

VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN
(Official Minutes)

ZONING BOARD OF APPEALS HEARING

Monday, April 25, 2011

Village Clerk Dennis Martin called the Hearing of the Village of Fontana Zoning Board of Appeals to order at 4:00 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Board of Appeals members present: Roll call vote: Kim Hirn, Drew Gilchrist, Lou Loenneke, Rick Pappas, Jim Feeney

Board of Appeals member absent: Chairman Michele Teale

Also present: William Buss, Village Administrator/Treasurer Kelly Hayden, Carroll and Kevin Henning, Attorney Jim Howe, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, Steve Munson, Zoning Administrator/Building Inspector Ron Nyman, Village Attorney Dale Thorpe

Elect Chairman Pro-Tem

Pappas/Gilchrist 2nd made a MOTION to elect Lou Loenneke as the chairman pro-tem, and the MOTION carried without negative vote.

Business

Attorney Thorpe explained the quasi-judicial hearing procedure and discussed changes in the state statutes that have been adopted during the last few years regarding standards for which variances can be granted. Thorpe discussed published opinions that explain the statutory changes. Thorpe stated that if the Board of Appeals members determined after the presentation of evidence that an unnecessary hardship has been created by the ruling in question, they could vote to approve a variance. Thorpe stated that variances based on area regulations have a lesser standard to meet for approval; however, an unnecessary hardship would have to be proven for the subject property, and that hardship would have to be unique to the property. Martin read the application into the record and stated that all owners of property located within 300 feet of the subject parcel were mailed public hearing notices. Loenneke opened the public hearing at 4:11 pm. Martin swore-in Nyman, who presented Village Exhibit No. 1. Included in Village Exhibit No. 1 is a letter dated March 7, 2011 from Nyman to Kevin and Carroll Henning in which Nyman informs the Hennings that a building permit application dated February 24, 2011 for a proposed addition and remodel plan at 776R South Lakeshore Drive was denied; a copy of the Village of Fontana Zoning Code sections that are applicable to the denied building permit application; a copy of an email from Attorney Jim Howe to Nyman, dated September 29, 2010; a copy of the Building Permit application filed August 25, 2010; and copies of plans drafted by Biondi + Munson Architects, Inc., Highland Park, IL, that were filed with the Village of Fontana on February 2, 2011. Nyman also distributed Village of Fontana Exhibit No. 2 which includes the Board of Appeals application filed by Kevin and Carroll Henning on March 15, 2011; a letter addressed to the Board of Appeals from Kevin and Carroll Henning dated March 14, 2011; a letter addressed to the Village of Fontana from Harvard Geneva Lake Club, Inc. President John O'Malley dated February 8, 2010 that states the membership of the club has approved the proposed alterations to the Henning residence and supports any necessary variances and permits; and a six-page proposed site plan, foundation plan, floor plan, roof plan, and elevation exhibits prepared by Biondi + Munson Architects. Nyman stated that the subject residence is nonconforming property that is located in the Harvard Geneva Lake Club in the RS-1 Zoning District. Nyman stated that the proposed building project is not in accordance with some of the provisions of Chapter 18-

