately 1/10" of an inch.  
21 He reiterated the cubic feet in the basement, relative to the square footage  
22 of the floodplain, would be 1/10" of an inch. Director of Community  
23 Development Robb McGinnis stated that he had attended a meeting with  
24 Mr. Marcucci and the Christopher Burke engineers to discuss water  
25 displacement and the FEMA regulations and requirements. The question  
26 is what happens to the de facto compensatory storage provided by the  
27 basement spread out over an entire watershed. The amount of water  
28 leveled over the entire watershed is probably immeasurable. He also noted  
29 that this variation request is for an increase in height; Mr. Marcucci could  
30 cut down the roof of the house and not have been before the ZBA at all.

31 **Mr. Jim Audet, 23 E Birchwood**, stated he has no problem with the  
32 height. The water came up in his backyard but stopped. The water  
33 reaches a certain level and then recedes. He agrees with Marcucci's  
34 engineer; the source of the water is Salt Creek not Marcucci's basement.

35 **Ms. Lauren Fitzgerald of 3823 Washington Street in Oak Brook**,  
36 addressed the Board stating she never had any water at her house until  
37 Marcucci's built their home. She believes they pump the water from their  
38 yard into hers. She doesn't think it's fair to assume the raising and  
39 grading proposed will not affect them. They have spent \$100,000 to keep  
40 water away from their home and asked the Board to consider more than  
41 just the height of the building. She confirmed that she did not get any  
42 water in 2010 and 2013, but they have installed water protection measures  
43 since the Marcucci's house was built in 1998.

1 **Mr. Graham Hershman of 949 N. Washington** stated that during the  
2 floods he had six feet of water in his yard that came to the top of his  
3 retaining wall. He would contend that any further displacement of water  
4 might not be retained by his six foot wall. He would object to anything that  
5 would potentially affect his house or his neighbors; even one inch would  
6 make a difference. He believes this is a self-created problem because Mr.  
7 Marcucci built in a floodplain. Mr. Hershman is concerned about the data  
8 provided tonight, who is to say if the new estimates will work this time  
9 either.

10 Mr. Marcucci responded that he is planning to build a retaining wall, which  
11 would still be a foot below his neighbor's retaining walls. There is a  
12 problem in the area; he is not the problem, the watershed is the problem.  
13 Mr. Day commented that furthermore, the home is not located in the  
14 floodplain, it is outside the regulatory floodplain; this discussion tonight  
15 has been about storm water, which is not under the purvue of the ZBA.  
16 Stormwater regulations are enforced and determined by DuPage County.  
17 He reiterated that based on the elevation of the houses, this basement will  
18 fill first before it would affect the surrounding neighbors. He pointed out  
19 that none of the neighbors have objections to the height of the home, but  
20 rather have issues with the DuPage County Stormwater regulations.  
21 Member Neiman moved **to close the public hearing for V-06-13, 14**  
22 **Glendale Avenue.** Member Biggert seconded the motion.

23  
24 **AYES:** Members Connelly, Moberly, Neiman, Biggert and Chairman  
25 Braselton

26 **NAYS:** None

27 **ABSTAIN:** None

28 **ABSENT:** Members Giltner and Callahan

29  
30 Motion carried.

31  
32 **DELIBERATIONS**

33  
34 It was noted that this is a recommendation only and will go to the Village  
35 Board of Trustees regardless of the ZBA vote. Member Neiman believes in  
36 global warming and science. He stated that the ZBA tries to be sensitive to  
37 requests that will affect neighbors, even if it isn't a direct criteria for  
38 approval. The relevant portions of the approval criteria are under the  
39 essential character of the area portion of the code; that is approval will not  
40 result in a material detriment of the public welfare or unduly increase flood or  
41 fire. The Marcucci's lawyers comment that the ZBA is ill-equipped to measure  
42 materiality and therefore must defer to engineering experts. The Village says  
43 the amount of displaced water will be a 'spit in the ocean'. The Marcucci's

1 have satisfied the required criteria and he will vote in favor despite concern  
2 for the neighbors. We can't vote on the retaining wall and raising the  
3 elevation won't materially affect flooding in neighboring properties. Member  
4 Biggert agrees Marcucci's counsel has satisfied his burden of proof. Member  
5 Moberly agrees, he is not insensitive to the water issues, but believes the  
6 criteria of this case has been met. Member Moberly moved to approve **V-06-**  
7 **13, 14 Glendale Avenue.** Member Neiman seconded the motion.

8  
9 **AYES:** Members Connelly, Moberly, Neiman, Biggert and Chairman Braselton

10 **NAYS:** None

11 **ABSTAIN:** None

12 **ABSENT:** Members Giltner and Callahan

13  
14 Motion carried.

