



**VILLAGE OF PLAINFIELD
ZONING BOARD OF APPEALS
RECORD OF MINUTES
Amended**

Date: February 17, 2009

Location: Village Hall

Chairman Sobkoviak called the Zoning Board of Appeals meeting to order at 7:04 p.m..

ROLL CALL:

Present: Commissioners Kachel, Renzi, O'Rourke, Bonuchi, and Sanders; ex officio
Commissioners Fremarek and Kiefer; and Chairman Sobkoviak
Absent: Commissioner Peck, Park District, School District, Library District, Fire District,
and Police Department
Also Present: Mike Schwarz – Planner II Village of Plainfield, Sara Javoronok – Planner I
Village of Plainfield, and Carol Millan – Secretary Village of Plainfield

The minutes from the February 3, 2009 Zoning Board of Appeals Meeting were accepted as presented.

OLD BUSINESS

CASE: 1441-010709.V

FIRST COMMUNITY BANK

Request: Rear Sign Variance (*Public Hearing*)
Location: 14150 S. Route 30
Applicant: Express Signs & Lighting
Eddie B. Hartsell

The applicant requested that this case be continued to March 17, 2009.

At 7:06 p.m. Commissioner Bonuchi made a motion that the Plan Commission continue Case: 1441-010709.V – First Community Bank to the March 17, 2009 Plan Commission meeting.

Commissioner Kachel seconded the motion.

Chairman Sobkoviak called for a vote by roll call.

Aye: Renzi, O'Rourke, Bonuchi, Sanders, Kachel, and Chairman Sobkoviak

Nay: 0

The motion is carried 5:0

Village of Plainfield Zoning Board of Appeals Minutes

February 17, 2009

Page 2 of 8

NEW BUSINESS:

CASE: 1444-011609.V 13233 S. WOOD DUCK DRIVE
Request: Interior Side Yard Setback Variance (*Public Hearing*)
Location: 13233 S. Wood Duck Dr.
Lakelands Subdivision
Applicant: Mark and Linda Caliendo
Represented by Steve Matesi (General Contractor)

TIME: 7:06 p.m.

Planner Schwarz summarized the staff report. The applicant is requesting a variance to allow a building addition for an elevator causeway to be located in a required interior side yard for the property located at 13233 S. Wood Duck Drive in the Lakelands Unit 4 Subdivision. Presently, there is a two-story, wood frame detached single-family home located on the property. It is currently zoned R-4 and is approved as a PUD for the overall subdivision.

The applicants are proposing a 5' x 5' addition on the north façade of the home to house the elevator causeway to serve the medical needs of one of the homeowners. The applicants have provided a letter explaining the need for the variance, as well as a letter from a medical professional explaining the medical necessity of the proposed elevator.

The Lakelands Unit 4 is part of a larger PUD. No relief was granted from the strict R-4 setback requirements. Therefore, the standard R-4 setback requirements apply: front 30' setback, rear 30' setback, and side 7' or a total of 20'. The proposed building addition would encroach 5' into the required interior side yard. The building setback would be reduced from approximately 7' to 2' on the north side of the lot. The applicants state there is no suitable alternative location to build the elevator causeway within the interior of the home without detracting from some of the rooms. They have also indicated there is no other suitable location on the exterior of the home.

Planner Schwarz summarized the required 4 findings of fact that need to be met for a variance. Four of the 4 findings of fact are favorable to the applicant. Staff recommends approval of the variance. Planner Schwarz concluded his staff report.

Chairman Sobkoviak swore in Steve Matesi, the general contractor for the applicant. Mr. Matesi agreed with everything that Planner Schwarz stated. He had nothing to add.

Chairman Sobkoviak asked Mr. Matesi if this claim was being made under the Federal Equal Access for the Handicap Act. Mr. Matesi stated it was not. Chairman Sobkoviak did not think that it needed to go that route. He further stated though that anyone taking that route would need office notes and a complete set of documentation for the existing medical condition. Generally, the Village puts a codicil on the deed that should the medical condition change or the property change hands, the variance then becomes null and void and must be removed. He stated the way the applicant is requesting the variance is a better way to go because it then becomes a permanent variance not subject to change at a later date.

Chairman Sobkoviak asked if there was anyone in the audience that cared to ask a question or make a comment. There was no response.

Commissioner Kachel asked how this would be tied into the home. He wondered if the siding would be taken off and this would be tied in so it looks like a regular build-out. Mr. Matesi stated they will match the color of the house. The roof is a hip roof and there will be a hip roof on the addition that ties in.

