

**REGULAR MEETING OF THE BOARD OF TRUSTEES
OF THE
DOWNERS GROVE PUBLIC LIBRARY
June 10, 2009**

MINUTES

ROLL CALL

President Daniels called the meeting to order in the Library Meeting Room at 7:35 p.m.

Trustees present: Eblen, Humphreys, Read, and Daniels. Trustees absent: DiCola, Greene. Also present: Library Director Bowen, Assistant Library Director Carlson. Visitors: none.

APPROVAL OF MINUTES

The Board reviewed the minutes of the regular meeting of May 27, 2009. It was moved by Humphreys and seconded by Read **THAT THE MINUTES OF THE REGULAR MEETING OF MAY 27, 2009 BE APPROVED AS AMENDED.** Ayes: Humphreys, Read, Daniels. Abstentions: Eblen. Nays: none. Motion carried.

Trustee DiCola arrived at 7:40 p.m.

PAYMENT OF INVOICES

The Board reviewed the list of invoices submitted for payment. It was moved by Read and seconded by Eblen **TO APPROVE PAYMENT OF OPERATING INVOICES FOR JUNE 10, 2009 TOTALING \$45,732.43; TO APPROVE A BUDGET JOURNAL ENTRY TRANSFER FOR STAFF PARKING TOTALING \$1,950.00; AND TO ACKNOWLEDGE PAYROLLS FOR MAY 2009 TOTALING \$166,266.19.** Ayes: DiCola, Eblen, Humphreys, Read, Daniels. Abstentions: none. Nays: none. Motion carried.

OPPORTUNITY FOR PUBLIC COMMENT ON AGENDA ITEMS

None.

OLD BUSINESS

None.

NEW BUSINESS

- Review and approval of the revised Circulation Policy

The Board packet contained a proposed revision of the Circulation Policy. The revision clarified language and updated fines and fees to reflect current costs. Bowen noted two new statements in the policy: the last sentence in 6.2.6 Reserves and Section 6.3.4 Accepting Replacement Copies of Lost Items in Lieu of Payment.

Past versions of the SWAN circulation system only allowed materials to be reserved and sent to the patron's home library. The current circulation system has the potential to allow a patron to reserve an item and have it sent to any SWAN library for pickup. Some libraries in SWAN are interested in allowing this option. Other libraries, including all the larger ones, are opposed to this. 16% of Downers Grove circulation is by reciprocal borrowers—patrons who are cardholders of other libraries who come to Downers Grove to borrow materials

from our collection. While the option to have reserves sent to another library might benefit a few Downers Grove residents who use other libraries, it would greatly increase the burden of non-resident use of the Downers Grove Library. The amount of material the library processes through the delivery service is already huge. Enabling non-residents to use their home libraries less and Downers Grove more would increase the burden on our Circulation staff. Since it is now technically possible to have reserves shipped to other libraries for pickup, the following statement was added to Section 6.2.6 Reserves: Only Downers Grove cardholders may have a reserve delivered to Downers Grove for pickup.

With easy access to discounted or used materials via the Internet, the library has had an increasing number of patrons who have asked to be allowed to replace an item, rather than pay the fine which is the original cost of the item. From a public relations point of view, Bowen thinks it is important to offer this option to those few patrons who feel strongly that they should not have to pay for items when they can obtain a copy for lower cost. The downside is that the library does not always want to replace a lost or damaged item, or the library may want a more recent edition.

It was moved by Humphreys and seconded by Eblen **TO APPROVE THE REVISED CIRCULATION POLICY**. Ayes: DiCola, Eblen, Humphreys, Read, Daniels. Abstentions: none. Nays: none. Motion carried.

REPORT FROM THE ADMINISTRATION

The MLS Quarterly Administrators Meetings were last week. Bowen attended the morning MLS Administrators Meeting, and Carlson attended the afternoon SWAN Administrators Meeting.

The report from the ILA Public Policy Committee was interesting, though not encouraging. Kip Kolkmeier, the ILA legislative consultant, reported that adopting a State budget appears to be hopeless. The General Assembly could not agree on either revenue increases or expense cuts. Instead they passed a 50% lump sum budget, giving all state agencies 50% of last year's budget. The Governor will not sign this budget, and he refuses to sign the Capital budget bill until an operating budget is approved. In overtime the General Assembly now requires a super majority to approve a budget, which means they need Republican support. The Republicans want the capital budget, so maybe they can support an operating budget to get it. Either they reach some kind of agreement or the state will implement a doomsday budget. Kip says the reform bills are pretty much a fraud. They capped campaign contributions, but allowed the establishment of separate accounts where additional contributions can go. The only real change has been for lobbyists. They now have to file a weekly report, rather than the 6 month report that used to be required. The FOIA legislation has had all the penalties removed. On the up side, all the bills that ILA opposed or was concerned about have been held in committee or killed. All bills that ILA supported have passed except the tax cap bill.

Per Capita grants are being paid very slowly. A few MLS libraries have received checks so far, but most, including Downers Grove, have not. Other State grants are not being paid at all. Some libraries have grants that were supposed to be completed several years ago that have not yet been paid.

