

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

ZONING BOARD OF APPEALS HEARING

Thursday, January 23, 2020

Deputy Clerk/Treasurer Stephanie Smith called the Hearing of the Village of Fontana Zoning Board of Appeals to order at 3:30 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Board of Appeals members present: Roll call vote: John O’Neill, Derek D’Auria, Alternate Scott Ripkey

Board of Appeals member absent: Kim Hirn, Peg Pollitt, Jim Feeney

Also present: Jim Feeney, Jeffrey Janik, Dave Johanson, Theresa Loomer, Mike Mandarino, Tom Nicholson, Peg Pollitt, Dick Sayers, Bonnie Schaeffer, John Sorenson, Stephanie Smith, William Taylor, Dale Thorpe

Business

Public Hearing for Building Permit application that was filed by Thomas and Angelina Nicholson, 7542 Cape Cod Circle, Indianapolis, IN 46250 for 446 Walnut Place, Fontana, WI, Parcel No. SGS 00061 for approval of an addition and remodel and was denied by the Zoning Administrator on August 5, 2019 due to noncompliance of zoning ordinance section 18-92(b)(3)(b)5.

The public hearing was opened at 3:32 pm. The case was introduced by Attorney Thorpe and described as an ‘area variance’. Zoning Administrator Bonnie Schaeffer stated the original application, marked as Village Exhibit No. 1, was received on July 19, 2019. She stated after meeting with the builder to understand what they were asking for it was determined the application would be denied due to not complying with Village ordinance section 18-92(b)(3)b.5. Schaeffer stated in the denial letter dated August 5, 2019, labeled as Village Exhibit No. 2, the review conducted by the Department of Building & Zoning noted the proposed second story addition is located within the required side yard and street yard setbacks. The required side yard setbacks are 8 feet 4 inches on each side and the required front yard setback is 15 feet. The proposed second story addition is 4.36 feet from the east side lot line, +/- 1 foot from the west lot line, and 4.75 feet from the right-of-way of Walnut Place. She stated the applicant had three options - to do nothing and abandon the proposed construction, resubmit proposed construction that meets all the requirements of the zoning district the property is located in, or appeal the decision within thirty days to seek a variance by approval of the Village of Fontana Zoning Board of Appeals. Schaeffer explained within the thirty-day timeframe the initial Board of Appeals Application was received. She stated she went back and forth with the builder and the applicant’s attorney to get a completed application and that is the reason for the delay in scheduling the public hearing. The Two-part Variance Application, comprised of the September 4, 2019 application and the December 13, 2019 Supplement to Application and Letter from Attorney for Applicant will be labeled as Appellant Exhibit No. 1. Attorney Janik, who represents the petitioner, described the structure as an 1890’s original cottage that preceeded any zoning codes in the State of Wisconsin. He explained that with building that has taken place and the topography of the cottage it is situated right along a drainage line. Attorney Janik stated several measures have been taken and the water is still negatively affecting the property and the value. He stated that the builder, homeowner and himself the Attorney have come up with a plan, which is currently before the board that balances several factors and concerns for this property and keeps it

standing and operational. Attorney Janik explained that the plan submitted to the board alleviates some of the runoff problems with the foundation, allows the Village better access to the drainage system, and takes a very nonconforming property and makes it less nonconforming than it currently is. He stated the current structure crosses into the neighbor's lot and with the new plan it will take that area of the property that does not meet setbacks and bring it in a few feet. Attorney Janik also stated that with the current plan there is a proposal for a small addition on the second story to alleviate some of the loss of space on the side. The addition would not exceed the current height of the structure. He explained that ultimately, they are trying to help alleviate the runoff and create more space. With the boards approval Attorney Thorpe had some questions regarding the application. The application is comprised of twenty-three pages of which eight pages are drawings and Attorney Thorpe asked Attorney Janik to draw attention to exactly what variance his applicant is applying for. Attorney Janik stated the variance his applicant is applying for is in regard to the West end of the building to be a 2-foot setback, which is currently a negative setback. Attorney Thorpe clarified that in the drawings the furthest extension of the building or eaves also referred to as the shadow on the ground would be 2 feet from the lot line. After much discussion with Attorney Janik and the builder Dick Sayers it was clarified that what they are offering with this application is for the furthest extension to be 2 feet off the lot line. Tom Nicholson the owner of 446 Walnut Place wanted to take a minute and address the board. Mr. Nicholson explained that his family has been in Glenwood Springs for 88 years and he believes the historical nature of the community is very important and that is why he is trying to preserve the property versus tearing it down. He stated that if the board denies the application, he will have no option but to tear down the existing historic cottage and build a big ugly box. There was discussion about the Village's max height allowance which is 35-feet measured from the lowest graded area to the mid-point on the roof. There was a question raised as to what is being gained by adding on to the second story. Nicholson explained that due to the foundation sinking it has caused things to be unlevel and as a result a door blew open in the winter causing a pipe to break which resulted in extensive water damage, so he has no option but to remodel. He stated that in doing the remodeling he wanted to expand the living space upstairs for his growing family and the second story addition would include more living space and a second bathroom. There was a concern raised about what is being done to help handle to run off. Sayers explained two years ago the Village installed a 12-inch pipe on Walnut and that handles about 50-60 % of the runoff and the homeowner has also built a dam behind the house to help redirect the flow of water to the Village drain. It was clarified that the Village did not install the drainage pipe and that it was installed by a private homeowner in the private subdivision. Attorney Thorpe stated that Zoning Administrator Bonnie Schaeffer wrote a review memo on October 23, 2019, which states what the law requires and the code requires and that will be labeled as Village Exhibit No. 3. The board decided they would allow brief comments from residents who were present and would like to speak. William Taylor, 684 Locust, stated he lives directly behind the applicant's cottage and has concern over the second story addition blocking his view. Mike Mandarino, 672 Locust, lives just to the East of the Nicholson's cottage expressed concern over the view and the parking area being added in front of the edition on the drawing. Dave Johanson, 430 Myrtle, stated he had approached the building inspector a few years back about adding a second story to his residence, which has greater setbacks and he was told no. Attorney Thorpe stated the Village cannot guarantee views.

Announcement for Board to Consider Going Into Closed Session

Ripkey/O'Neill 2nd made a MOTION to go into closed session at 4:30 pm to deliberate concerning the evidence presented regarding the application to appear before the Zoning Board of Appeals filed by Tom and Angelina Nicholson for 446 Walnut Place, SGS 00061, and the Roll Call vote followed:

O'Neill – Aye

Ripkey – Aye

D'Auria – Aye

The MOTION carried on a 3-0 vote.

O'Neill/D'Auria 2nd made a MOTION to adjourn the closed session and to reconvene in open session at 4:45 pm, and the MOTION carried without negative vote.

Reconvene into Open Session

O'Neill/D'Auria 2nd made a MOTION to deny a variance due to the fact the Applicant has failed to meet their burden of proof in that Applicant has failed to prove an unnecessary hardship that is based on conditions unique to the property located at 446 Walnut Place, Fontana, WI, Tax Parcel No. SGS 00061,

The Roll Call vote was as follows:

O'Neill – Aye

D'Auria – Aye

Ripkey – Nay

The MOTION carried on a 2-1 vote.

Adjournment

O'Neill/Ripkey 2nd made a MOTION to adjourn the Zoning Board of Appeals hearing at 4:47 pm, and the MOTION carried without negative vote.

Minutes prepared by: Stephanie Smith Deputy Clerk/Treasurer

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: 09/15/2020