Chairman Sobkoviak pointed out that the petition is not for a variance for the entire length of the lot line. The variance is for 5' of the lot line. It is really just a notch that is sticking out. It would be similar to a bay window extension, fireplace, etc. He felt it needs to be looked at differently than if a petitioner would request a variance for the entire length of a lot line.

Village of Plainfield Zoning Board of Appeals Minutes

February 17, 2009

Page 3 of 8

Commissioner Renzi noted that the two story residence next door is somewhat on an angle to the lot line as well. His belief was that it is probably a good 25' or so from any aspect of the house, including the cutoffs. There is a fair amount of open space.

There was a discussion between Commissioner Renzi and Planner Schwarz in regards to Finding "c" of the findings of fact. Planner Schwarz summarized staff's reasoning for finding "c" to be favorable to the applicant.

Chairman Sobkoviak asked if staff was in receipt of the certified mailings to adjacent property owners. Planner Schwarz stated there is an affidavit on file, as well as the green cards that have been returned proving that adjacent properties have been notified as required. Commissioner O'Rourke asked if staff had spoken with any of the adjoining property owners. Planner Schwarz stated he has not had any calls from concerned residents. The homeowners stated they have talked to their neighbors on both sides. Commissioner O'Rourke asked what was the response. The homeowners stated it was favorable. They did not have any problems.

Commissioner O'Rourke asked staff about the front yard setback of 30'. He wondered if that did not include the garage. Planner Schwarz stated he thought that might have been the only relief under the PUD. The original PUD has some relief granted for the setbacks.

Commissioner Sanders did not feel stipulation #3 was needed in this case because this case would also need an architectural review request with the Homeowners Association for approval. Planner Schwarz stated it may be redundant, but felt since the Village does not enforce private HOA covenants, as a safety measure, stipulation #3 should remain.

Commissioner O'Rourke asked if there were any utility or drainage easements on the north side of the property. Planner Schwarz stated to the best of staff's knowledge the original plat does not show any side yard easements on this particular lot. There are 1 or 2 lots that kind of have a shared swale leading from one part of the subdivision funneling drainage into the lake, which sits at the back of the home. Commissioner O'Rourke wondered if the additional 2' would affect the flow of water between lots. Planner Schwarz stated looking at the original engineering and subdivision drawings that were for the Lakelands Unit 4, there are no easements that will be encroached upon. Chairman Sobkoviak stated he had visited the site and there is somewhat of a swale, whether it is intended or not. The property slopes down from both buildings toward the lot line, which would sort of channel any runoff water back to the rear of the house where there is sort of an inlet of a lake or something.

Commissioner O'Rourke wondered if a stipulation should be added stating the subject improvement will not detrimentally affect the surface drainage of the adjacent lots. Planner Schwarz felt that was covered in stipulation #1 – subject to the requirements of the Village Engineer. If ultimately this is approved, the applicant will need to apply for a building permit, and as part of the building permit review if the Village Engineer needs to be brought in to review it, the first stipulation would cover this.

At 7:25 p.m. Commissioner Renzi made a motion that the Zoning Board of Appeals adopt staff's findings of fact and recommend approval of a variance from Chapter 9, Article V, Section 9-54(2) of the Municipal Code to allow a building addition for an elevator causeway to be located in a required interior side yard for the property located at 13233 S. Wood Duck Drive, thereby reducing the building setback from approximately 7 feet to 2 feet adjacent to the proposed building addition subject to the following stipulations:

- 1. Subject to the requirements of the Village Engineer,**
- 2. Subject to the requirements of the Plainfield Fire Protection District,**
- 3. Subject to the applicant incorporating exterior materials and colors which are consistent with the existing home.**

Commissioner Bonuchi seconded the motion.

Village of Plainfield Zoning Board of Appeals Minutes

February 17, 2009

Page 4 of 8

Chairman Sobkoviak called for a vote by roll call.

Aye: O'Rourke, Bonuchi, Sanders, Kachel, Renzi, Chairman Sobkoviak

Nay: 0

The motion is carried 6:0

CASE: 1446-012309.V

U.S. MARINES

Request: Sign Variance (*Public Hearing*)

Location: 16122 S. Route 59, Unit 110

Applicant: Chung Kim

TIME: 7:30 p.m.

