

MINUTES OF A REGULAR MEETING OF THE
VILLAGE OF NEW LENOX ZONING BOARD OF APPEALS

Held in the New Lenox Village Hall, 1 Veterans Parkway

Tuesday, May 21, 2013 7:00 p.m.

#13-05-B ZBA

CALL TO ORDER

A regular meeting of the Village of New Lenox Zoning Board of Appeals was called to order at 7:38 p.m., by Chairman Mark Muehlnickel, with a quorum present.

ROLL CALL

Upon roll call, the following were present: Chairman Mark Muehlnickel, Commissioners Rob Moss, John Kuchler, Gary Berner, Annette Boyd and Joan Byerley.

The following were absent: None.

Also present was: Senior Planner Jeff Smith and Secretary Lorrie Sowko.

REQUEST FOR APPROVAL OF MINUTES OF A REGULAR ZONING BOARD OF APPEALS MEETING OF MAY 7, 2013

Chairman Muehlnickel entertained a motion to approve the minutes of the May 7, 2013, Zoning Board of Appeals meeting. Commissioner Berner made a motion, seconded by Commissioner Kuchler. Voice vote was taken. Commissioner Byerley abstained. Motion carried.

Chairman Muehlnickel invited public speakers for the public hearing(s) to be sworn in. The speakers stood, raised their right hands, and were sworn in by Secretary Lorrie Sowko.

REQUEST FOR VARIANCE (Public Hearing)

BMO Harris Bank

2.87-acre parcel located at 1050 West Laraway Road

Sarah Nadelhoffer/BMO Harris Bank N.A. – Petitioner

Chairman Muehlnickel entertained a motion to open the public hearing at 7:39 p.m. Motion was made by Commissioner Berner and seconded by Commissioner Moss. Voice vote was taken. Motion carried.

Kathleen Swien of Bailey Borlack Nadelhoffer LLC appeared on behalf of BMO Harris Bank to request a variance for a financial institution for a drive-thru ATM banking facility located at BMO Harris Bank at 1050 West Laraway Road.

Senior Planner Jeff Smith began the Staff Report.

This is an accessory use and the Zoning Ordinance requires that the petitioner have a principal use first and foremost if there is an accessory use. The variance would allow the stand-alone ATM facilities, which are an accessory use.

Based on the three criteria for granting a variance, it is Staff's opinion that a return would be limited if the applicant is required to vacate the ATM's in June 2013 or in the next few years. A reasonable timeframe for granting an extension of stand-alone ATM's can be determined based on housing, market and other demographic data that needs to be submitted to the Village. As mentioned during the Special Use public hearing, the majority of the Plan Commission and ZBA are comfortable with a 7-year timeframe.

This drive-thru ATM facility has been in place for 10 years. There have been no issues or maintenance concerns, while the ATM facilities have been providing a service to the neighborhood.

Mr. Smith stated that there should be additional plantings in the existing gaps along the south perimeter near the drive-through lanes.

It is Staff's opinion that the three criteria have been met and Staff recommends approval of the variance, subject to the same three conditions noted for the special use. The key issue is determining a reasonable timeframe for allowing a new variance for an accessory use without a principal use.

Chairman Muehlnickel entertained a motion to close the public hearing at 7:41 p.m. by Commissioner Boyd, seconded by Commissioner Kuchler. Voice vote was taken. Motion carried.

Chairman Muehlnickel entertained a motion approving the variance subject to the same three conditions that were specified for the Special Use request at the Plan Commission meeting, which included the following:

1. The ATM facilities shall be sufficiently screened to protect the adjacent residences from nuisances of noise and lighting. As such, the petitioner shall install additional evergreen trees and/or evergreen shrubs in the few open gaps along the south perimeter area and near the drive-through lanes where there are not presently any plantings.
2. The ATM facilities shall be removed within the specified reasonable time period, to be determined by the Village Board. The ZBA recommendation is that the ATM facilities shall be removed within 7 years if a main banking facility is not constructed on the subject property or different property within the same general area of the Village. The

ZBA emphasized that ground must be broken on the main banking facility within this 7 year timeframe.

3. Signage shall be limited to two freestanding signs, each no more than 50 square feet in area, with a maximum height of 6 feet.