There has been considerable fussing among libraries about this year's Per Capita Grant requirements. The State Library keeps issuing new versions that require more work by the libraries. The applications are due in October. The Illinois Library System Directors are approaching the State Library on behalf of the system libraries and asking that they do a little more thoughtful planning, and preferably use the systems to identify the best ways to collect the information the State Library needs.

MLS is in the process of identifying member libraries' priorities for system services, so they are prepared in the event that system funding is cut. Delivery of Interlibrary Loans is still the number one priority. MLS delivery currently handles 7.5 million items per year. This is up from 1.4 million items in 1996. The increase is directly

attributed to SWAN and the ability of patrons to have requests filled by the first copy of an item available within the system. MLS delivery accounts for 25% of all the delivery in the State.

MLS staff have helped set up a museum pass program for suburban libraries. The big city museums have not been willing to extend their museum pass program to suburban libraries, but Macy's has sponsored a Suburban Museum Pass program that allows libraries to issue passes for many of the suburban museums. Cantigny, Morton Arboretum, Brookfield Zoo, and the Kohl Children's Museum are among those who are participating. The program begins September 1.

There is a line of mortar coming loose in the brick wall of the original library building along the handicapped walk at the north side of the building, and there are some additional spots with loose mortar at the west end of the overhang on the Curtiss side and along the Curtiss street side of the overhang. These are original walls, not new construction. The library is looking into a repair which may just be some tuckpointing.

The April monthly statistics, included in the Board packet, show an increase in Circulation of 3.4% over the year-to-date of the previous year as well as increases in reference questions, database usage, meeting room usage, and program attendance. Due to technical problems, the year-to-date loss statistics for gate count and web page requests are not accurate. One of the north gate counters was discovered to be counting double for each patron who entered the building, and staff do not know when the counter first malfunctioned. A new gate counter has been installed and is recording accurately. The library will check all the counters on a regular basis per President Daniels' request. The web page requests year-to-date statistic shows a huge loss due to the fact that when new public computers were installed last fall, the browsers were not set to open to the library's homepage in all the public computer profiles. This will be corrected over the Heritage Fest weekend when the library is closed as profile changes need to be made when the computers are not in use.

The Library 2.0 self-directed learning project for staff was a huge success in terms of staff participation. Over 80% of the staff participated in the Library 2.0 project and 67% completed the ten lessons by the May 31 deadline. Many staff expressed their appreciation for all the patient help provided by Annie Jagielski, the library's technology trainer, throughout the project, as well as appreciation to Administration for offering this program so staff could become familiar with the technologies that many library patrons are using.

TRUSTEE ANNOUNCEMENTS AND REQUESTS FOR INFORMATION

None.

OPPORTUNITY FOR PUBLIC COMMENT

None.

ADJOURNMENT

The meeting was adjourned at 8:29 p.m.

**VILLAGE OF DOWNERS GROVE
ZONING Board OF APPEALS**

MINUTES OF APRIL 22, 2009 MEETING

Call to Order

Chairman White called the meeting to order at 7:30 PM.

Roll call

Present: Mr. Benes, Ms. Earl, Mr. LaMantia, Ms. Majauskas, Ch. White

Absent: Mr. Domijan, Mr. Isaacson,

A quorum was established.

Staff: Jeff O'Brien, Planning Manager, Stan Popovich, Damir Latinovic, Village Planners

Minutes of February 25, 2009

Mr. Benes made a motion to approve the minutes of the February 25, 2009 Zoning Board of Appeals meeting as presented. Ms. Earl seconded the motion. The motion passed unanimously.

Meeting Procedures

Chairman White said there were four items to be heard on the Agenda. He reviewed the procedures to be followed during the public hearings, and called upon anyone intending to speak before the Board to rise and be sworn in. Chairman White explained that there are seven members on the Zoning Board of Appeals and for a requested variation to be approved there must be a majority of four votes in favor of approval. He added that the Zoning Board of Appeals has authority to grant the petition without further recommendation to the Village Council.

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ZBA-04-09 A petition seeking a rear yard setback variation for property located on the bulb of the Ridge Court cul-de-sac, approximately 150 feet North of 61st Street, commonly known as 6021 Ridge Court, Downers Grove, IL (PIN 09-18-401-080); Christine Brindza, Petitioner and Owner.

Mr. Damir Latinovic, Village Planner, stated that the petitioner originally requested a rear yard setback variation for an addition to their house; however, after researching the request it was determined that the variation was not necessary due to previous actions by the Village. No further action is required from the Zoning Board of Appeals at this time.

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ZBA-05-09 A petition seeking a rear yard setback variation for a detached garage. The property is located at the northeast corner of Fairmount Avenue and 55th Street, commonly known as 5441 Fairmount Avenue, Downers Grove, IL (PIN 09-08-415-015); Linas Barauskas, Petitioner, Dionne Lang, Owner.

Petitioner's Presentation:

Mr. Stan Popovich, Village Planner, stated the petitioner was not present at this time, and requested that the Chairman move to the next petition. Chairman White called the next petition for consideration, saying that case ZBA-05-09 would be heard after the next petitions, if the Petitioner is present.

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ZBA-06-09 A petition seeking a side yard setback variation for a screened porch. The property is located at the northwest corner of Main and 41st Streets commonly known as 4140 Main Street, Downers Grove, IL (PIN 09-05-110-025); Barbara L. Bohn, Petitioner and Owner.

Petitioner's Presentation:

Mr. Ted Bohn, 3801 Candlewood Drive, stated they are requesting a variance for a side yard setback. His wife inherited the property from her brother. The property had a deck which was in need of repair. The contractor provided them with a quote on the project, and they agreed to have the deck work done. During the course of construction in the fall of 2008, Village staff stopped the work because it was determined that construction was being conducted without a building permit. Mr. Bohn said they were unaware that a permit was needed, as the contractor did not inform them of the need. The project is about 90% completed, but requires a variance to allow a screened porch to be three feet nine inches from the north property line.

Mr. Benes asked about the screened porch to the north of the house, and whether there would be a door or steps placed at that location. Mr. Bohn said that they were advised by Code Enforcement staff that a door and steps would not be allowed at that location. He said that the deck was larger and was cut down in size. Mr. Benes asked if there was any reason why the contractor did not seek a building permit. Mr. Bohn said the contractor said he didn't think they would need one, and that the owner would have to fight it out. Ms. Majauskas asked why the contractor was not present at the meeting. Mr. Bohn said he and the contractor are not on the best of terms right now. Mr. Bohn indicated he probably should have known that a trench foundation was necessary, but they depended upon the contractor to know that information.

Ms. Majauskas then asked about the retrofitting of the foundation, saying that the Board cannot give more than a 50% variation. Mr. Bohn said that if the variation was approved, he understood they would have to move the north wall in about 6 inches. He assumed the roof would have to be braced up, and the current wall moved within the accepted boundary. As for the trench foundation, he did not know the requirements but would do whatever is necessary. Ms. Majauskas asked why they can not just move the wall and make it come within the zoning requirements. Mr. Bohn said if they were to obtain the variance, it would make a more aesthetically pleasing deck. Keeping it within the requirements would ruin the pitch of the roof line and limit the size of the deck. Ms. Majauskas said if they reconfigure the roof and make it

even, that would eliminate the need for the variance. Mr. Bohn then showed a photo of the construction to the Board members. He said they have discussed the construction with an architect, and they agree that the variance would be necessary. Ms. Majauskas asked how they would meet the variance requirement. Mr. Bohn said that once the Board makes its deliberation, the Bohns will further investigate the possibilities depending upon the costs involved for the trench foundation and removal of the existing wall. The house was inherited, and they are not sure what will be done with the property. Another brother is residing on the property at this time. Mr. Bohn then presented additional photographs of the property as it existed prior to the construction of the new deck.

Staff's Presentation

Mr. Stan Popovich, Village Planner, described the requested petition for a variance to allow for a screened-in porch to be located three feet nine inches from the side property line. Construction was stopped on the addition when it was discovered by Code Enforcement that no permit had been obtained. This is a nonconforming structure, which means that it may be repaired or maintained, but not expanded. Construction of the screen and porch is considered expanding the nonconformity. The existing deck can remain in its place with repair and maintenance. The Board can only grant a variation of up to 50%. Construction can be done to allow for structural support for the deck. They would remove the six inches of deck, move the wall in and realign the wall to the allowed dimensions. As for the trench foundation, Mr. Popovich said that his understanding is that they would dig out between the piers, pour concrete in and rebar into the existing piers. This would be Code compliant as long as there is a structural engineer's seal approving the plans. The Municipal Code has been amended to require that any addition with a roof requires a trench foundation.

Staff does not see any unique circumstances associated with the petition. Mr. Popovich reviewed the standards for granting variations and based upon its review, staff recommended denial of the requested variation. Mr. Popovich said staff believes construction of the screened-in porch as requested would alter the character of the neighborhood due to its location to the property line. He indicated if the owners had simply repaired the existing porch, the deck would be allowed to stay. However, given the construction started by the contractor without a permit, staff does not believe the request for a variance is justified. Mr. Popovich then discussed the question raised about steps along the east side of the screen and porch. There is an electric meter to the east of the door location. Steps would not be allowed in that location due to the existence of the meter.

Mr. Popovich stated if the ZBA decides to approve the variation, the variance should be subject to the conditions as stated in staff's report dated April 22, 2009, pages 4 and 5.

Ms. Majauskas asked what the rules are regarding the roof overhang. Mr. Popovich said the roof overhang would be allowed to remain if the wall were moved in.

Mr. Benes asked whether digging the foundation between the piers would satisfy the requirements. Mr. Popovich said it would be sufficient. The architect would have to determine how that could be done. The concrete wall would have footings, etc.

Chairman White said his understanding is that the owners would have to provide documentation from a structural engineer. Mr. Popovich said that was correct, and if the variation is not

granted, they will still have to obtain a building permit with structural engineer's drawings for any work being done.

Mr. Popovich said staff has not heard from any of the neighbors.

Mr. Benes pointed out what has been done to the house is quite an improvement, because it had been neglected and overgrown for many years. The owners have done a remarkable job with the overgrowth.

Chairman White asked, if the variation were granted, whether it expires within a certain time. Mr. Popovich said the variation expires if no construction takes place within one year.

Mr. Benes said some time ago staff said that a variance is not attached to the building, but is attached to the land. If someone were to purchase this house and tear it down, he asked if the variation still remain in place. Mr. Popovich said it would remain in place. Setbacks would still apply to the new construction. If there was a screened porch, it could be placed within the variation allowed. The variation remains with the land and not with the building. Mr. Benes said he believes the variation should remain with the building and not with the land, and it is a question that has been debated for a long time.

Chairman White asked if there was anyone who wished to speak either in favor of or in opposition to the petition.

Charles Witner, adjacent neighbor to the property in question at 4134 Main Street, said he wanted to speak on behalf of the petitioner being granted the variance. He said that the property under the previous owner was neglected. The Bohn's family has improved the condition of the property tremendously, which he believes affects the value of his property as well. He is happy that the Bohns are now in control of the property. Mr. Witner said he is surprised to learn that the existing house is in violation of the setback, since there seem to be many homes in the Village that are even closer than these two houses. Mr. Witner said he is fine with the distance between the houses. Looking through the screened porch is not the same as looking at a closed-in building. He is happy with what is happening to the property.

Mr. Benes said this is a 75 foot wide lot with two front yard setbacks. The property has no driveway next to the house, which creates a larger feel to the property.

A resident of 4131 Main Street stated the looks of the property have improved. She hates to see the owners being penalized for trying to do something good with the property. She hopes that the Board will grant them the variance.

Chairman White called upon the petitioner for any final comments.

Mr. Bohn said the contractor's actions and failure to get a permit makes him feel stupid, and he is upset that they have been placed in this position. They are law-abiding people and were not trying to pull anything over on the Village.

There being no further questions for the staff or petitioners, Chairman White closed the opportunity for further public comment.

Board's Deliberation

Ms. Majauskas said she agrees with everyone that the screened-in porch looks fabulous. Her problem is that everyone has dropped the ball on this situation. No one checked the Village Code. No architect was employed until after the problem started. She is stuck on that fact, and she is also concerned because the petitioner still does not know their future plans. If the variance is granted, no one knows what the project will eventually look like. Initially, she is not sure they are ready to hear the petition. She has a hard time that no one checked with the Village at all.

Mr. Benes asked if she is suggesting that the contractor be held responsible, since he is the one who dropped the ball. Ms. Majauskas said that the contractor is responsible, but he is not the only one.

Chairman White said if the variation is granted it is only good for a year. Ms. Majauskas said that is her point, that they have no idea what this will look like when completed.

Mr. Benes said the variation has nothing to do with what this will look like upon completion. The variation is six inches on the north side of the property and cannot be seen.

Chairman White said the variation should not depend upon the architectural design of what the owner wants to construct. He would prefer to have a proposal of what will be built, but that is not part of the consideration of the Board.

Ms. Majauskas said her point is that they do not know what the variation is that they are granting. The architect may come in and say that a variation is no longer needed, or the trench might be potentially too expensive.

Chairman White reiterated if they choose to follow a variation, if granted, they will build a screen porch with a setback cut in half.

Ms. Earl said she does not understand why they can not construct this in compliance with the ordinance. Ms. Earl said she understood that this was not done intentionally, but the onus falls upon the owner. Allowing variances leads to everyone wanting variances, which diminishes the integrity of the zoning requirements.

Mr. Benes said he disagrees that because a variation is given at this location, it will be given everywhere. The Board has to decide what makes the specific situation unique. In this case he said the subdivision was created in 1925, and he does not know what the regulation was at that time. A screened porch is a misfit for this building. Perhaps it should be removed or grant a variation for the six inches.

Chairman White said that many of these things do come down to judgment calls.

There being no further discussion Chairman White called for a motion.

MOTION:

Mr. Benes made a motion to deny the requested side yard setback variation for case ZBA-06-09 at 4140 Main Street.

Ms. Majauskas seconded the motion.

Roll call vote:

AYE: Mr. Benes, Ms. Majauskas, Ms. Earl, Mr. LaMantia, Chairman White

NAY: None

The motion passed unanimously.

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ZBA-07-09 A petition seeking a side yard setback variation for the property located approximately 115 feet South of Concord Drive, commonly known as 6806 Camden Road, Downers Grove, IL (PIN 09-19-302-010); Patrick and Patricia Madison, Petitioners and Owners.

Petitioner's Presentation:

Mr. Pat Madison, owner of 6806 Camden Road, explained they have a problem with an attached shed. He said his communication with Village staff has not gone well because of staff's rigid, black and white approach to the issue, and he believes they are rather strict and arrogant. The owners have asked the staff on numerous occasions to come to the house and property to see why the shed was placed where it is, and why the other locations are not appropriate. In each case, staff refused to come to the property. As twenty-five year residents of the Village, they are disappointed that staff did not come out to the site.

Chairman White interjected that even if the staff did go to the property, looked at the shed and approved the existing location, staff does not have the authority to allow the owners to keep the shed there. The owner still has to come before the Zoning Board of Appeals.

Mr. Madison said he knows they are doing their job, but he is looking for more logic than their interpretation of the strict requirements. That is why he decided to submit a request for a variation. He said that they have an unusually shaped lot. He does not agree with staff's findings of a twelve-foot setback. When the house was built 25 years ago it was with an eight-foot setback. A twelve-foot setback on all sides could not be done. His request is for a six-foot setback only because the rules are black and white, and he was not allowed to request what he wanted, which is a shed with a two foot setback. If the variance is granted, it is not too practical and he doubts he will rebuild the shed anyway. He mainly wants to know why this has been such a big problem.

Mr. Madison brought photographs for the Board's review showing properties with sheds attached to the houses, which are basically the same type that he constructed. In some cases, they may be closer to the property line than his shed. Other photos show freestanding sheds too close to the houses and too close to the property line. He indicated this is a small sample within

dog-walking distance of his property. He said there are probably numerous sheds out of compliance, and he is making that point that if there is that much out there not in compliance, what is the purpose of the compliance issues. From his perspective, he knows of no objections in his neighborhood. Letters have been written and a petition was signed by the people who were notified of the request. Mr. Madison said that the bottom line is that he built a shed and did not do it to usurp any rules or regulations that he did not know existed. His understanding is that he did not need a permit for anything under 100 square feet, and that is why he did not ask about the permit requirement. He did not speak with any experts in this situation. He disagrees with a number of points made by staff regarding space on the property. He placed the shed in the most practical and least obtrusive place. He tries to take care of his property and keep his house attractive for himself and the neighborhood. There have been no complaints from the neighborhood. The only complaints have been from staff.

Mr. Benes asked about the structural support for the shed. Mr. Madison said it is supported on three posts and attached to the foundation of the garage. He built a deck and placed the shed on top of the deck. The inside wall of the shed is the outside wall of the garage. Mr. Madison said he attached it because they were tight on space and thought it was better than a Home Depot shed. Mr. Benes said what has occurred here is that Mr. Madison has created an addition to the house. A Home Depot freestanding shed is a shed.

Ms. Majauskas asked whether the house sits eight feet from the property line, and Mr. Madison said that was correct. Ms. Majauskas then asked about the shed being six feet wide, which would place it two feet from the property line. Mr. Madison said based on the twelve-foot requirement, he can only apply for a two-foot shed. If the required side yard setback was eight feet, he could apply for a four-foot variation.

Chairman White said that whether it is eight feet or twelve feet is not a decision of the Board. The Village amended its zoning ordinance, and the present requirement is twelve feet, and the Zoning Board has no authority to change the setback requirement. That is a decision for the Village Council only. The petition this evening is for permission to add two feet to the existing component. Based on the present ordinance, the house cannot be expanded. The Board can only grant a 50% variance, which would result in a two-foot wide shed with a 6-foot side yard setback.

Staff's Presentation

Mr. Damir Latinovic, Village Planner, said the existing house is a legal nonconforming building constructed in 1984 with a setback of 8 feet from the south side property line. The petitioner is requesting a side yard setback variation to allow an addition to the house in the form of a shed to be located six feet from the south side property line. Using the twelve-foot side yard setback figure, the Board is allowed to grant a 50% variation based on the twelve-foot setback.

Chairman White asked for clarification that the existing house is legal nonconforming, and that the ordinance was made more restrictive to a twelve-foot setback. Mr. Latinovic said that the original setback was probably five feet, now it is five feet or ten percent of the lot width, whichever was greater.

Mr. Latinovic then reviewed the background on the request. The petitioner constructed a 12 foot long by 6 foot wide shed last year without a permit. Code Enforcement staff saw the shed and

determined that the building permit was never obtained and that it did not meet the required setback. The petitioner was notified that the shed would have to be removed or request for a variance allowing for a two-foot wide shed. He said, he personally inspected the site on two occasions and spoke to Mrs. Madison on the site. Other staff members have also visited the site.

Chairman White asked if they bought a detached plastic shed, what would the requirements be. Mr. Latinovic said that if it is not attached to the house the setback would be five feet. Any shed attached to the ground, less than 100 square feet, still requires a stormwater permit.

Mr. Latinovic said that staff finds no physical hardship associated with the property that would warrant granting the request. The petitioner created the hardship, and had they contacted the Village they would have been informed of the requirements. Staff believes there is enough space on the north side of the house or at the rear where a detached or attached shed could be legally constructed. He then reviewed all of the Standards required for a variance as summarized in Staff's report dated April 22, 2009, pages 3 and 4.

Mr. Latinovic said that Staff recommends denial of the requested variation. He noted that if the Board finds all standards for granting the variation have been met and approves the requested variation, Staff requests that conditions 1 and 2 on Staff's report dated April 22, 2009, page 4, be included in the Motion.

Mr. Benes asked if there was any record of the owner talking to the Building Department or Village staff prior to building this shed. Mr. Latinovic said he did not know whether they came in or a phone discussion was held.

Mr. Benes then asked, should the variation be approved, whether a foundation would have to be constructed. Mr. Latinovic said it would be too small for a trench foundation. In this case, the existing foundation that has already been constructed would be sufficient. Trench foundation requirements are based on the project size and whether a heavy load requires additional support. Mr. Benes asked for clarification that a structure attached to the house requires a trench foundation according to the Village Code. There seem to be two standards. Mr. Latinovic said the shed is attached to the house; however, there is no access to the house. When the owner obtains a permit, the building code determines what type of foundation is necessary. There are different standards based on the size of the addition. Mr. Latinovic indicated the Chief Building Inspector reviewed this condition and confirmed that the current support system would be compliant with the code due to the size of the shed addition.

Chairman White asked if there was anyone who wished to speak either in favor of or in opposition to the petition.

Mr. Richard Compton of 6812 Ticonderoga said he lives across the street from the subject property. He moved into the neighborhood 25 years ago before the Madison home was built. He disagrees with staff's comment that there is room on the property for a shed. It would look like an alley. He hoped the Board would grant the variation.

Ms. Patti Nichols of 6812 Camden, next door to the Madison property, said when the Madison's asked for her signature in support of the existing petition, she did not even know that the shed was there. The Madison's have beautiful property, and to place the shed anywhere else on the

property would make no sense. She lives next to the shed and does not even see it. It is beautifully built and an attractive structure, tucked away on the perfect place on their property.

Ms. Catherine Talbott of 1707 Concord Drive, directly north of the Madison property, commented that she agrees that the shed is unobtrusive. She does not believe there is anywhere else on the property that the shed can be placed. The Madisons are the best neighbors and take impeccable care of their property. She is in favor of the variance and cannot see the shed at all. She asked that the Board grant the variance requested.

Ms. Patti Madison, co-owner of the property, thanked her neighbors for attending and supporting them. She said that she told Damir (Latinovic) when she dropped off the paperwork that what upset her was that staff repeatedly refused to visit the property and discuss other possible locations. When the public hearing sign was planted on her property, she approached Mr. Latinovic while he was inspecting the site and he said he understood why they did not want to build a freestanding shed on the lot. She said that he pointed to a site that day on the north side of the lot where it could be built; however, the owners did not choose that site because it would be more visible. Ms. Madison said her question is who wrote the report? She reviewed staff's comments in the report dated April 22, 2009. She said that she did not understand why Point (1) on page 3 stated that they can construct an attached or detached shed in the rear yard or the north side yard and meet the setback requirements. She disagrees that there are no unique circumstances associated with the petition. Ms. Madison commented that she did not understand how a free-standing Rubbermaid shed would be better than a shed that no one can see. As to Point (4), Ms. Madison said that they have a small lot with uneven topography. They could put the shed on one side; however, there is a mature maple tree that they want to keep in good health.

There being no further questions, Chairman White called upon the petitioner to speak again.

Mr. Madison said he understood the situation that the staff is in with regard to the requirements and establishing precedent. The two items he is concerned about include whether the calculations for the setback are accurate. Chairman White said there is no question about the calculations by staff; however, this is not the Board to discuss the required setback. Mr. Latinovic said if there is an appeal on the staff's interpretation of the rule, it would come before the Zoning Board. Mr. Madison said the calculations are a big issue in his mind. He said he thinks he understands the need for zoning regulations. He also understands the restrictions the Board and staff have to meet. However, he is too practical and cannot understand how something less attractive and less in concept with the neighborhood would be allowed. That is why he assumed people could talk and make common sense decisions.

Chairman White said the Board has handled a number of variations over the years and in some way, having people come before the Board with petitions creates a filter so as to prevent something being built without even asking. This creates a hurdle for the petitioner to explain why their situation deserves consideration for a variation. Staff does not grant variations or make exceptions to the rules if they think it is appropriate. That is not their job. The appointed members of the Board are given the authority to grant the variations.

Mr. Madison said it is frustrating from his point of view when he sees the lack of enforcement that goes on. He is not looking for a witch hunt on sheds. It is the basic point that it is not that big a problem. People are not complaining about what he has. Through a lack of consistent enforcement, the Village is giving a blind eye and saying it is not that important either.

Chairman White said that zoning regulations should be enforced. He does not want zoning to be who gets caught, and who does not get caught, or who knows the enforcement officer and can make him look the other way. The history of the Board shows a number of variations have been granted over the years; however, any criticism that staff is too rigid is misplaced. He wants staff to be rigid; that is their job.

There being no further questions for the staff or petitioners, Chairman White closed the opportunity for further public comment.

Board's Deliberation

Mr. LaMantia noted if the setback had been changed from twelve feet to eight feet, it would result in a four foot shed instead of a two foot shed. That still would not allow what has already been built.

Chairman White said in all the years he has been on the Board, they have granted more liberal variations than what the textbook might allow. In the older parts of town where subdivisions were created in 1890s or 1910s, that might make sense. This particular lot was improved in the 1980s. He said he understands that a freestanding shed might be legally acceptable but more obtrusive than what is there now. The amendment to the zoning code is more restrictive now.

Ms. Majauskas said her one thought is that the shed will come down one way or another. The petitioner will have to retrofit the shed to fit the two feet allowable with a variance. The Board does not have the legal authority to allow that.

Mr. Benes commented in the packet there is a shed design for a two-foot width, which is not how wide the existing shed is. Chairman White said that is what the request is, a six-foot setback variation for a two-foot wide shed.

Mr. LaMantia said the shed would have to be altered to meet what could be allowed. If the variation were to be granted, the shed would have to be cut down to two feet.

Ms. Earl said she appreciates that the neighbors turned out for this. If someone else were in the neighbor's house and were to put in a legal fence, the petitioner would not be able to get into the shed as it now stands. This is a broader subject than it appears to be. She noted that it is a beautiful shed.

Mr. LaMantia said the neighbors who turned out were in support of the existing structure. Everyone agrees that it is a beautiful structure, but unfortunately it cannot stay in its present form.

Mr. Benes said the best the Board can do is grant a six-foot variation, which results in the two-foot shed.

Chairman White asked for a Motion.

Mr. LaMantia made a motion to approve the requested side yard setback variation for case ZBA-07-09 be granted as requested with the following conditions:

1. **The proposed attached shed shall substantially conform to the drawings attached to this report except as such drawings may be changed to conform to Village codes, ordinances, and policies.**
2. **The petitioner shall obtain a building permit prior to the completion of the shed renovation.**

Mr. Benes seconded the motion.

YAY: Mr. LaMantia, Mr. Benes, Chairman White

NAY: Ms. Earl, Ms. Majauskas

The Motion failed 3:2 as the four-vote minimum to approve a variation request was not achieved.

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ZBA-05-09 A petition seeking a rear yard setback variation for a detached garage. The property is located at the northeast corner of Fairmount Avenue and 55th Street, commonly known as 5441 Fairmount venue, Downers Grove, IL (PIN 09-08-415-015); Linas Barauskas, Petitioner, Dionne Lang, Owner.

Petitioner's Presentation

Mr. Linas Barauskas of LB Eurocraft, said he represented Ms. Dionne Lang of 5412 Fairmount Avenue who is out of town on business. The request is for a setback variation to allow a detached garage to remain 4.61 feet from the rear property line, which is a variation of 3.5 inches. The garage was built in 2007 through the fall of 2008, upon completion of the construction, it was found that there was a discrepancy. Mr. Barauskas said he did not have a survey drawn after the concrete was poured, and it was his fault. He followed the line of the original garage.

Mr. Benes said there was a site plan dated September 25, 2007, which shows that the new garage would be six feet from the east and north property lines. Mr. Barauskas said they did the six feet from the north, but followed the existing garage foundation and incorrectly calculated the required figures. They removed the old pad and missed the calculation by one foot. He said perhaps the old garage was not in the correct location. He marked the site from the existing foundation.

Mr. Benes said he is not concerned with the location of the old garage. When it was removed to put in the new garage floor, the error was made of about one foot. He did not understand how that occurred. Mr. Barauskas said the north side was where there is a setback issue

Mr. Popovich interjected that both the north and east sides are not compliant. The north side is the side yard and the east side is the rear yard. The east side does not meet the requirement either with 4.61 feet according to the spot survey conducted. There was some discussion regarding measurements for the two yards, noting that they are about 2.5 inches off the requirements.

Staff's Presentation

Mr. Popovich reviewed the petition before the Board, saying that the rear yard (east yard) is 4.61 feet from the property line, and the side yard is 4.79 feet from the property line. He noted all building permits for detached garages require a spot survey prior to the framing of the walls and roof, and applicants are made aware of the requirements during the permitting process. Had the petitioner completed the spot survey and it showed that the foundation was poured incorrectly, the petitioner would receive notification that the survey failed. The petitioner did have a survey conducted; however, it was done after the construction was completed. A follow-up survey confirmed the error in placement.

Mr. Popovich said staff believes there are no unique circumstances in this situation. Construction was completed, but the petitioner failed to follow the requirements of obtaining spot surveys prior to completion. He reviewed the Standards for granting variations as stated in staff's report dated April 22, 2009, pages 3 and 4. Based on staff's analysis, the standards for granting the variation have not been met and the structure should be removed or relocated. Therefore, staff recommends that the Board deny the requested variations. Mr. Popovich said that if the Board decides to approve the requested variation, no additional conditions of approval need to be included in the motion.

Ms. Majauskas asked about the spot survey and what options would be available other than moving the wall in. Mr. Popovich said that patios can be built up to the property line, and with the wall moved in, the extra inches of concrete would be treated as a patio. Ms. Majauskas then asked if the wall is moved in three inches, how it changes the structural integrity of the garage. Mr. Popovich responded by using the site plan that the foundation is actually 1 foot 8 inches thick which would allow the wall to be moved and still maintain the structural integrity.

Mr. Benes referred to a sheet in the packet showing the distance from the property line, and asked if it was in the building permit. He said he thought the Building Department would have seen this as something contrary to the plan. Mr. Popovich said that is why the spot survey was important prior to completion. Had the petitioner come in at 5 feet 5 inches or 5 feet 9 inches, it would have probably been allowed. Mr. Benes said he did not understand how they could allow it at 5 feet 5 inches. Mr. Popovich said when new houses are built, all houses meet the setback, and the engineering plans show that. Once the foundation is poured, the survey might come back with a minor change that still meets the setback.

Mr. Barauskas said they tried to save money and help the owner, and the error occurred.

Ms. Majauskas asked what would have been built differently if they did not have to move the wall in. Mr. Barauskas explained how wall could have been moved in on the foundation wall.

In response to Chairman White, Mr. Popovich said they could move the wall to the southwest. Chairman White said if they moved it a foot to the southwest, it would look crooked according to the petitioner.

Board's Deliberation

Ms. Majauskas said the difference in this case is that they actually obtained a permit, which the others did not. They should have obtained the spot survey, but she questioned whether it is really necessary to move the structure for a few inches. If it was a larger amount such as a foot, that would be different. This was a mistake that should have been caught.

Mr. Benes said this type of problem has occurred before in a development where a house ended up on someone else's property. They had to correct it. That is where the spot survey comes in, and it is that critical.

Chairman White said they did one a few years ago where the survey was incorrect and the petitioner came in twice to try and remedy the situation.

MOTION:

Mr. Benes made a motion to deny the requested side and rear yard setback variations for the detached garage in case ZBA-05-09 at 5441 Fairmount Avenue.

Mr. LaMantia seconded the Motion.

AYES: Mr. Benes, Mr. LaMantia, Ms. Earl, Chairman White

NAY: Ms. Majauskas.

The motion to deny the request passed 4:1.

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Jeff O'Brien noted that the Board received the Annual Report for the Zoning Board of Appeals for 2008 in their packet.

There is a Board and Commission Workshop event on Saturday, May 2nd, at Midwestern University from 8:30 until Noon. They will discuss the Village budget, Strategic Plan and TCD-III.

Mr. Benes: "I have a question. On the second sheet you talk about 5524 Lee Avenue, which is the Seventh Day Adventist Church. The sign that we talked about in this petition was a hand-painted sign on a 4x4 post, if you remember."

Mr.O'Brien: "Correct."

Mr.Benes: "That has been removed and attached to the south side of the Church facility. In place of where that sign was is now a stone permanent monument sign, the second monument sign on that church property. Is that legal? Did they come in for a permit on that?"

Mr. O'Brien: "We have had some issues with signs and specifically how they relate to commercial and institutional properties, essentially commercial and noncommercial speech. The Village Attorney determined that we need to be giving the institutional properties the same rights we give to commercial properties because of the difference between religious, political,

noncommercial and commercial speech. They need to be treated the same. The applicant did get the proper permits to modify the signs, so the signs on the property meet . . .”

Mr. Benes: “That means that every institution here, every church can have wall signs? Is that what you’re saying?”

Mr. O’Brien: “If they have multiple street frontages.”

Mr. Benes: “Most of them do.”

Mr. O’Brien: “Right.”

Ms. Majauskas: “So the church would be entitled to two monument signs? One for each street, right?”

Mr. O’Brien: “Correct.”

Ms. Majauskas: “And a wall sign? But they do have a wall sign already, because it says Seventh Day Adventist Church.”

Mr. Benes: “No, this is that big sign . . .”

Ms. Majauskas: “No, no, I know, the red one. But there’s two signs, is my point, two wall signs, right?”

Chairman White interjected a comment that was indistinguishable related to not discriminating between commercial businesses and churches.

Mr. Benes: “Where in the Code is this mentioned?”

Mr. O’Brien: “It’s not mentioned in the Code, Mr. Benes . . .”

Mr. Benes: “You can’t have a lawyer giving that kind of thing and violating the Code. It’s against the law. C’mon, goddammit, this is Downers Grove. We don’t allow that stuff going on, I don’t care who the attorney is. Obviously, you don’t think . . . I tell you, I don’t think much of her anyways. She doesn’t have that right to do that. She can express it, but if she expresses it, that doesn’t give them the right to do it unless it is in the Code. And it’s not in the Code.”

Mr. O’Brien: “Well, Mr. Benes, that was not my interpretation, so I’ll pass that along, but”

Mr. Benes: “Well then you get this in the minutes because the Council reads the minutes. Correct? And the word is that I don’t approve of legal justification to make a modification in the Code. It is just like *you* making the modification when it should come to here or should go to the Planning Commission. That means that every church according to our legal beagles can have all the signs they want. I am against it. We have a Code. Let’s live to it. And I don’t care who she is.”

Chairman White commented (indistinguishable) and Ms. Majauskas laughed at the comment.

Mr. Benes: “And I’ll hold you responsible for putting that in the minutes, too.”

Chairman White: “Ok, is there any new business?”

In response to Ms. Majauskas, Mr. O’Brien said there were no petitions submitted yet for next month, and Staff did not know what might be coming in for consideration.

There being no further business, Chairman White adjourned the meeting at 9:42 PM.

Respectfully submitted,

Tonie Harrington
Recording Secretary