Planner Javoronok summarized the staff report. She stated notice has been published and posted as required. The applicant is seeking a sign variance to allow for a greater amount of wall signage on the primary façade than what is permitted per the Village's Zoning Ordinance. This is for a U.S. Marine Corps Career Center. The Zoning Ordinance permits one wall sign per building or retail unit of a building. For this particular building, wall signage is limited to one square foot of sign area for each one foot of façade frontage. The applicant is permitted 19.6 square feet of wall signage, and the applicant is requesting 32.5 square feet or 13 square feet in excess.

In order to recommend approval of a variance, the Zoning Board of Appeals must make four findings of fact. Planner Javoronok summarized staff's response to the findings of fact. Staff believes 4 of the 4 findings are unfavorable, and believes the findings of fact for the variance cannot be met. Staff finds that the sign area permitted by the Zoning Ordinance is sufficient to meet the needs of the U.S. Marines. Staff believes that a recommendation of denial is appropriate.

Chairman Sobkoviak swore in Chung Kim, the petitioner. He is representing the Marines and is the building owner. He stated the first proposal was for a smaller sign without the American flag, but the U.S. Marines insisted that the flag be on the sign.

Chairman Sobkoviak felt other cases have come forward where the logos were not considered part of the sign, particularly in the Chili sign. Planner Javoronok stated that might have been considered an architectural feature as opposed to being considered part of the sign. Chairman Sobkoviak stated it is subjective whether you want to include the American flag as part of the sign or not. All government buildings have a flag and there probably is not room for a flag pole at this location. He stated if you removed the flag from the calculation, you come out with maybe 4.5' over the ordinance for the sign calculation.

Chairman Sobkoviak stated before a variance can be granted there are 4 challenges that have to be met. This is by Illinois State Law. He went through the findings for the variance:

- a) He felt this location is in the inside corner of an "L" shaped building and it is very difficult to spot the front of the building. If cars are in front of this particular store front you can't even see the front windows at all. He also believes the building to the west occupies two storefronts so they qualify for a fairly large sign. It says Martial Arts in very large letters. The sign for the U.S. Marines would not look out of place next to this Martial Arts sign. He felt the harmony would not be disrupted.
- b) He said there are unique circumstances. This particular location, no matter what kind of business is located there, would enjoy a unique hardship in trying to direct people to that location.
- c) The primary activity of this location is to draw people in. Commissioner O'Rourke stated also from a safety perspective it could cause issues with traffic slowing down, turning, slamming on the brakes, etc. if someone is trying to look for that facility and they can't easily read the sign from Rt. 59
- d) Chairman Sobkoviak felt the sign, as proposed, will not substantially alter the essential character of the locality. It would be difficult, if not impossible, to notice this location from the highway.

Village of Plainfield Zoning Board of Appeals Minutes

February 17, 2009

Page 5 of 8

Commissioner O'Rourke agreed with Chairman Sobkoviak in a couple of these instances. He felt as far as finding "b" the sign ordinance has not been changed and it has been looked at a number of times. The temporary sign ordinance has been added, which he felt went the wrong direction because there are no strict regulations as to the materials, letters, etc. He would prefer someone come before the ZBA with a variance such as this with a professionally done sign rather than using a temporary sign. He stated from a retail perspective, this location is one of the worst places to be located. If a sign helps them and the business owner being able to lease that space out, he would be in support of that.

Commissioner Sanders asked the petitioner if he had built this building. Mr. Kim stated he hired a general contractor to build the building. Commissioner Sanders asked if the handicap parking could be moved in order to accommodate the tenants when a re-striping or sealcoating is performed.

Commissioner Sanders also asked if that was an LED sign with a flag waving on it. Petitioner Kim stated it is a neon sign. Planner Javoronok stated she believes it is just internally illuminated. She did not believe it had any LED's as part of it.

Commissioner Kachel asked if this is typical of other U.S. Marine centers. Petitioner Kim stated usually the Army, Navy, Air Force, and Marines are in the same complex. They are trying this as something new. Chairman Sobkoviak stated in Crest Hill they have some centers with all the different branches. He was surprised to see this one as a "stand-alone" center.

Commissioner Bonuchi agreed with the other Commissioners. She said normally she does not go against staff, but felt this was a little different because of the layout and the way this is kind of tucked in the corner. She did not have any objections to the variance request.

Commissioner Kachel also went along with the other Commissioners. He further stated most Federal buildings do have flags. He felt since it is a Federal building, the ZBA should look at it a little differently.