Commissioner Moss made a motion, seconded by Commissioner Boyd. Roll call vote was taken. Ayes: Commissioner Kuchler, Commissioner Boyd, Commissioner Moss, and Chairman Muehlnickel. Nays: Commissioner Byerley and Commissioner Berner. Motion carried.

REQUEST FOR VARIANCES (Public Hearing)

152 Elm Street

Nicholas Panozzo – Petitioner

Chairman Muehlnickel entertained a motion to open the public hearing at 7:42 p.m. Motion was made by Commissioner Berner and seconded by Commissioner Byerley. Voice vote was taken. Motion carried.

Nicholas Panozzo was available to request a variance for his property located at 152 Elm Street.

Mr. Panozzo stated that he purchased this home as a foreclosure. The home was in major need of repair when he acquired it and wanted to better the home and the neighborhood.

He thought that he would be able to construct a garage on the newly poured concrete slab. Once he became financially able to build the garage, he realized that the slab was poured at the same setback as the original garage, which does not currently meet the Village Code side yard setback requirement.

Mr. Panozzo added that the other request is to build an addition to the rear of the house to accommodate his growing family. The house is 750 square feet and has one bedroom, which is very small.

Mr. Panozzo would like to construct an addition for a second bedroom, which would be located approximately 4 feet from the east property line or Root Street right-of-way. A variance is required for the reduced setback, which will match the setback for the existing home.

If the variances for the addition and the garage are approved, the siding on the existing home will be replaced with new vinyl siding. Also, the driveway will be improved and widened, which will require the removal of the old sunroom.

Many existing garages in the neighborhood do not comply with the 5 yard side yard setback requirement, and if the variance for the garage is granted, it would not be altering the neighborhood.

Mr. Panozzo and his neighbor have connecting driveways and the water run-off is used by both homes to alleviate the water on the driveways.

The current slab was poured in the same location as the previous garage. If the current slab was altered to be 2 feet smaller, it would violate the Village Code that requires a 20-foot wide garage and cause other hindrances.

Senior Planner Jeff Smith referred to the first variance request for the garage and informed that a demolition permit for the previous garage was never sought, nor was there a permit issued (or applied for) for the existing slab which was likely poured in the last few years.

Jeff Smith displayed aerial images on the overhead screen that depicted the site and surrounding properties.

The proposed room addition at the rear of the home will maintain the approximate 4-foot setback to Root Street.

The existing concrete pad for the proposed detached garage is approximately 2.6 feet from the west property line. An accessory structure requires a minimum of a 5-foot side yard setback.

Looking at the three criteria for the variance for the room addition, it is Staff's opinion that a reasonable return would be limited without the granting of the variance. It is currently a one-bedroom home and Mr. Panozzo has a family and needs additional living space.

It is Staff's opinion that this variance will allow for additional and much-needed living space for the home.

There are unique circumstances as this lot was created and the home was built in the 1920's, which predates the Village's current zoning requirements.

The lot width along Elm Street is approximately 55 to 56 feet and the R-2 District requires a minimum of 75 feet.

There are a number of site restraints that limit the ability of the rear building addition to meet the setback requirement.

If the variance is granted, it is Staff's opinion that it would not alter the character of the locality, it is an enhancement/improvement to the site, and gives the family much-needed living space.

Staff has no objection to the first variance and recommends approval for the variance to allow for a rear addition with a reduced setback from 30 feet to 3.78 feet, as stated in the Staff Report.

The second variance request is for a reduced side yard setback for the detached garage.

As stated, the former owner removed the detached garage that was originally constructed sometime in the 1930's which was a slightly smaller garage (per information from the tax assessor's office). For many years, that detached garage existed on the property as a legal non-conforming structure since it was constructed prior to incorporation into the Village and prior to the Village's current zoning requirements. The former owner removed the garage from the property without a permit and constructed a new slab without a permit. If the previous owner would have consulted the Village, the side yard setback requirement would have been mandated. The slab would have been required to be 5 feet from the west property line, and the new detached garage would meet the minimum 5-foot side yard setback requirement.

Once the garage was removed, it lost the legal, non-conforming status. Any new accessory structure has to meet the current Zoning Ordinance requirement, which is a minimum 5-foot side yard setback from the west property line.

