



## MINUTES OF THE ZONING BOARD OF APPEALS

### VILLAGE OF TINLEY PARK, COOK AND WILL COUNTIES, ILLINOIS

**MARCH 24, 2016**

The regular meeting of the Zoning Board of Appeals was held in the Council Chambers of Village Hall on March 24, 2016 at 7:30 p.m.

#### **ROLL CALL**

Present and responding to roll call were the following:

Zoning Board Chairman: Chris Verstrate

Zoning Board Members: Paul Lechner  
Bob Paszczyk  
Steve Sepessy

Absent Zoning Board Members: David Samuelson

Village Officials and Staff: Paula Wallrich, Deputy Planning Director  
Stephanie Kisler, Planner  
Tom Melody, Village Attorney  
Debra Kotas, Commission Secretary

#### **CALL TO ORDER**

ZONING BOARD CHAIRMAN VERSTRATE called the meeting to order at 7:31 p.m. The Pledge of Allegiance was recited.

#### **APPROVAL OF MINUTES**

Minutes of the January 28, 2016 meeting of the Zoning Board of Appeals were presented for approval. A motion was made by ZONING BOARD MEMBER LECHNER seconded by ZONING BOARD MEMBER PASZCZYK to approve the minutes as presented.

THE MOTION WAS APPROVED UNANIMOUSLY by voice vote. ZONING BOARD CHAIRMAN VERSTRATE declared the motion approved.

**TO: VILLAGE OF TINLEY PARK PRESIDENT AND BOARD OF TRUSTEES**

**FROM: VILLAGE OF TINLEY PARK ZONING BOARD OF APPEALS**

**SUBJECT: MINUTES OF THE MARCH 24, 2016 MEETING**

**RE: PUBLIC HEARING #1  
ANTHONY & JILL DANCA-16412 IRONWOOD DRIVE-VARIATIONS FROM THE  
REQUIRED SIDE YARD SETBACK AND FROM THE ALLOWABLE  
EAVE/GUTTER ENCROACHMENT-ADDITION**

Consider recommending that the Village Board grant two (2) variations that would allow for the construction of a proposed addition including:

1. A three foot (3') side yard setback variation from Section V. Schedule II (Schedule of District Requirements) where the side yard setback requirement is eight feet (8'); and,
2. A one foot, eight inch (1'8") variation from the allowable eave/gutter encroachment in Section III.H. (Permitted Encroachments in Required Yards) where three feet (3') is the maximum encroachment permitted for eaves/gutters into the required side yard setback.

These variations would allow the Petitioners to construct the proposed one-story addition to the existing home at a five foot (5') setback from the north side property line and would allow the proposed eaves/gutters to be three feet, four inches (3'4") from the side property line on the north side of the property located at 16412 Ironwood Drive in the R-3 Single Family Residential Zoning District and within the Tanbark subdivision.

Present were the following:

|                              |  |
|------------------------------|--|
| Zoning Board Chairman:       | Chris Verstrate  |
| Zoning Board Members:        | Paul Lechner<br>Bob Paszczyk<br>Steve Sepessy  |
| Absent Zoning Board Members: | David Samuelson  |
| Village Officials and Staff: | Paula Wallrich, Deputy Planning Director<br>Stephanie Kisler, Planner<br>Tom Melody, Village Attorney<br>Debra Kotas, Commission Secretary |
| Guest(s):                    | Anthony Danca  |

A motion was made by BOARD MEMBER SEPESSY, seconded by BOARD MEMBER PASZCZYK to open the Public Hearing at 7:32 p.m. THE MOTION WAS APPROVED by voice call. ZONING BOARD OF APPEALS CHAIRMAN VERSTRATE declared the Motion approved.

Village Staff provided confirmation that appropriate notice regarding the public hearing was published in the local newspaper in accordance with State law and Village requirements.