Commissioner Fremarek stated he agrees 100% with staff's report and does not agree with any of the Commissioners. He wanted to caution the rest of the Commissioners that they should not look at just who the applicant is. He argued that this is a destination and not an impulse stop. He had a concern that the ZBA would be setting a precedent by not including the flag into the sign dimensions. He asked what would stop the tenant next door from asking for a bigger sign also.

Commissioner Sanders stated that was his initial response too as far as setting a precedent. He felt though, after reviewing the request, it had nothing to do with the fact it was the Marine Career Center as much as a matter of scale and proportion to the sign that was next door. He did not think it was out of proportion with the sign next door.

Commissioner Kachel also went along with the scale to the sign next door. He asked if there was anything on the books that would prohibit them from putting a particular size flag there. Planner Schwarz stated the Zoning Ordinance does allow for flags and it limits them to 3 per site. Commissioner Kachel asked if there was a flag at this site. Petitioner Kim stated there was no flag at this site. Commissioner Kachel stated in a way a flag on the sign is in lieu of a flag in this particular area.

Planner Schwarz clarified that the Zoning Ordinance was updated in 2006 and a lot of time and effort on the part of the Zoning Committee went into signage. They added a lot of graphics to make it more user friendly. There are a lot of sketches on how to measure signage, etc. There was a cognizant effort to include graphic logos, whether it is a flag or a taco, etc. The reason is they looked at a lot of different sign codes around the area. The reason you include the flag or other graphic element is because they are considered "attention getting" devices. Regardless of the outcome of this case, the Zoning Administrator will continue to enforce the graphic elements that are adjacent to the text. They will continue to be part of what is considered the sign area. There is an image within the Zoning Ordinance that shows that very issue. A discussion followed about logos between the Commissioners and Planner Schwarz.

Village of Plainfield Zoning Board of Appeals Minutes

February 17, 2009

Page 6 of 8

Planner Schwarz stated there would still be the need for a variance even removing the American Flag from the sign dimensions.

Commissioner O'Rourke felt the flag could be considered the Marine Corp logo.

Commissioner Renzi agreed that you could not easily see the storefront when the cars are parked there. He thought that the same would be true of every other establishment in that development and every other establishment along Rt. 59. He did not think of the flag as the logo for the Marines. He concurred that this is a destination place. Chairman Sobkoviak disagreed. Chairman Sobkoviak stated it is not a matter of coming in and recruiting, it is a matter of coming in to get information and then going home and thinking about it. Commissioner Renzi felt possibly the sign could work if they would go with 14 inch letters instead of 17 inch letters. Commissioner Renzi felt the flag is part of the sign. Commissioner Renzi was not in favor of the sign variance as proposed.

Chairman Sobkoviak stated these recruiting centers are attempting to become part of the community to show how they can offer choices for your future. They want to make sure that people are aware that this is a career possibility.

Commissioner Bonuchi stated although dangerous precedents can be set, the thing that influenced her the most was the corner where the Career Center is located. She wanted to go on record as saying it is not for the Marines or for anyone else, it is the section where this is located. That is what she is basing her decision on.

Petitioner Kim, talking as the building owner, did not want to see a pole by the parking lot with the Marine flag on it. He would rather see the flag on the sign. The Marines had asked for the flag pole, and he had convinced them that this was better.

Chairman Sobkoviak asked if there was anyone in the audience that cared to ask a question or make a comment. There was no response.

Commissioner Fremarek commented if he were a studios tenant that looks to go into any other location in any other retail establishment that is built in Plainfield that happens to be an "L" location, he would clearly use this as the precedent to say you have granted this before and you should be able to grant it to me for being in a corner location. He clearly hears the Commissioners going back to the fact that it is the Marine Corps. He thought this is the mistake being made.

Commissioner O'Rourke asked if there was a precedent being set by the decision. Chairman Sobkoviak stated actually on the Zoning Board of Appeals each and every case has to be decided on its own merit. The ZBA is not bound by previous decisions.

Commissioner Kachel stated he wanted to make it clear his decision had nothing to do with the site being occupied by the U.S. Marines. Planner Schwarz stated the Village does not have a minimum lettering size. There is only a maximum sign area, which is consistent with most other communities in the area. Chairman Sobkoviak thought the letters on the Martial Arts store are bigger than these letters. Commissioner Sanders believed that was correct.

Planner Schwarz asked that if there is a prevailing opinion that staff's findings of fact be substituted with the Zoning Board of Appeals findings so they can be forwarded to the Village Board.

Commissioner Renzi asked if there was any sort of governmental leeway, accommodation, where the Commission would have a more relaxed response to this because he continues to hear the Marines, which is a governmental entity. Planner Schwarz stated in this case the applicant is the owner and the Marines would be a tenant of the space.

Commissioner Kiefer asked Petitioner Kim if visibility is the concern of the Marines. Petitioner Kim stated yes. The Marines wanted to put up a pole sign and he didn't want to see a pole sign. He is representing the Marines asking for a variance to allow the flag on the sign as a compromise with the U.S. Government.

Village of Plainfield Zoning Board of Appeals Minutes

February 17, 2009

Page 7 of 8

At 8:10 p.m. Commissioner O'Rourke made a motion that the Zoning Board of Appeals recommend approval of the requested variance to permit additional sign area on the storefront of the Marine Corps Career Center at 16122 S. Route 59, Unit 110, in Lion's Plaza.

Commissioner Sanders seconded the motion.

Chairman Sobkoviak called for a vote by roll call.

Aye: Bonuchi, Sanders, Kachel, O'Rourke, Chairman Sobkoviak

Nay: Renzi

The motion is carried 5:1

Chairman Sobkoviak stated the Zoning Board of Appeals needs to go through the 4 challenges since they did not use staff's findings of fact. The ZBA then composed their findings.

- a) Harmony with the general purpose and intent of the Zoning Ordinance
 1. Chairman Sobkoviak submitted it is in harmony in that it will be closely congruent to the sign directly adjacent to the west being of the same colored letters. The proposed sign will be slightly smaller in size.
 2. Commissioner O'Rourke felt it is in harmony and is better to have than a temporary sign.
 3. Commissioner Sanders felt it was complementary to the existing signage on the western exposure. It is complementary to the whole side of the Lion's Plaza.
- b) Plight of the owner is due to unique circumstances
 1. Chairman Sobkoviak submitted the unique circumstances are the location within the plaza being only a 20' storefront in the inside corner of the "L" shaped development. He believes it is very difficult to see in there. You have to be at a 45 degree angle out in the parking lot to catch a glimpse of the front where the sign would be hanging. This would not be visible to a vehicle on Route 59.
 2. Commissioner O'Rourke submitted the plight of the owner or tenant would be the location and the size of the storefront.
 3. Commissioner Kachel went along with the location and size of the storefront, but also the fact the owner does not really have room for a flag pole in that area. There is a compromise on that point also.
- c) The property cannot yield a reasonable use
 1. Chairman Sobkoviak submitted that regardless of what business or activity that was carried on in that location, there would be the need for additional signage or a variance to the existing ordinance to increase the signage and increase the visibility.
 2. Commissioner Sanders concurred that it is something that is incidental and very germane to that location for a storefront with only 20' to get some sort of recognition for a tenant.
 3. Commissioner Kachel stated when the ZBA states it like that, it leaves it open in the future for people having similar "L" shaped units like this to receive variances. Chairman Sobkoviak stated then perhaps they would have an argument.
- d) The variance if granted will not alter the essential character of the locality.
 1. Chairman Sobkoviak stated the sign will closely resemble the sign next door. He did not think the sign, as proposed, dominates the frontage. He thought it fits well within the area. It will not alter the essential character of the front of the building.
 2. Commissioner Sanders stated the sign is proportionate to the back drop.

Commissioner Renzi did not think it was that uncommon for "L" shaped buildings to be built. Planner Schwarz stated there are a number of "L" shaped commercial buildings in the Village. He stated to grant a variance all four findings do not need to be met. He preferred to have finding "c" be neutral to prevent setting a precedent. Chairman Sobkoviak polled the Commissioners. They agreed with Commissioner Renzi that Finding "c" be neutral.

Commissioner Renzi asked if the ZBA needed to enact those findings. He asked if there needed to be a motion.

At 8:20 p.m. Commissioner O'Rourke amended his motion to adopt the Findings of Fact presented by the Zoning Board of Appeals to recommend approval of the requested variance to permit additional sign area on the storefront of the Marine Corps Career Center at 16122 S. Route 59, Unit 110 in Lion's Plaza.

Commissioner Sanders seconded the motion.

Chairman Sobkoviak called for a vote by roll call.

**Aye: Sanders, Kachel, O'Rourke, Bonuchi, Chairman Sobkoviak
Nay: Renzi**

The motion is carried 5:1

Since there was no further business before the Zoning Board of Appeals Commission, Chairman Sobkoviak adjourned the meeting at 8:21 p.m.

Respectfully Submitted
Carol Millan
Planning Secretary Village of Plainfield