

*Village of Barrington
Zoning Board of Appeals
DRAFT Minutes Summary*

Date: January 7, 2014

Location: Village Board Room
200 South Hough Street
Barrington, Illinois

In Attendance: Vicky Perille, Commissioner
William Fitzpatrick, Commissioner
David Holtermann, Commissioner
Kevin Connolly, Commissioner
Kate Duncan, Commissioner
Ryan Julian, Vice Chairperson
Patricia Pokorski, Chairperson

Staff Members: Greg Summers
Natalie Ossowski
Jean Emerick

Call to Order

Chairperson Pokorski called the meeting to order at 7:01 PM.

Roll Call noted the following: Victoria Perille, present; William Fitzpatrick, present; David Holtermann, present; Kevin Connolly, present; Kate Duncan, present; Vice Chairperson Ryan Julian, present; Chairperson Patricia Pokorski, present.

Chairperson's Remarks

Chairperson Pokorski gave the order of business and explained the process and duties of the ZBA. She swore in those members of the audience that may speak during the meeting.

New Business

ZBA 14-01: 803 E. Main Street – Appeal of Zoning Official's Decision

Applicant: Scott Kozak, Architect

Owners: Robert and Claudine MacDonald
803 E. Main Street
Barrington, Illinois 60010

The applicant, Scott Kozak, has filed an appeal against the decision of the Zoning Official that the front of a house/structure must face the front yard. Mr. Kozak is the architect for the property owners, Robert and Claudine MacDonald. This is an appeal of the Zoning Official's interpretation of the Zoning Ordinance. The decision of the Zoning Board of Appeals is final; this decision will not go before the Village Board for final consideration and can only be appealed at the circuit court level.

Mr. Scott Kozak, 709 Prospect Avenue, architect for the MacDonalds, said that they are appealing the Zoning Official's decision that the front of the house must face the front lot line. The existing home and lot are addressed to Main Street. The existing home faces Glendale. The shorter dimension of the lot faces Main Street. In comparing other communities, typical zoning as it pertains to corner lots, the shorter lot dimension is considered the front. There is never a requirement of which way the house faces. Even in Barrington this is typical. Mr. Kozak reviewed the zoning when they started the project. The Ordinance reads that for a corner through lot, the front yard shall be the yard that is adjacent to the street for which the building's street address is designated. There is no mention of front lot line or front yard, and there is no mention of a required address change. Mr. Kozak has surveyed other communities and found that Barrington is not typical. The use of the street address in the definition is unusual. It could create a hardship and could go against state law. If the intent of the Zoning Ordinance is to require an address change, what needs to happen to change a property address? How many entities have to coordinate? It is not clearly stated in the Ordinance. Would the Zoning Official's interpretation hold up in court?

Mr. Greg Summers, Director of Development Services and Zoning Official, explained how the decision was made. The Zoning Ordinance defines the front yard as the yard adjacent to the street for which the building's street address is designated. In the Ordinance, the diagram of the front yard shows an entrance structure on the house. When the entrance structure is moved from one side to the other side, it affects where the front yard is located. The addressing policy of the Village is that the home is addressed on the street on which it faces. The Police and Fire Departments have provided memos stating why addressing is important to them and how it could affect service. Because this project includes a demolition, a new address would be assigned with erection of the new structure. With the new house, it is clear that the primary entrance would face Glendale Avenue. That is why it would be assigned a Glendale address. The petitioner stated that the word "front" is not defined in the Zoning Ordinance. The Village attorney reviewed this and said that because it is common terminology, it is understood and does not need to be defined in the Ordinance. The development of the house creates the address assignment. The Village is charged with assigning addresses. The Village will notify the Postal Service, the tax assessor, the township, Police and Fire departments, and the utility companies of the address change. The property owner would follow up with the utility companies to put their name on the bills, but the Village does the rest. The Village changed the Zoning Ordinance to provide for more flexibility to allow owners to choose which side they wanted to be their front. Mr. Summers believes that the evidence is on the side of the Village. There is a clear definition of where the front yard should be. The addressing policy is that the primary entrance faces the street for which it is addressed for emergency services. Staff will also be re-examining the Zoning Ordinance to see if it can be made more clear.