ZONING BOARD CHAIRMAN VERSTRATE reviewed the Public Hearing process. He explained the Petitioner(s) will be allowed to present evidence in support of the variation request. He stated they have already provided the written Findings of Fact to support the variance request and it will be their obligation to provide a burden of proof with facts and evidence to support the Findings that this Board requires before a variance can be granted. He explained then Village Staff will present their report with any objectors or interested parties being allowed to question both the Petitioner and Village Staff. He stated the Zoning Board will then deliberate and vote on the petition.

CHAIRMAN VERSTRATE requested the Petitioner(s) and anyone present who wished to give testimony, comment, engage in cross-examination or ask questions during the Hearing stand and be sworn in.

ANTHONY DANCA, 16412 Ironwood Drive, explained he and his family is seeking a variance in order to extend their garage to store an antique vehicle as well as provide additional storage space for bicycles, sporting goods, tools and home maintenance equipment. He stated there is an existing shed in the yard that has become inadequate for the amount of storage needed. He stated the garage would also allow for the storage of his antique vehicle which would then allow his other vehicles to be parked inside where they can be safeguarded and not an eyesore to neighbors. He further explained inside the home directly behind the garage is a 5' x 11' laundry room that contains their furnace, hot water heater, utility sink, washer and dryer that does not allow sufficient space. He expressed safety concerns regarding having a substantial amount of laundry near the furnace or hot water heater potentially being a fire hazard. While moving the furnace and hot water heater to another area of the home would be a possibility, he explained this would result in a major expense and invasive without yielding additional space. He reported the size of the planned garage is the absolute minimum size to allow for a vehicle and a much needed laundry room and would also add curb appeal to the home.

MR. DANCA proceeded to quote verbatim from the previously submitted Findings of Fact. He explained they are having difficulty conforming to existing zoning regulations. He reported conversations with his architect stating this is the best and least intrusive option. After meeting with the Village's Building and Planning Departments, he reviewed and addressed in detail other options including:

1. Building a detached garage in the rear of the property that would require removal of a mature tree and existing swimming pool and addition of a concrete drive;
2. Extend the existing garage 7' whereby no variance would be required;
3. Laundry room addition to the rear of the home that would also require removal of the tree and pool and increased costs due to demolition of a concrete slab underneath the existing family room;
4. Decrease the size of the variance that would not allow for opening or closing of a garage door;
5. Sell home and move that will not be considered.

MR. DANCA stated current zoning regulations and restrictions negatively affect his property value compared to neighboring properties because of the current setback requirements. He explained they are unable to update their home compared to similar area homes in their subdivision having 3-car garages, resulting in the home being less attractive to buyers should they wish to sell. He elaborated that the hardship was created based on the property being located in R-3 Single Family Residential Zoning District.

MR. DANCA explained the variance request is unique since his Forrester-style home was built with no room on either side of the garage, having only eight inches (8") on each side for storage. He provided data of other Forrester style homes in the area having more space built into the sides of the garage.

MR. DANCA admitted given current real estate conditions, the addition is not a wise investment, however, the variance is not an attempt at financial gain but to provide additional useable space within the home. He described how the variance will not have a negative impact or be detrimental to the neighborhood or surrounding

properties by allowing for a cleaner driveway due to reduced vehicles on the street, nor will it alter the essential character of the neighborhood since the exterior materials for the addition will match the existing home.

Again, quoting the Findings of Fact, MR. DANCA described how the variance will not:

1. Impair an adequate supply of light and air to adjacent properties;
2. Substantially increase congestion of the public street;
3. Increase the danger of fire;
4. Impair natural drainage or create drainage problems;
5. Endanger public safety; or,
6. Substantially diminish or impair property values within the neighborhood.

MR. DANCA reported researching property setback variances granted by the Zoning Board of Appeals including: Taher (05/28/15); Schapen (05/22/14); Moscato (10/24/13); O'Leary (09/12/13); and, Williams (03/14/13). He referenced a previous meeting of the ZBA where Zoning Board Member Pat Conway commented regarding a variance that allowed for construction of a sunroom stating, "a precedence has been established for these types of variances".

In conclusion, MR. DANCA noted a sunroom is more recreational than functional and the proposed addition is a permanent structure to allow for additional useable space. He requested the Board take this into account when making their decision and be confident that they have performed due diligence and have the neighborhood and community interest in mind with the proposed project based upon established hardship, discussions with Staff, being cognizant of the appearance of the neighborhood and neighborhood support indicated by a petition in support of the project signed by surrounding neighbors.

BOARD MEMBER PASZCZYK inquired as to the age of the home and how long the Petitioner has resided in the home. MR. DANCA stated the home was built in 1986 and they have lived there approximately 5 years. MEMBER PASZCZYK noted that the Petitioner's immediate neighbor has no issue with the proposed addition. He also inquired if there were any electrical, water or public utility easements. STEPHANIE KISLER, Planner, confirmed that there are public utility and drainage easements.

BOARD MEMBER SEPESY reported visiting the property during recent rains. He expressed concerns with drainage noting a large puddle in front of the home within 4' of the street. He inquired if there was any provision for increased water including drainage tiles. MR. DANCA reported no provisions have been made, however, the current concrete footprint is approximately the size of the addition. He added there are three (3) existing drain spouts that will bring water to corner where driveway meets sidewalk.

There being no further questions from Board Members and with no other interested parties present, MS. KISLER presented the Staff report. She reported the Petitioners are requesting a 3' sideyard setback variation where the setback requirement is 8'; and a 1'8" variation of allowable encroachment of eaves where 3' is maximum to construct a 1-story addition to the existing home at a 5' setback from the north property line with proposed eaves/gutters consistent with the style and architecture of the property that would overhang into the utility easement area. She noted the Petitioners had sought the same variance in July, 2015 that was unanimously denied by the Zoning Board of Appeals; the Petitioners chose to not appeal the decision to the Village Board. She explained the dimensions and physical plan of the proposed addition are the same as was previously proposed, however, the Petitioner has expanded upon their Findings of Fact in the hopes of receiving support for the variation requests.

MS. KISLER showed photographs of the subject property located near 184<sup>th</sup> Avenue and 167<sup>th</sup> Street in the Tanbark subdivision. She reviewed a diagram of the property prepared by Staff showing the home, existing shed, above-ground pool and deck, property lines and the proposed addition. She reported the existing shed appeared to be encroaching the easement however it received a permit in 1998. She was unsure as to what the

inspection processes were at that time. She compared setback requirements for the R-3 zoning district, where this property is located, with other residential zoning districts.

MS. KISLER reported Staff reviewed the property to determine if other alternatives are possible for creating an additional garage space and addition for a laundry room. Using the aforementioned diagram, she explained an attached garage of equal size could be built at the rear of the home near the patio but would require relocation of the above-ground pool. She also explained a detached garage could be located at the rear of the property, also requiring relocation of the pool and the shed. She explained the Petitioner's need for a laundry room could be addressed with a room addition to the rear of the home or on the north side of the home and remain in conformance with sideyard setback requirements and not require a variance.

MS. KISLER stressed the importance of this being a permanent structure that will not be able to be altered in the future and granting the variations would establish a precedent for this neighborhood and other properties in similar zoning districts.

Using photographs of the home with a conceptual layout of the proposed addition, MS. KISLER showed the proposed addition would be 20' from the adjacent home to the north, or 16'8" from eave to eave. Currently without the addition, she reported the distance is 30' from structure to structure and 26'8" from eave to eave. She reported Staff studied the approximate distances of seventeen (17) homes along Ironwood Drive and found them to have an average distance of 28' between structures. She added the Zoning Ordinance allows a minimum side yard setback of 8', so 16' is the minimum distance allowed between structures. Eaves/gutters are permitted to encroach into the setback a maximum of 4' into the required front and rear yards and not projecting more than forty percent (40%) of the required side yard, but in no case exceeding 3'. When measuring from eave to eave, homes in the R-3 Zoning District could be a minimum distance of 10' apart.

MS. KISLER noted there is a 5' wide Public Utility and Drainage Easement that runs the length of the north property line between where the addition is proposed to be located and the property to the north.. With only having 5' to work with and the eaves overhanging the easement, she expressed Staff concerns regarding adequate access to the easement, including accommodating potential equipment needed for maintenance of the utilities, particularly if the home to the north decides to construct a similar addition based on a precedent being set with this variation. She explained if the neighboring property to the north did request a similar variation, the building separation would be reduced to ten feet 10' or 6'8" including the eave.