15  
16 *(The Board took a 10 minutes recess, upon reconvening the Board resumed the*  
17 *following business.)*

18  
19 d) **V-09-13, 421 E. Ogden Avenue** (A transcript of the following proceeding  
20 is on file.)

21 Mr. John George, attorney for Adventist Hinsdale Hospital, addressed the  
22 Board stating they are seeking variations for signs to serve the outpatient  
23 cancer center. This property encompasses nine acres and is in the O3  
24 Zoning district, they are not asking for setback, lot coverage or FAR relief  
25 for the building, it is completely code compliant. He described the facility  
26 and the services to be provided. The variation request is only about  
27 signage. The Zoning code prohibits off premises signs, they are asking for  
28 two in order to identify the business location. Spinning Wheel Road is  
29 being closed, and they need directional signs to the businesses in that area.  
30 IDOT agrees it is a good idea to close that road. They are asking for nine  
31 ground signs, only one allowed by code. The code does not provide for  
32 campus signage. Ground signs are needed to direct patients to the correct  
33 part of the facility. These are required to be 100' square feet total, they are  
34 requesting 467' square feet total. There will be two separate entrances and  
35 they are asking for signs above each at 38' high instead of the allowed 20'.

36 Mr. Jordan Black, from Sign Craft USA, addressed the Board stating he  
37 was involved with designing the signs to make them architecturally  
38 integrated with the building and to conform to Hinsdale's standards. He  
39 provided a powerpoint illustrations of the proposed signage. He outlined  
40 the materials used to construct the signs and described the subtle lighting  
41 and appropriate landscaping provided and the purpose for each sign.

42 Mr. George explained that IDOT is not requiring a change to existing  
43 traffic signage. The street will still be Salt Creek Road. Chairman

1 Braselton commented that she can understand why they want the height of  
2 the sign, so it can be seen; the purpose of the extra signage is just to direct  
3 people to their destinations. Member Moberly asked why this sign is so  
4 much bigger than the others in the area. Mr. George explained that when  
5 the traffic is going in either direction people need to be able to identify the  
6 location. They directed the sign company to design as small a sign as  
7 possible and still serve the purpose for which it is intended. Some of the  
8 other business signs on Ogden Avenue are more easily recognizable by  
9 brand and a larger sign not as necessary, said Mr. Black, and noted that  
10 people still rely on signage to reach their destinations, not just GPS type  
11 technology.

12  
13 Mr. George addressed the criteria in the zoning code for granting a  
14 variation, and stated this is a unique situation in part because of the  
15 closing of Spinning Wheel Road; the type of sign variations requested do  
16 not affect or change character of neighborhood and there is no other  
17 remedy.

18  
19 **Mr. David Theiler of 617 N. Oak**, stated this project is located about a  
20 block from their home and he finds nothing offensive about the Center or  
21 the signage and encourages the Board to grant these variances.

22  
23 There being no further questions for the applicant, Member Biggert moved  
24 **to close the public hearing for V-09-13**. Member Moberly seconded the  
25 motion.

26  
27 **AYES:** Members Connelly, Moberly, Neiman, Biggert and Chairman  
28 Braselton

29 **NAYS:** None

30 **ABSTAIN:** None

31 **ABSENT:** Members Giltner and Callahan

32  
33 Motion carried.

34  
35  
36 **D E L I B E R A T I O N S**

37  
38 Chairman Braselton began discussion by stating that she believes this request  
39 is reasonable and necessary. Member Biggert believes that all approving  
40 criteria are met. Member Neiman agreed and stated this is a great use of the  
41 site and benefit to the community. Member Moberly moves to **approve the**  
42 **variation request known as V-09-13, 421 E. Ogden Avenue**. Member  
43 Biggert seconded the motion.

1 **AYES:** Members Connelly, Moberly, Neiman, Biggert and Chairman Braselton  
2 **NAYS:** None  
3 **ABSTAIN:** None  
4 **ABSENT:** Members Giltner and Callahan

5  
6 Motion carried.

7  
8 **9. NEW BUSINESS** - None

9  
10 **10. UNFINISHED BUSINESS** - None

11  
12 **11. ADJOURNMENT**

13 With no further business before the Zoning Board of Appeals, Member  
14 Moberly made a motion to **adjourn the meeting of the Zoning Board of**  
15 **Appeals of August 21, 2013.** Member Biggert seconded the motion.

16  
17 **AYES:** Members Connelly, Moberly, Neiman, Biggert and Chairman  
18 Braselton

19 **NAYS:** None

20 **ABSTAIN:** None

21 **ABSENT:** Members Giltner and Callahan

22  
23 Motion carried.

24  
25 Chairman Braselton declared the meeting adjourned at 9:56 p.m.

26  
27  
28  
29  
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31

\_\_\_\_\_  
Christine M. Bruton  
Village Clerk

Approved: \_\_\_\_\_