Chairperson Pokorski asked the Commission for discussion and questions.

Vice-Chairperson Julian asked whether where the front is changes the buildable area on the plot.

Mr. Summers said it does because the lot is not square. The sideyard has different setbacks. They cannot simply take the design of their home and turn it sideways, as it does not fit within the setbacks.

Vice-Chairperson Julian asked if the address was not a factor, does it change where the house has to be situated.

Mr. Summers said the primary entrance would still be considered the front yard.

Vice-Chairperson Julian asked if they put the front door on the side of the house, could the house remain as it is designed.

Mr. Summers said that if it had a door on both sides, especially if they are equal entrances, then the homeowners could decide which street they would be addressed on.

Commissioner Perille asked whether the front yard setback, as designed, is on Glendale or Main Street.

Mr. Summers said that you would have to default to the addressing policy because the Zoning Ordinance says that the front yard is determined by the address. Once the home is demolished, it loses its address and is assigned a new one based on the new construction.

Commissioner Perille said then it will require a front yard setback on Glendale.

Mr. Summers said there are other options they could pursue, such as, they could ask for a variation, they could redesign the home, or they could ask for an amendment to the Zoning Ordinance.

Commissioner Connolly said if the front yard setback is met on Glendale then it will encroach on the rear yard setback.

Mr. Summers said there is a provision in the Ordinance allowing for an average setback based on the other homes on your street.

Commissioner Duncan asked why they chose to appeal the Zoning Official's decision rather than ask for a variation.

Mr. Kozak said that he does not believe that it meets the requirements for a variance. The front yard is not the issue; it is the rear yard. Appealing the decision was a last resort or they will need to redesign the house.

Ms. Ossowski said that Staff did not recommend a variation because of the demolition. It would be hard to say that there were difficulties or hardships.

Chairperson Pokorski said the Board is looking at this case in a backwards approach to how we usually review cases. The Board's decision will become the interpretation of this Zoning Regulation. The Board is tasked with reviewing the Zoning Official's interpretation and determining if that interpretation is correct. What the Board decides will be precedent.

Commissioner Fitzpatrick said he thinks that everybody understands that the front faces the front yard and the rear faces the rear yard, etc.

Mr. Kozak said that he disagrees, as he has found exceptions in Barrington.

Vice-Chairperson Julian said that some interior lots have front doors on the side of the house. Front yards do not always have entrances on them.

Commissioner Holtermann asked Mr. Summers how the Ordinance has changed in the last year.

Mr. Summers said that it used to be more consistent with other communities, which said that the narrower side of the lot is the front on a corner lot. It was changed to afford more flexibility. The petitioner can choose which side is the front by facing the house in that direction. The principle entrance will determine the front.

Commissioner Holtermann asked Mr. Summers to pinpoint what language changed.

Mr. Summers said the definition of front yard was modified. The diagrams also changed; they used to show that the narrower dimension was always the front lot line.

Commissioner Fitzpatrick asked to see the drawings of the home.

Mr. Kozak presented his drawings to the Board.

Chairperson Pokorski reminded the Board they are to determine the interpretation that the front of the house must face the front yard and front lot line is correct and consistent with the intent of the Zoning Ordinance.

Mr. Kozak asked whether it is more important what the intent was when it was written or how it currently reads.

Commissioner Fitzpatrick thinks that it is how it is being interpreted by the Zoning Official.

Commissioner Perille said we have a definition of lot line, front. For a corner lot, the front yard shall be the yard that is adjacent to the street for which the building street address is designated. It looks like the intent is that the portico faces where the front yard is, and from the lot line, front definition, that is the building's street address. It doesn't make it clear that the address changes if you flip it.

Mr. Kozak said he believes that this is the only place where a corner lot is mentioned.

Mr. Summers said at Ela and Washington last year, the house was readdressed on the street where the front door was moved to.

Commissioner Duncan asked if they had any problems with the permitting process.

Mr. Summers said they did not but it was not the same homeowner, another party redeveloped it. He said regardless of the outcome of this case, they intend to work on the Ordinance.