MS. KISLER noted a unique hardship must be established in granting a variation and Board Members must determine if the Petitioner has a unique hardship that applies only to their property. In considering the granting of a Variation, she explained the Zoning Board of Appeals must evaluate the evidence provided by the Petitioners and provide evidence supporting positive findings for each of the required standards for Variations.

In conclusion, MS. KISLER reviewed comments from the following departments including:

Public Works/Engineering:

1. The drawing indicates that construction will be occurring outside of the existing 5' public utility and drainage easement, therefore, the Petitioner must verify in writing that there will be no encroachment of any underground structures into the public utility and drainage easement;
2. Due to the encroachment of eaves, an encroachment letter must be provided if the Village needs to utilize the public utility and drainage easement where the narrowness will affect the equipment that can be used and any damage caused to the property that encroaches on the public utility and drainage easement will not be the responsibility of the Village.
3. With the addition, the impervious area of the lot available for drainage is greatly reduced that could result in overly saturated ground/yard flooding since stormwater has less surface area to absorb into the ground. The landowner should acknowledge this prior to issuing a permit with the understanding that the Petitioner cannot negatively impact the water flow to neighboring properties.

Fire Department:

1. Fire Prevention will require that the current construction of the existing building be continued with the addition and include a fire rated wall separating the garage from the laundry room and remainder of the home.

BOARD MEMBER PASZCZYK expressed concerns that this will be a permanent structure and there are issues to consider including flooding issues. He added there are alternatives available.

BOARD MEMBER SEPESSY commented that while there are other alternatives available, the Petitioner's request is the "lesser of all evils" and will potentially upgrade the property. He stated if heavy equipment is necessary to enter the property, there is sufficient room on the south end of the property. He does not see this as a large problem. He added it meets aesthetic and Fire Department guidelines. He does not foresee drainage being an issue.

There being no further questions or comments, a motion was made by BOARD MEMBER LECHNER, seconded by BOARD MEMBER PASZCZYK to close the Public Hearing at 8:14 p.m. for deliberation.

A MOTION WAS MADE BY BOARD MEMBER SEPESSY to recommend the Village Board grant the Petitioner variations that would allow for the construction of a proposed addition on the north side of the existing residential structure including:

1. A three foot (3') side yard setback variation from Section V. Schedule II (Schedule of District Requirements) where the side yard setback requirement is eight feet (8'); and,
2. A one foot, eight inch (1'8") variation from the allowable eave/gutter encroachment in Section III.H. (Permitted Encroachments in Required Yards) where three feet (3') is the maximum encroachment permitted for eaves/gutters into the required side yard setback.

With the following conditions:

1. That the materials match the existing residential structure;
2. That fire-rated wall regulations from the Fire Department are met
3. There is recourse or guarantee that drainage problems will be addressed strenuously.

The Motion was seconded by BOARD MEMBER PASZCZYK.

AYE: Zoning Board Members Steve Sepessy

NAY: Zoning Board Member Paul Lechner, Bob Paszczyk and Chairman Chris Verstrate

ABSENT: Zoning Board Member David Samuelson

THE MOTION FAILED by voice vote. ZONING BOARD OF APPEALS CHAIRMAN VERSTRATE declared the Motion denied.

**TO: VILLAGE OF TINLEY PARK PRESIDENT AND BOARD OF TRUSTEES**

**FROM: VILLAGE OF TINLEY PARK ZONING BOARD OF APPEALS**

**SUBJECT: MINUTES OF THE MARCH 24, 2016 MEETING**

**RE: PUBLIC HEARING #2  
MICHAEL LAWTON-17710 65<sup>TH</sup> COURT-VARIATION FROM THE REQUIRED  
SETBACK FOR AN ACCESSORY STRUCTURE-ABOVE GROUND POOL**

Consider recommending that the Village Board grant a one foot, seven inch (1'7") variation from Section III.I.1.f. (Accessory Structures and Uses) where no part of an accessory structure shall be located closer than five feet (5') to the rear lot line or to those portions of the side lot lines abutting such required rear yard.