It is Staff's opinion that there is adequate room to construct a garage, and the pad does not have to be moved as long as the west wall of the garage is at least 5 feet from the property line. The neighbor's detached garage is also 5 feet from their property line and is consistent with the Zoning Ordinance requirement.

Looking at the strict application of the three criteria, it is Staff's opinion that the second variance does not comply, and therefore, recommends denial of the variance for the reduced side yard from 5 feet to 2.6 feet. The slab can remain in place but the garage wall would be required to be 5 feet from the property line.

Commissioner Berner commented that it appears on the aerial photo, that there is exposed concrete pad to the west and that the previous garage may have been built further to the east.

Edward Dale of 148 Elm Street approves the idea of the new garage being built as it helps the neighborhood and helps the property value of the adjacent properties. Thus, he has no objections to the variance request.

Mr. Dale recalls that the original garage was built in approximately 1927 and had a kick-out at the rear to the south of the garage to allow for a slightly larger car. A previous owner, who worked for a concrete company, demolished the garage and poured the new pad at roughly the same location where the old garage had been torn down.

Mr. Dale approves of the garage variance request despite the technicalities.

Charles Ellis of 151 Elm Street lives immediately north and across the street from the property in question.

Mr. Ellis has lived at his residence since 1937. He stated that the problem with the subject property is the minimal size and claims the other tenants had sold the house for reasons such as its smaller size, job relocation, and a death of a partner.

The previous owner remodeled the inside of the house and eliminated one bedroom to make one large bedroom. The owner before Mr. Panozzo planned to construct a new garage in the same place as the previous garage and poured the concrete slab accordingly.

Mr. Ellis stated that he has no objection to the proposed variances.

Chairman Muehlnickel asked for the size of the current concrete pad.

Mr. Panozzo stated that the pad is 20 feet wide by 26 feet deep.

Commissioner Kuchler noted from a construction standpoint that moving the wall off of the edge of the slab could cause problems and may have water running through the garage. When a structure is built, it is built to the edge of the slab and the wall covering on the outside is just below the slab to allow water to run past the structure.

Commissioner Kuchler does not have an objection with building the garage on the current slab without moving the garage wall.

Commissioner Boyd had no objection to the variances because it is an older area and the lots have unique circumstances because of their size and limited living area.

Chairman Muehlnickel has no objection to the rear home addition and realizes there is a unique circumstance of a shared driveway.

Chairman Muehlnickel asked if a new garage gets constructed and later gets destroyed, will the variance carry over or will a new variance be necessary.

Jeff Smith informed that the variance, if granted for the specific reduced side yard setback of 2.6 feet for the current proposed detached garage location, would remain.

Commissioner Berner asked if there is floodplain, and if so, how close is it to the property.

Mr. Panozzo replied that his home is not in floodplain.

Commissioner Byerley added that because of the unique circumstances, these variances would allow for an enhancement to the neighborhood.

Chairman Muehlnickel noted that he has no problem with the garage addition.

Pertaining to the garage; the immediate neighbor supports the garage variance and the slab was poured at the same setback as the previous garage which makes it unique. Other garages in the neighborhood do not meet the current side yard setback requirement.

Chairman Muehlnickel entertained a motion to close the public hearing at 8:11 p.m. Motion was made by Commissioner Berner and seconded by Commissioner Kuchler. Voice vote was taken. Motion carried.

Chairman Muehlnickel entertained a motion to recommend approval of the variance to reduce the required corner front yard setback for a proposed building addition from 30 feet to 3.78 feet from the east property line or Root Street right-of-way for property located at 152 Elm Street. Commissioner Berner made a motion, seconded by Commissioner Moss. Roll call vote was taken. Motion carried unanimously.

Chairman Muehlnickel entertained a motion recommending that the requested variance to reduce the side yard setback for the proposed detached garage from 5 feet to 2.6 feet from the west property line, subject that it is built on the existing concrete pad, for the property located at 152 Elm Street. Motion was made by Commissioner Kuchler, seconded by Commissioner Byerley. Roll call vote was taken. Motion carried unanimously.

OLD BUSINESS

None.

NEW BUSINESS

None.

ADJOURNMENT

Chairman Muehlnickel entertained a motion to adjourn the meeting at 8:13 p.m. Motion was made by Commissioner Boyd, seconded by Commissioner Berner. Voice vote was taken. Motion carried.

Lorrie M. Sowko – Secretary