151 of the Zoning Code. Nyman stated that the proposed project would create a greater degree of nonconformity in three of the sections within Chapter 18-151, so the building permit application was denied. Martin then swore-in Attorney Howe, Carroll and Kevin Henning and Architect Steve Munson. Howe presented Applicant Exhibit No. 1, which is a copy of the letter addressed to the Village of Fontana from Harvard Geneva Lake Club, Inc. President John O'Malley dated February 8, 2010 that states the membership of the club has approved the proposed alterations to the Henning residence and supports any necessary variances and permits. Howe stated that the correct date for the letter should be February 8, 2011. Howe also presented Applicant Exhibit No. 2, which is a copy of Wisconsin Department of Commerce Regulation 21.06 regarding ceiling height; and Applicant Exhibit No. 3, which is a series of 13 photographs of the subject property and neighboring units in the Harvard Geneva Lake Club. Munson presented Applicant Exhibit No. 4, which is a graphic that compares the existing elevations of the subject property and the two neighboring residences, and a compares the proposed new elevation of the subject property to the existing neighboring residences. Howe stated that the subject property is located in the Harvard Geneva Lake Club, which is unique to the village. Howe stated that the club is corporation that owns the buildings and the land, and when the original units were constructed in the 1920s, the village did not have a zoning code. Howe stated that the property is now assessed at \$6.2 million and there is one tax bill for all the units. Howe stated that every one of the houses in the club are constructed too close to the lot lines by the standards of the RS-1 District, so there are exceptional circumstances when planning a renovation or addition. Howe stated that the owners of the neighboring houses started with bigger homes so they received approval for addition projects that made the homes bigger and higher. Howe stated that the subject house also is located on a sloped lot. Howe stated that the proposed addition plan would address a second-floor bedroom that has too low of a ceiling to meet the standards of the state Uniform Dwelling Code. Howe stated that if the variance is approved and the renovation plan is completed, the residence will only be going out into the nonconforming area by 4 more inches and it will only be going up by 2.8 feet; and the home will be no closer to any of the neighboring homes. Howe stated that most of the other residences in the club are larger and taller than the subject property. Munson then presented the proposed building plans from the village and applicant exhibits. Loenneke asked Munson and received confirmation that if approved the proposal would add 100 square feet to the existing home and 2.8 feet in height. Howe stated that the applicant's exceptional circumstances are that all the homes in the Harvard Club are small and nonconforming and the applicant's home is smaller than the rest; and that the bedroom on the second-floor has a ceiling height that does not meet the standards of the state's Uniform Dwelling Code. Howe stated that the shareholders of the club authorized the renovation and addition plan, and if the variance is approved, the subject property will be not fall into decay or lose any of its property value. Pappas asked Howe if he had any evidence of an unnecessary hardship, or how approval of a variance for the subject property would not be applicable to other nonconforming homes in the village. Howe stated that the subject property was very small in the first place and it's a nonconforming structure that can't be torn down and rebuilt. Howe stated that there also was not a zoning code in place when the subject property was constructed and the applicants are now facing the regulations of the current Zoning Code. Martin then swore-in William Buss. Buss stated that he and his wife own a neighboring house to the north of the subject property. Buss stated that the Harvard Club was first developed with tents, then cottages and then houses. Buss stated that the proposed building addition plan is a tremendous improvement to the house and the membership of the Harvard Club supports the proposal. Kevin Henning stated that he wanted to thank the Board of Appeals members for their time and consideration. Loenneke closed the public hearing at 5:02 pm.

Announcement for Board to Consider Going Into Closed Session – Chairman Teale

Loenneke stated that pursuant to Chapter 19.85 (1) (a) Wis. Stats. he would entertain a motion to go into closed session.

Feeney/Pappas 2nd made a MOTION to go into closed session to deliberate concerning the evidence presented regarding the application to appear before the Zoning Board of Appeals filed by Kevin and Carroll Henning for

Unit 776R of Tax Parcel No. SGE 00001, and the Roll Call vote followed:

Gilchrist – Yes

Loenneke - Yes

Pappas – Yes

Feeney – Yes

Hirn – Yes

The MOTION carried on a 5-0 vote.

Gilchrist/Feeney 2nd made a MOTION to adjourn the closed session and to reconvene in open session at 5:20 pm, and the MOTION carried without negative vote.

Pappas/Gilchrist 2nd made a MOTION to deny a variance for the property located at 776R South Lakeshore Drive, Unit 776R of Tax Parcel No. SGE 00001, based on the inability of the Board of Appeals members to make findings to support the hardship clause of the State Statutes, and to direct Attorney Thorpe to prepare the Findings of Fact as discussed in the closed session, and the Roll Call vote followed:

Pappas – Yes

Feeney – Abstain

Hirn – No

Gilchrist – Yes

Loenneke - Yes

The MOTION carried on a 3-1 vote, with one abstention.

Adjournment

Pappas/Gilchrist 2nd made a MOTION to adjourn the Zoning Board of Appeals hearing at 5:21 pm, and the MOTION carried without negative vote.

Minutes prepared by: Dennis L. Martin, Village Clerk

Note: These minutes are subject to further editing. Once approved by the Zoning Board of Appeals, the official minutes will be on file at the Village Hall.

Approved: _____