The variation would allow the Petitioner to replace an above ground pool with a new above ground pool at the same location (a setback of three feet five inches (3'5")) at 17710 65<sup>th</sup> Court in the R-4 Single Family Residential Zoning District and within Whitney and Bishop's Subdivision.

Present were the following:

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|------------------------------|--|
| Zoning Board Chairman:       | Chris Verstrate  |
| Zoning Board Members:        | Paul Lechner<br>Bob Paszczyk<br>Steve Sepessy  |
| Absent Zoning Board Members: | David Samuelson  |
| Village Officials and Staff: | Paula Wallrich, Deputy Planning Director<br>Stephanie Kisler, Planner<br>Tom Melody, Village Attorney<br>Debra Kotas, Commission Secretary |
| Guest(s):                    | Michael Lawton, Petitioner   |

A motion was made by BOARD MEMBER PASZCZYK, seconded by BOARD MEMBER SEPESSY to open the Public Hearing at 8:16 p.m. THE MOTION WAS APPROVED by voice call. ZONING BOARD OF APPEALS CHAIRMAN VERSTRATE declared the Motion approved.

Village Staff provided confirmation that appropriate notice regarding the public hearing was published in the local newspaper in accordance with State law and Village requirements along with notice being sent to surrounding residences.

CHAIRMAN VERSTRATE requested the Petitioner(s) and anyone present who wished to give testimony, comment, engage in cross-examination or ask questions during the Hearing stand and be sworn in.

MICHAEL LAWTON, 17710 65<sup>th</sup> Court, stated he has been a resident of Tinley Park since 1971 and has resided in his current home since 1981 where he has made many upgrades to the home totaling approximately

\$200,000. He reported this is the second of two (2) hardships he has faced as a homeowner since the fence and pool structure were existing when he purchased the home in 1981 and was previously approved and permitted by the Village in 1978. He stated he is only seeking to replace the pool structure.

In 1999, MR. LAWTON stated he constructed an elaborate deck that encompassed the circumference of the pool, paver walkway, bench seating and landscaping. Due to a damaged pool liner, he reported purchasing a new pool at the end of the summer, 2015. He stated he discovered he had a problem with compliance when he presented to the Building Department for a permit for installation being told the existing pool is actually 3'5" from the north property line where the required setback is 5'. In order to be in compliance, the cost would be \$6,000 for deck renovation, excavation and grading.

With Hirsch Park immediately to the north of his home, MR. LAWTON does not believe there will be any further development whereby a similar variation would be requested to encroach on the area where the pool is located. He noted the Park is 42" lower than finished grade of his property, therefore, there are no drainage issues. He also reported installing a french drain around his property. He sees no fire hazards or affect on air, light quality or property value. He offered to comply with Public Works/Engineering request to acknowledge in writing the impervious nature of the landscaping.

In conclusion, MR. LAWTON thanked Staff for their efforts in preparing the variance request and also thanked the Board for consideration of this matter.

BOARD MEMBER PASZCZYK inquired if the pool will continue to be enclosed. MR. LAWTON reported the property is surrounded by a 6' privacy fence with 2 locking gates. MEMBER PASZCZYK acknowledged there was no Building Department review due to a recent change in Staff.

There being no further questions from Zoning Board Members and with no audience members present, STEPHANIE KISLER, Planner, presented the Staff Report. She reviewed the Petitioner's request for a 1'7" variance request for an accessory structure to be 3'5" from the north side property line. She acknowledged the Petitioner wishes to replace an above ground pool of the same size in the exact same location.

MS. KISLER showed photographs of the existing custom built deck and area where the pool was previously located. She noted the extensive improvements to the property including patio and sunroom. She reported the Plat of Survey shows no easements existing along the north property line where the pool is located. Staff has reviewed the building permit from 1978 for the original pool and fence. She noted the original Plat accompanying that application refers to an 18' above ground pool that appears to have been changed on the application to 24'.

MS. KISLER stressed the nature of this variance request is different from the previous since an above ground pool is an accessory structure and more temporary in nature. Staff acknowledges the request is to replace a pool at the same location, therefore, no new impact will be realized by any adjacent property. She noted there is no neighbor directly bordering this variance request only the open space of Hirsch Park. As with all Variations, she stated a unique hardship must be established in granting a Variation. The facts of the case include the Petitioner's request to replace a pool in the same location as a legally permitted pool, encroachment of a side yard that is adjacent to permanent open space, no impact on a utility or drainage easement and that compliance with setback requirements would require reconstruction of a custom built deck that has been designed for the existing and now proposed size and curvature of the pool, replacement of a paver sidewalk, relocation of a constructed bench and landscaping. In considering the granting of a Variation, she explained the Zoning Board of Appeals must evaluate the evidence provided by the Petitioners and provide evidence supporting positive findings for each of the required standards for Variations.

In conclusion, MS. KISLER reviewed Staff comments including Public Works/Engineering who had drainage concerns commenting there is a significant amount of landscape, hardscape, and accessory structures within the fenced area and the solid wood fence with no gaps was built flush with grade that could block natural drainage patterns. However, following a site visit, engineering staff noted this lot is adjacent to open space and the construction does not appear to have negatively impacted drainage to other lots at this time. The impervious area of the lot available for drainage is greatly reduced, therefore, could result in overly saturated ground/yard flooding since there is less surface area to absorb into the ground. Staff referred to the Petitioner's french drain system and extensive engineering on the property and noted that Public Works/Engineering acknowledged the work performed by the property owner, however, is still requesting a waiver from the owner prior to issuing a permit. She noted Fire and Police Departments had no comment and the Building Department did not review the variation request due to the Building Commissioner retiring prior to submittal of the application.

CHAIRMAN VERSTRATE stated the Petitioner is placing the pool in the same location where it had been for 30+ years and such a small variance at 1'7" supports the Findings of Fact and greatly mitigates any issues. He stated he had no issues with complying to any of the engineers comments or request to sign a waiver.

BOARD MEMBER SEPESSY noted there is adequate drainage with the adjacent park.

With no further deliberation, a motion was made by BOARD MEMBER PASZCZYK, seconded by BOARD MEMBER LECHNER to close the Public Hearing at 8:42 p.m.

There being no further questions or comments, a motion was made by BOARD MEMBER PASZCZYK grant a grant the Petitioner a one foot, seven inch (1'7") Variation from Section III.I.1.f. (Accessory Structures and Uses) where no part of an accessory structure shall be located closer than five feet (5') to the rear lot line or to those portions of the side lot lines abutting such required rear yard with the following conditions:

This Variation would allow the Petitioner to replace an above-ground pool with a new above-ground pool at the same location (a setback of three feet, five inches (3'5") from the north property line) at 17710 65th Court in the R- 4 (Single-Family Residential) Zoning District and within Whitney and Bishop's Subdivision.

This recommendation is based on the evidence provided at this hearing and the following:

1. That the Petitioners have provided evidence establishing that they have met the standards for Variations contained in Section X.G.4. of the Zoning Ordinance.

The Motion was seconded by BOARD MEMBER SEPESSY.

AYE: Zoning Board Members Paul Lechner, Bob Paszczyk, Steve Sepessy and Chairman Chris Verstrate

NAY: None

ABSENT: Zoning Board Member David Samuelson

THE MOTION WAS APPROVED by voice vote. ZONING BOARD OF APPEALS CHAIRMAN VERSTRATE declared the Motion approved.

## **ADJOURNMENT**

A motion was made by BOARD MEMBER SEPESSY, seconded by BOARD MEMBER LECHNER to close the regular meeting of the Zoning Board of Appeals of March 24, 2016 at 8:45 p.m. THE MOTION WAS

APPROVED by voice call. ZONING BOARD OF APPEALS CHAIRMAN VERSTRATE declared the Motion approved.