Chairperson Pokorski said she sees nothing to indicate anything inconsistent with Staff's interpretation of the Code. There is a definition of front yard and corner lot. It is logical and consistent with the Zoning Official's decision. The Ordinance is intent on uniformity. There are memos from the Fire and Police chiefs encouraging us to uphold the Zoning Official's decision because locating the property is easier in emergency situations. She agrees with Staff.

Mr. Kozak said there is nothing in the Ordinance that says the property will be readdressed. There are two issues: the addressing based on the front of the house and which way it faces compared to the front yard setback. He gave examples of other Barrington homes that did not face the street they were addressed to.

Chairperson Pokorski said the difference is that petitioners are building today under the current Zoning Ordinance.

Mr. Kozak asked how would anyone know to ask.

Chairperson Pokorski thinks it would be part of architect's responsibility to ask the questions.

Commissioner Fitzpatrick said the demolition results in the readdressing and that in turn changes the setbacks.

Vice-Chairperson Julian said the emergency situation is a serious concern. The intent of the Ordinance is to govern the setbacks which makes sense.

Mr. Summers said what they intended by front was where guests would enter the home. With this design, he thinks it is clear.

Mr. Kozak said the diagram of the front entry is not enough to show that it is a requirement.

Commissioner Fitzpatrick said he understands that the petitioner wants the house to front on Glendale Avenue and the address to remain on Main Street.

Mr. Kozak said that the address is not as much a concern to his client as is the layout of the house. They love the house design and that is what they want to proceed with.

Mr. Bob Macdonald, the homeowner, said he believes that emergency services would arrive at their house no matter if it were addressed to Main Street or to Glendale Avenue.

Chairperson Pokorski said the fire and police chiefs say differently. We have evidence that they think it is important and a matter of timeliness.

Commissioner Holterman asked Staff about the legal standard that the Board has to follow.

Mr. Summers said the State Statute does not set forth a standard. The Board has to weigh the evidence and go with the opinion they feel is more correct. The only issues up for appeal are the issues contained in the Zoning Ordinance. That is all the Zoning Board has authority over. It is under the Village Board's purview to decide where it is addressed. The question is - does the front of the building have to face what is defined as the front yard.

Commissioner Holtermann said he finds the Ordinance to be confusing in some respects. A review of the Ordinance would be helpful to everyone. However, the interpretation by the Zoning Official that the front of the building has to face the front yard has basis in the Ordinance. There is more support for that interpretation than for the opposite.

Chairperson Pokorski agrees with Commissioner Holtermann.

Mr. Kozak said they read it that the front of the house is independent of the front yard.

Mr. Summers said he believes that the two are tied together because of the use of the word "front."

Vice-Chairperson Julian said that the challenge is if they choose to put their entry in one place can they call another place the front under the Ordinance.

Mr. Macdonald said he thinks that you ultimately have to declare the front yard and that is how it will be addressed.

Mr. Summers said that it is the Village's position that the front lot line, the front yard, and front of the building should all be on the same side.

Commissioner Connolly said this also drives how we determine the setbacks.

Chairperson Pokorski asked if the Board was ready to make a motion.

Commissioner Holtermann moved to uphold the decision of the Zoning Official (ZBA 14-01, 803 E. Main Street) and Commissioner Duncan seconded the motion.

Roll Call Vote: Ms. Perille –aye; Mr. Fitzpatrick – no; Mr. Julian – no; Mr. Holtermann – aye; Mr. Connolly – aye; Ms. Duncan – aye; Ms. Pokorski – aye; the vote was 5 to 2. Chairperson Pokorski declared the motion approved.

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Approval of Minutes
November 5, 2013

Vice-Chairperson Julian moved to approve the minutes of the November 5, 2013 meeting as amended. Commissioner Holtermann seconded the motion. A voice vote recorded ayes. Chairperson Pokorski declared the minutes approved.

Planner's Report

Ms. Ossowski said there are no upcoming ZBA cases. ARC has a full docket.

Adjournment

As there was no additional business to come before the Board, Commissioner Fitzpatrick moved to adjourn; Commissioner Julian seconded the motion. Voice vote recorded all ayes. Chairperson Pokorski adjourned the meeting at 8:14 p.m.

Respectfully submitted,

Jean M. Emerick
Recording Secretary



Ms. Patricia Pokorski, Chairperson
Zoning Board of Appeals

Approval Date: