

**REGULAR MEETING OF THE BOARD OF TRUSTEES
OF THE
DOWNERS GROVE PUBLIC LIBRARY
OCTOBER 13, 2010**

MINUTES

ROLL CALL

President DiCola called the meeting to order in the Library Meeting Room at 7:34 p.m. Trustees present: Eblen, Greene, Humphreys, Loftus, DiCola. Trustees absent: Read. Also present: Library Director Bowen. Assistant Director Carlson. Visitors: Resident William Wrobel of 7800 Queens Court.

APPROVAL OF MINUTES

Trustees reviewed the minutes of the regular meeting of September 22, 2010. It was moved by Humphreys and seconded by Eblen **THAT THE MINUTES OF THE REGULAR MEETING OF SEPTEMBER 22, 2010 BE APPROVED AS AMENDED.** Ayes: Eblen, Humphreys, Loftus, DiCola. Abstentions: Greene. Nays: none. Motion carried.

PAYMENT OF INVOICES

Trustees reviewed the list of invoices submitted for payment. It was moved by Humphreys and seconded by Greene **TO APPROVE PAYMENT OF OPERATING INVOICES FOR OCTOBER 13, 2010 TOTALING \$54,873.16 AND ACKNOWLEDGE PAYROLLS FOR SEPTEMBER 2010 TOTALING \$163,493.16.** Ayes: Eblen, Humphreys, Loftus, DiCola. Abstentions: none. Nays: none. Motion carried.

OPPORTUNITY FOR PUBLIC COMMENT ON AGENDA ITEMS

Resident Wrobel asked about the flu season agenda item, saying he understood library employees are included in the Village insurance pool. Director Bowen explained that only 20 out of 120 employees are eligible for the Village health insurance, and flu shots are not covered. Due to the H1N1 concern last year, the board approved offering non-accumulating flu-only sick leave to staff members. Only a few staff needed to use the leave and were very grateful. The cost was minimal to the library. Trustees Humphreys and DiCola said they felt it was a good means of helping staff not to be a source of illness to other staff and patrons.

OPPORTUNITY FOR PUBLIC COMMENT ON OTHER LIBRARY BUSINESS

Resident Wrobel talked about his theatre organ extravaganza fundraising idea. He is waiting to hear from the District 99 Foundation board regarding their interest in being involved, and he would like to outline a plan to the Library Foundation board at their next meeting as well.

OLD BUSINESS

None.

NEW BUSINESS

- Election of Board President and Secretary

At their meeting on Tuesday, October 5, the Village Council appointed Thomas Read to another term on the library board, and appointed Dan Loftus to serve the remainder of the term left vacant by Stephen Daniels' resignation. According to the board bylaws the regular election of officers takes place in even numbered years at the first meeting of the board after that year's appointments are made. Normally the board waits until all members are present; however Trustee Read had to miss this meeting and Trustee Humphreys will miss the October 27 meeting. Since DiCola and Read were elected the interim president and secretary and Read had been reappointed to the board, Bowen thought it likely that the board would wish to elect the interim officers to the full terms. He did talk with Trustee Read before the meeting, and he said he was willing to run as the regular secretary and he had no problem with the board going ahead with the election in his absence, as long as no one else had expressed interest in running for office. If other trustees are interested in running for one of the offices, Bowen recommended delaying the election until all members are present.

It was moved by Eblen and seconded by Loftus **THAT KATHLEEN DICOLA BE ELECTED PRESIDENT AND THOMAS READ BE ELECTED SECRETARY OF THE BOARD OF LIBRARY TRUSTEES.** Ayes: Eblen, Greene, Humphreys, Loftus, DiCola. Abstentions: none. Nays: none. Motion carried.

- Review and approval of the application for the 2011 Illinois Public Library Per Capita Grant

As the board is aware, the library has not yet received the 2010 Per Capita Grant that was awarded to Downers Grove, although the State Library continues to say that the libraries will receive their checks in December. The individual libraries' grants come from the same funds that are used to fund the library systems and the board is aware of the dismal state of system funding, so no one knows how likely it is that there will actually be any money for 2011 Per Capita Grants. Administrators of several MLS libraries have said that they will not bother to submit an application for the 2011 grant. However, the State Library has urged libraries to continue to apply. Bowen thinks one of the concerns is that if the libraries don't indicate a need for the grant by applying, it will be easier to not appropriate money for the grant in the future. Since most of the requirements are not difficult to achieve and generally fit into the normal processes of the board, and the library has completed all of the requirements for this year's grant application Bowen has gone ahead and written the application for the 2011 grant. A copy of this year's Per Capita Grant application was sent in the board packet.

President DiCola stated that it is absolutely correct to apply. Bowen said that although the amount for 2010 is \$49,000, down from \$60,000 in previous years, this funding allows the library to provide additional computer technology as well as electronic and print resources.

It was moved by Green and seconded by Eblen **TO APPROVE THE APPLICATION OF THE FY2011 ILLINOIS PUBLIC LIBRARY PER CAPITA GRANT AND DIRECT THE LIBRARY DIRECTOR TO SUBMIT IT TO THE STATE LIBRARY.** Ayes: Eblen, Greene, Humphreys, Loftus, DiCola. Abstentions: none. Nays: none. Motion carried.

Due to Trustee Read's absence, it was necessary to appoint a secretary pro tem to sign the grant application. It was moved by Loftus and seconded by Eblen **TO APPOINT DAVID HUMPHREYS SECRETARY PRO TEM.** Ayes: Eblen, Greene, Humphreys, Loftus, DiCola. Abstentions: none. Nays: none. Motion carried.

- Consideration of a request to reimburse employees for flu shots and to grant additional paid sick leave during the 2010-11 flu season.

As Bowen wrote in his memo in the board packet, he is asking the board to consider extending the flu benefit that was granted last winter for this year's flu season, too. That would be to grant staff that are not eligible for regular paid sick leave, three days paid sick leave if the employee suffers from flu symptoms, and to subsidize the cost of flu vaccines. The sick leave may be used during the 2010-11 flu season and unused days will be lost at the end of the season.

Most of the library staff are part-time employees who do not receive paid sick leave, but who do depend on the income from their jobs. The three flu days would allow an employee who normally works 2 or 3 four-hour shifts per week, to stay home a week with pay, and not risk infecting other staff or patrons.

Bowen also asked the board to consider reimbursing all employees for flu vaccine. Most of the library's employees are in positions in which they are in regular contact with the public, which puts them at added risk for contracting the flu. Local drug stores are currently providing vaccines that combine H1N1 and the current seasonal flu for about \$29. The Village is offering flu shots to Village staff on October 21 and the library staff can participate. The cost there is \$28. The DuPage County Health Department offers an online coupon redeemable for a \$5 gift card for Jewel-Osco and Dominick's when a flu shot is purchased through their pharmacies, so Bowen suggested that the library continue to offer a subsidy of up to \$25 per employee to encourage employees to obtain flu shots.

Last year only about a dozen employees actually requested reimbursement for the vaccine, though from staff questions he suspects more may be interested this year. Several employees did use the paid sick days when they had flu symptoms, but there was no indication that any employee abused the sick time. Both the sick employees and their co-workers expressed appreciation for the special benefit.

Trustees discussed the request and agreed it would be good to offer this to staff one more year as the expense is limited and the H1N1 vaccine is included with the seasonal flu vaccine this year.

It was moved by Loftus and seconded by Eblen **TO APPROVE GRANTING THREE PAID SICK DAYS FOR FLU TO EMPLOYEES WHO DO NOT RECEIVE PAID SICK LEAVE, AND APPROVE REIMBURSING LIBRARY EMPLOYEES FOR UP TO \$25 OF THE COST OF A FLU VACCINE.** Ayes: Eblen, Greene, Humphreys, Loftus, DiCola. Abstentions: none. Nays: none. Motion carried.

- Consideration of a proposal for consulting services for the library director job search

Earlier this summer the board discussed hiring Alice Calabrese-Berry to work as consultant on the job search for the library director. Alice will be retiring as the executive director of the Metropolitan Library System at the end of this month. She has considerable experience in helping public libraries recruit administrators. Since it is nearing the time that the board should begin preparing for this search, Bowen verified that she is still interested in consulting. She sent a letter with her proposal which Bowen included in the board packet. The letter describes her scope of services. Her fee is \$80 per hour, not to exceed \$7,000. In comparison, library headhunters typically charge about 20% of the annual salary of the position being filled, which Bowen assumes will probably be \$90 – \$100,000. With the goal of advertising the position at the end of February 2011 the board will probably want to begin meeting with the consultant in November or December. (With the Thanksgiving and Christmas holidays Bowen anticipates only one board meeting per month in November and December.)

The trustees discussed the fact that since their last discussion a major change had occurred with the departure of Stephen Daniels and the trustees were counting on leaning heavily on Daniels' for his time and experience for the director search. If it can be done expeditiously, the trustees would prefer to interview 2 or 3 consultants, including Alice Calabrese-Berry. Trustee Greene said the board owes it to the community to have a good person to lead the board through the process. Bowen asked the trustees to send him dates they are not available to meet, and he will schedule interviews with 2-3 consultants between October 18 and November 6.

REPORT FROM THE ADMINISTRATION

President DiCola and Bowen met with Daniel Loftus, the new trustee, on Monday morning for his orientation to the library board, so Trustee Loftus is armed with his policy manual and copy of Illinois Library Law and ready to go. Bowen will email the board an updated board contact list by the end of the week.

As the board knows, Carol Kania, the library's public relations and adult program coordinator has resigned. Bowen and Carlson completed interviewing the candidates for the position and are happy to report that Melissa Doornbos has accepted the position. Doornbos interned with Kania last summer and has been working as the library's program coordinator over the summer when Kania asked to cut back her hours. Doornbos has done a great job of hosting the summer's

programs and scheduling the fall and early winter programs, and she has worked hard to learn the other aspects of the job. She is outgoing and enthusiastic and is a fast learner. She has good basic computer skills and has already begun learning the web site skills that she needs. And most critical in the position, she is incredibly well organized.

Sheila Guenzer, who has been a Reader's Advisory library assistant in the Literature Department for 27 years, retired this month. In 1983 the library finished the second floor of the building and split the adult collection into two departments. Guenzer was one of the original staff members hired to help with the invention and development of the new reader's advisory service that has since given Downers Grove Public Library a national reputation. No one except (Bowen hopes) library directors ever really leaves the library, and Guenzer will continue to help in the department a few hours per week, so the many readers who depend on her recommendations will still be able to find her on Friday evenings.

In the invoice list there was a reimbursement for a registration for a LACONI workshop. LACONI is the Library Administrators Conference of Northern Illinois. There are a lot of libraries in northern Illinois. When LACONI was formed there were 6 library systems, now three have merged into PALS, so there are four systems. LACONI was formed as an opportunity for public library administrators from all the systems to network and share ideas. It grew to include, not just administrators, but to have sections interested in all areas of library service with sections for children's services staff, reference staff, outreach and library programming staff, etc. As the board knows, with no funding the library systems have had to make severe cuts in the services they offer, and consulting and continuing education were among the first to go as systems tried to maintain the services that are most essential to library patrons. So this year LACONI decided to increase the continuing education programs that are offered to help make up for the loss of the system services. LACONI does have to charge for the programs to recover the cost of speakers, and the programs are not always announced far enough in advance to issue a library check in time to meet the registration deadline, and they are not set up to take credit cards. Systems charged small fees for their continuing education programs, but they were billed as part of the monthly billing cycle. So you may see more reimbursements to library staff in the invoice list in the future.

As mentioned at the last meeting, one of the wing walls of the dumpster enclosure on the west side of the building was discovered to be damaged. The library received quotes and hired Eugene Matthews, Inc., to take down and rebuild the small buckled wall. This is the same company that did the repair and tuckpointing on the library's north wall over the ADA walkway last year. The work will be completed this week.

R. Berti Construction will be working a few hours before the library opens to determine how extensive the work needs to be for the expansion joint on the second floor. They hope to be able to replace the slightly raised metal piece that was causing patrons to trip and cover it with carpet. The library's original custom carpet is not available, so the joint will be covered with a similar color carpet from the same manufacturer, C&A.

TRUSTEE ANNOUNCEMENTS AND REQUESTS FOR INFORMATION

Trustee Humphreys will miss the October 27 board meeting. President DiCola welcomed Daniel Loftus to the board.

ADJOURNMENT

The meeting was adjourned at 8:33 p.m.

**VILLAGE OF DOWNERS GROVE
ZONING BOARD OF APPEALS
Minutes - August 25, 2010**

Call to Order

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

Roll Call

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

Absent: Mr. Domijan,

A quorum was established.

Staff: Damir Latinovic, Planner; Jeff O'Brien, Planning Manager, Tom Dabareiner, Community Development Director

Guests: Chuck Redpath, 4725 Seeley; Alan & Mary Doherty, 4944 Linscott Ave; Chris Gnatz, Nice "n" Tite, 46 Elm Ave., Highwood, Il; Scott Wendell, Blue Sky Builders, 424 Ogden Ave.; Mike Scheg, 4810 Seeley Ave.; Judy Ivik, 4806 Seeley Ave.

Minutes of May 26, 2010

Mr. Isacson made a motion to approve the minutes of the May 26, 2010 Zoning Board of Appeals meeting as submitted.

Mrs. Earl seconded the Motion.

AYES: Mr. Isacson, Ms. Earl, Mr. Benes, Ms. Majauskas, Ch. White

NAYS: None

The Motion passed unanimously.

Meeting Procedures

Chairman White reviewed the procedures to be followed during the public hearing, and called upon anyone intending to speak before the Board on the Agenda items to rise and be sworn in. Chairman White then 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 petitions, without further recommendation to the Village Council.



ZBA-08-10 A petition seeking a front yard setback variation for the property located on the west side of Linscott Avenue approximately 135 feet north of Warren Avenue, commonly known as 4944 Linscott Avenue, Downers Grove, IL (PIN 09-07-215-023),

Allen and Mary Dougherty, Petitioner and Owner.

Petitioner's presentation:

Mr. Allen Dougherty of 4944 Linscott Avenue and his wife, Mary, explained they are trying to restore their home to its original condition as seen in a photograph dated 1905. They want to construct a wrap-around front porch 11.5 feet from the front property line, which requires a 20-foot setback.

Mr. Benes asked for clarification that the owners wish to restore the home with the front porch as shown on the photograph. Mr. Dougherty said that was correct.

Mr. Chris Gnatz, contractor, said they want to bring the house back as close as possible to match its original look, and to add to the neighborhood.

Staff's presentation:

Mr. Damir Latinovic, Planner for the Village of Downers Grove, described the property and the two-story house, which was, constructed in 1901. It has a two-car detached garage in the rear. They want to remove the existing side porch and front landing, and replace it with a wrap-around porch. The variation request is to construct 11.5 feet from the front property line; however, the Zoning Ordinance requires a 20-foot setback with the front porch. Mr. Latinovic said the house is 20.13 feet from the front property line. He explained that the proposed porch would replace the side porch and front stoop.

Because the existing house does not meet the current required setback, it is classified as a legal nonconforming structure and may be structurally altered provided that any new construction does not increase the nonconformity. The wraparound porch represents an increase in the nonconformity. Mr. Latinovic said the petitioner applied for the building permit on June 9th when the staff discovered that the proposal does not meet the required setback.

Mr. Latinovic then reviewed the staff's analysis in its report dated August 25, 2010. Staff finds there are no unique circumstances associated with the property that warrant granting the requested variations because: 1) there is no physical hardship or practical difficulty associated with the property which would require the porch to be placed in the proposed location; 2) the proposed porch represents a horizontal expansion of a legal nonconforming structure's footprint, which has not historically been permitted within the required setback; and 3) if the variation was approved it could be construed to be applicable to all nonconforming structures in the Village where no unique circumstances or physical hardship exists. Therefore, staff recommends denial of the request.

Mr. Latinovic then reviewed all of standards for granting variations. The property currently does not have a front porch and is yielding a reasonable return. He said that the existing front foyer could be converted to a front porch that would be permitted by Code. The petitioner also has the option of constructing a larger side porch for additional outdoor space and meet all required setbacks.

Staff does not believe there are unique circumstances associated with the petition. If the variation were granted, staff believes the proposed front porch would alter the essential character

of the locality. In addition, there are no physical surroundings, shapes or topographical conditions associated with the property that would result in a physical hardship. The existing front foyer could be converted to a front porch by Code. Staff further believes that if the request were granted, it would confer a special privilege to the petitioner that is otherwise denied to other residential lots in the same zoning district.

Mr. Latinovic then reiterated that staff believes there is no unique circumstance associated with the property based upon the analysis of the standards necessary for granting a variation, and therefore recommends denial of the requested front yard setback variation. He asked if the Board chooses to approve the variance, they include the conditions as stated on page 4 of staff's report.

Ms. Earl asked whether the Village has designated the property as a historical landmark, and Mr. Latinovic said it has not. If it were designated, the petitioner would have to go before the Architectural Design Review Board first for a certificate of appropriateness for the proposed wraparound porch, and then come to the Zoning Board for a variance.

Chairman White said that the petitioner would have to pass another hurdle and meet standards based on the historical value of the property.

Mr. Isacson asked about the encroachment of the concrete stoop. Mr. Latinovic said the entire house encroaches into the front yard setback. Any expansion of the porch beyond the existing foyer would represent a horizontal expansion and would increase the nonconformity.

Chairman White said he recalled that a porch variation was previously granted at 1225 Parkway Drive. Mr. Latinovic said he was not aware of that variance. Mr. Benes agreed that it had been granted, but was a different type of porch.

Mr. Benes referred to paragraph 3 on page 2 of staff's report, which states: "The foyer will be reconstructed and will remain." He asked for an explanation of that statement. Mr. Latinovic said the petitioner will keep the foundation of the foyer and reconstruct the walls and roof. Mr. Benes said there is no foundation for the foyer shown, and Mr. Latinovic said that is because they are not showing it. He said the petitioner is keeping the foundation exactly the same and it will support the foyer.

Mr. Benes then referred to page 2, Paragraph 6 of staff's report, which states: "During building permit review, it was discovered that the proposed porch is not permitted by Code." He asked if there is a specific requirement that states that a porch with a roof attached to a building has to be on a solid foundation and not posts. He noted that Exhibit A-1 showed eight posts, which are very similar to decks, and not porches. Mr. Latinovic said the plans submitted are first submittal plans and the petitioner was notified that they were not approved and will have to be revised to meet the building code including converting the piers into trench foundation. They chose to request the variance first before changing the plans. Mr. Benes asked, should the Board choose to approve this, if the Board could refer to the site plan as presented. Mr. Latinovic responded that it could. The plans that ultimately get approved for construction must meet the Village's building code and be in substantial compliance to the plan as attached.

Chairman White said that irrespective of what the Board votes, they would still have to construct the porch to meet the requirements of the Building Code.

Mr. Benes said that the second case, and this one, both have the same problem in that the drawings presented do not conform to what the petitioner wants to do. They want a variation but have presented erroneous drawings. He believes the petition should be held until the drawings are corrected to Code requirements.

There being no further questions from the Board at this time, Chairman White called for anyone who wished to speak in favor of the petition.

Mr. Chris Gnatz of Highland, Illinois said he understood that the plans will have to be revised to meet the building code to get the permit. The question is will they be able to construct the porch as close to the front property line as they want.

There being no further comments, Chairman White closed the opportunity for further public comment, and opened the discussion to the Board's deliberation.

Board Deliberation:

Mr. Benes said looking at the front of the house as it now stands, the porch will extend about three feet further to the sidewalk, and will leave little room. He thinks it will affect the complexion of the neighborhood.

Chairman White asked if they spoke with the neighbors, and the petitioner responded they did not.

Ms. Majauskas said what is interesting to her is the photograph. She thinks it is in the best interest of the Village residents to make homes unique, historically correct, etc. She looked at the house and it is much closer to the street or sidewalk than the house just north of it. She finds a project like this would benefit Downers Grove as a whole. It is a worthwhile variance that would bring uniqueness and interest to the Village. She thinks it would be good to restore it as much as possible to the original condition. Mr. Benes said that the original structure did not have a foyer extending out and be wrapped around by the porch.

Mr. Isacson said the foyer would not encroach further than the porch. There could be a reason to allow the encroachment to occur.

Chairman White said the term he would use would be "neighborhood character." Downers Grove has some neighborhoods with unique character. Mr. Isacson said that is why the recommendation was made to go to the Architectural Design Review Board. He is for returning to the original design of the Village, but it is not within the Board's purview.

Chairman White said that the encroachment would be a policy decision to enhance character. In standard #1, the enhancement of character has been part of the definition of reasonable return. The Village has done that in the past. The lot exists and the building was built in 1901. He noted that no one has appeared against the petition. He thinks staff has done what they were supposed to do and followed the letter of the law with their recommendation in the staff report.

Ms. Earl said she has reservations about this because there would be a large covered structure coming toward the sidewalk, which will affect the presence of the house considerably on the

block, especially if you are standing on the sidewalk. Perhaps if it were uncovered it would not be so overbearing. The proposed porch would be a considerable encroachment.

Ms. Majauskas asked if the Board were to deny the petition and the petitioner were to go to the Architectural Design Review Board, would they be able to return to the Board for another consideration. Mr. O'Brien said that they would, but it would lengthen the process. The decision made by this Board would have no impact on the Architectural Design Review Board and the Village Council in their consideration to designate the property as a historical landmark. Ms. Majauskas ask if they go to the Architectural Design Review Board, would they still have to come back to the Zoning Board of Appeals. Mr. O'Brien said that they would. There is nothing in the Historic Preservation Ordinance that allows variations by the ADRB or overrides the standards for granting a variation. They would still have to meet the standards as defined. If the Zoning Board denied the variation once, it might influence the ADRB in their decision to grant the historical designation and to provide a Certificate of Appropriateness.

Chairman White said that the Ordinance requires that any variation be approved by a majority of four Zoning Board of Appeals members. There are five members present this evening.

Mr. Isacson said his personal viewpoint is no, although he would like to see the character of the home brought back to the original building in 1901. There is too much of an encroachment with this plan as submitted.

Mr. Benes made a motion that in case ZBA-08-10, the Zoning Board of Appeals denies the petition for a front yard setback variation.

Ms. Earl seconded the Motion.

**AYES: Mr. Benes, Ms. Earl, Mr. Isacson,
NAYS: Ms. Majauskas, Chairman White**

The Motion to deny the petition carried.



ZBA-09-10 A petition seeking a side yard setback variation for a detached garage on the property located on the west side of Seeley Avenue approximately 120 feet south of Prairie Avenue, commonly known as 4810 Seeley Avenue, Downers Grove, IL (PIN 09-07-208-023), Michael and Joelle Scheg, Petitioner and Owner.

Petitioner's presentation:

Mr. Mike Scheg of 4810 Seeley, noted the request was to allow a detached garage to be 5 feet from the side property line. He noted his contractor, Blue Sky Builders, would be making the presentation.

Mr. Scott Wendell, owner of Blue Sky Builders at 424 Ogden Avenue, said he has been building garages for 41 years. The petition before the Board has unique circumstances. The required setback for garages in this area has been changed to six feet over the past two years. The petitioner and builder have worked on this project for three years, including addressing

stormwater issues. The original plans had the setback at five feet, and then were resubmitted with the six-foot setback to meet the Code. He said that the plans he received from the Village staff showed the original five-foot setback. He was unaware of the six-foot setback requirement. He said that staff approved the inspection, which he has in writing for the Board's review. He said the garage placement involved a series of honest mistakes and there was no attempt by his company or the Schegs to deceive the Village. He noted Blue Sky has built over 300 garages in town without problems. Mr. Wendell said he received the plans from the Village staff showing the five-foot setback. Mr. Wendell said he never received the plans requiring a six-foot setback back from the Village.

Ms. Majauskas referred to Exhibit B: Approved Site Plan and Approved Building Plan, which appears to have "six foot" written by staff. Mr. Wendell said that that represents the Village's copy, but is not the copy he received from staff. He further explained that his staff received the letter dated May 11, 2010 but it was sent to the Civil Engineer who designed the plan and was hired by the homeowner. Mr. Wendell said he applied for the permit, but the review letter he and his staff received was then sent to the Civil Engineer.

Chairman White asked the petitioner if they have spoken to their neighbors about the request. Mr. Scheg said he did speak to the neighbor to the north of them. He also said there appeared to have been a procedural error made. He said he has spoken with various people regarding the one-foot difference, and this would cause him some hardship. Staff has admitted to them that there was an error made and that is why they are before the Board requesting the variance.

Ms. Majauskas said she does not understand what the last page of the packet provided to the Board by Blue Sky during the meeting. Mr. Wendell said it is the receipt for the permits they applied for. Ms. Majauskas noted that there is nothing there about the five or six feet. He said he did not make copies of the plans received from staff because he did not want to alter them. He indicated that the plans have the Village's stamp.

Ms. Majauskas asked for clarification about the five-foot setback plan, and at what point Mr. Wendell knew that the five-foot setback was not correct. Mr. Wendell said he did not see the plans that were sent to the Civil Engineer and he personally did not know that the original plans were not appropriate.

Mr. Wendell said he knows the building inspector who is competent, and he thinks she also had the same plan which showed a five-foot setback.

Mr. Scheg said they have spoken with the neighbor who would be affected by the garage and that neighbor had no objection to the proposal.

Staff's presentation:

Mr. Jeff O'Brien, Planning Manager for the Village, reviewed the request, saying that the petitioner applied for a permit to demolish an existing detached garage and construct a two-car detached garage in April 2010. He used an aerial photograph to describe the site, and show the proposed location of the garage. Mr. O'Brien said the original application submitted was not approved due to the proposed setback and grading plan. The contractor submitted the revised plans in June of 2010 with setback and grading corrections as requested. Work began on the site in July of 2010.

He clarified that the stamp on the plan that was sent to Mr. Wendell is a date-received stamp and not an approval stamp. He referred to Exhibit B of the staff report showing the letter of approval dated June 14, 2010. Mr. O'Brien said that while the Village may not stamp all plans approved, the plans for this project would have contained such a stamp because of the presence of a poor drainage area on the property.

Mr. O'Brien said the permit was issued and there was a pre-pour inspection which was approved, but a spot survey was also required. The pre-pour inspection does not include review and inspection of setbacks, but is a review of the footings and forms to make sure the slab will conform to the building code. The spot survey is the unofficial check on the setbacks. The inspector looks for building code compliance during the pre-pour inspection. The inspectors do not survey the property or verify setbacks during these inspections.

Mr. O'Brien stated that on July 20th the spot survey came back and indicated that the garage had a setback of 5 feet on the northeastern corner and 5'1" on the northwestern corner. Staff does not believe there are unique circumstances associated with the property that would warrant granting the requested variation. Mr. O'Brien then reviewed the standards for granting variation, as shown on pages 3 and 4 of Staff's report dated August 25, 2010. Staff does not believe that Standards (1), (2), (4), (5), (6), and (9) have been met and recommends denial of the requested variation. Mr. O'Brien commented that while he understands there might have been a clerical error on the plans that were given to the applicant that does not absolve the contractor or owner from assuring that the building is constructed in the approved location and meets code requirements.

Mr. O'Brien reiterated that based on staff's analysis in its report, staff believes all standards for granting a variation have not been met, and recommends denial of the requested side yard setback variation. He said if the ZBA chooses to approve the requested variation, it should be subject to the condition specified on page 5 of staff's report.

Mr. Isacson asked when setback changed. Mr. O'Brien said the five-foot setback was changed in September 2006.

Mr. Benes questioned the drawings, and how they are submitted. Mr. O'Brien said, depending upon the project, the petitioner usually brings in four sets of plans so different departments can simultaneously review the plans. At the end of the review, one set is given back to the applicant and one approved set remains in the files. If there are significant engineering issues on a project, they also keep an engineering copy on file. The set given back to the petitioner would be the approved drawing. In this case, the approved stamp was on the letter, rather than on the plans.

Chairman White commented that he would think the builder or architect would also have a copy of what they submitted in their office.

Mr. Benes asked how they could do this project with an old set of drawings. Mr. O'Brien said that there might have been a clerical error made when the Village provided the contractor with their set of plans. The approved set of plans was in file. The stamp that the contractor referenced is a date stamp and not a stamp of approval.

Ms. Majauskas said she has nothing that shows that the Village approved a five-foot setback. Mr.

O'Brien said the approved documents went out with the letter (page 1 of Exhibit B). The original plan submitted (Exhibit A) carried the date stamp.

Chairman White asked if it is assumed that the staff made a mistake, whether the Board wants that to bind them. He said he is looking at this more as if the slab did not exist. He's not too concerned about the five-foot detached garage. He does not want to get too bogged down on who stamped what. If everything they say is correct, it still will not affect a decision based on the standards.

There being no further questions for the Staff at this time, Chairman White called upon anyone wishing to support the petitioner's request.

Ms. Judy Ivik of 4806 Seeley said they have no issue with the request, and six feet or five feet does not matter to them. She does not think anyone in the neighborhood has any problem with this or cares, but they are the only ones who are directly affected.

Mr. Scheg thanked Ms. Ivik for coming to the meeting. He said there is some financial burden associated with correcting this situation. Mr. Scheg said that he and the contractor have the one set of plans, which were originally approved. He has been trying to get a new garage, and has not used his existing garage for five to six years due to the flooding in the back yard. He has exhausted all efforts and just wants to get the garage built. He understands it was a unique situation with a clerical error having been made. He hopes that the Board will take that into consideration.

Mr. Benes asked about the flooding in the petitioner's back yard. Mr. Scheg said they were part of the Wallbank Avenue stormwater project.

Mr. Isacson asked conceptually how much this would cost to correct. Mr. Wendell said it would cost \$5,225 to remove and replace the work. Mr. Wendell said he has two copies of the plans originally returned to him. He would not have the plans stamped if the Village had not given them back to him.

There being no further discussion, Chairman White closed the opportunity for further public comment.

Board's deliberation:

Chairman White commented that in his opinion the letter of May 11th is pretty clear. In this case Blue Sky builders should have had better communication with the Engineer. He likes detached garages, and he refuses to consider this as an after-the-fact decision. He would be inclined to give them the five feet. He would much rather have the garage at five feet, which the neighbor is happy with.

Ms. Majauskas said she has a contrary opinion, in that ignorance of the law is no excuse. The Code is available to everybody. They received notice that there was a problem with the five-foot setback. Blue Sky Builders was hired to take care of the issue and they did not take care of it according to the Code. She said she sees no staff errors here and no document that gives permission for them to build at five feet.

Mr. Isacson interjected that if Blue Sky is being indicted by making an error by not knowing the Code, why Staff not be indicted for returning the wrong documentation.

Ms. Earl said that is immaterial to her because she has two letters in writing that says the first plan needs to be revised to six feet, and the second letter says that they have reviewed the revised plans. Mr. Isacson said that the issue is that they received the drawings with the permit. Ms. Earl said they could not prove that.

The Board discussed the relevance of what plan was returned to the contractor when the permit was issued.

Mr. Isacson said they are talking about one foot, and a resident who has tried since 2005 to get a project approved. In addition they are talking about a contractor who has built 300 garages in the Village and is not trying to pull something because of one foot. He believes that a mistake occurred, and that they can add the human element to the situation.

Ms. Earl does not see any good reason to approve the request.

Mr. Isacson said the fact remains that it is poured and can not be changed, and he questioned whether it is worth burdening the owner to the amount of \$5,200, because of the error with the original plans.

Ms. Majauskas responded that others could come to the Board and say, "oops, we made a mistake."

Mr. Isacson said the contractor in good faith picked up the drawings and began work on the site.

Ms. Majauskas said she has no evidence that the builder relied on the incorrect plans. Mr. Isacson replied that if his neighbor came in tomorrow and said he wanted a five-foot setback "just because," then he would have to say absolutely not. In this situation he can not in good conscience live with that.

Mr. Benes said a couple of months ago the Board gave a homeowner a five-foot setback, and five feet in this older part of Downers Grove is not unusual.

Chairman White said his problem is that he can not indulge the argument that the Village staff made a mistake, therefore he gets the exception. Nevertheless, he does not think five feet is so terrible.

Chairman White then asked, if everyone felt they had an opportunity to express their point of view, he would call for a motion.

Mr. Isacson said he believes it is their obligation to take words and writing and put the human element to it. Ms. Majauskas repeated that she has a problem with everyone else coming in and saying "Oops, I read it wrong."

Mr. Isacson made a motion that in case ZBA-09-10 the Zoning Board of Appeals grant the requested variation side yard setback variation for the detached garage at 4810 Seeley Avenue subject to the following condition:

- **The detached garage shall substantially conform to the Spot Survey, prepared by Professional Land Surveying, Inc. dated July 17, 2010, the grading plan prepared by Robert P. Schlaf, P.E., dated January 26, 2010 and revised June 7, 2010 and the building plan completed by Blue Sky Builders dated April 22, 2010 attached to this report except as such plans may be changed to conform to Village codes, ordinances, and policies.**

Mr. Benes seconded the motion.

AYES: Mr. Isacson, Mr. Benes, Chairman White

NAYS: Ms. Earl, Ms. Majauskas

The Motion carried. The variation was not approved as four votes are required to pass a variation request.

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Mr. O'Brien said that there is a sign variation petition on the Agenda for next month.

Mr. Benes asked about the status of the Board membership. Mr. O'Brien responded that they expect to have a member replacing Mr. LaMantia within the next week or so.

There being no further business, Chairman White adjourned the meeting at 8:47 PM.

Respectfully submitted,

Tonie Harrington
Recording Secretary