



**SPECIAL ZONING BOARD OF APPEALS MEETING  
VILLAGE OF HAWTHORN WOODS  
2 LAGOON DRIVE, HAWTHORN WOODS, ILLINOIS  
WEDNSDAY, APRIL 29, 2015  
6:00 p.m.**

**MINUTES**

**I. Call to Order and Roll Call**

Present: Mr. Kosik called the meeting to order at 6:02 p.m. The following members were present: Kaiser, Schildkraut, Scaletta, Johnston, Sedlacek and Kosik

Absent: Rychlik

Staff: Donna Lobaito, Chief Administrative Officer/Village Clerk  
Michael Cassata, AICP, Planning Manager

Trustee: Dominick DiMaggio

Village Attorney: Robert Kenny

A quorum was established.

**II. Opportunity for the Public to Address the Board**

None this month

**III. Approval of Minutes**

**A. Approval of Minutes of the March 12, 2012 Zoning Board of Appeals Meeting**

Motion by Schildkraut, second by Johnston to approve the minutes of the March 12, 2012 Zoning Board of Appeals Meeting.

Upon a voice vote, all voted aye and the motion carried unanimously.

**B. Approval of the Minutes of the April 16, 2015 Zoning Board of Appeals Meeting**

Motion by Sedlacek, second by Kaiser to approve the minutes of the April 16, 2015 Zoning Board of Appeals Meeting.

Upon a voice vote, all voted aye and the motion carried unanimously.

**IV. Public Meeting—Continued Item**

- A. 9 Turnbury Court—Variation to Section 8-4-2 of the Village Code to Allow for a Fence, Which is Identified as a Prohibited Structure

The Board decided to address this agenda item later in the meeting.

**V. Public Hearing**

- A. 1 Victoria Lane—Variation to Section 9-3-15 of the Village Code to Allow for a Shed, Which is Identified as a Prohibited Structure

Motion by Schildkraut, second by Kaiser to open the public hearing. Upon a voice vote, all voted aye and the motion carried unanimously.

Mrs. Horcher, 1 Victoria Lane, addressed the Board and testified that she was unaware of the law requiring the removal of sheds in 2014. She indicated she received a building permit for the shed in 1981. She also testified that she uses the shed for storage.

Mr. Kaiser questioned Mrs. Horcher regarding the variation standards. He noted that Mrs. Horcher did not respond to the first standard in her written application. He asked Mrs. Horcher for her to provide a response to the first standard and to elaborate on her responses to the other two written standards. Mr. Kaiser asked Mrs. Horcher if she believed her property was not going to be worth as much without the shed. Mrs. Horcher responded she was not sure, but did not think it would change the value of the property.

Mr. Thomas McGuire, 4 Oak Lane, testified that he opposes the request for the variation at 1 Victoria Lane, as he believes sheds may decrease property values.

There being no further testimony, a motion was made by Schildkraut, second by Johnston to close the public hearing. Upon a voice vote, all voted aye and the motion carried unanimously.

The Zoning Board of Appeals members deliberated amongst themselves. Mr. Kaiser commented that an petitioner must meet all three standards and he did not believe Mrs. Horcher met any of the variation standards. Furthermore, he said he has to take into consideration the testimony from Mr. McGuire that the shed may decrease property values.

Ms. Scaletta questioned as to whether Mrs. Horcher's shed should be grandfathered in since she obtained a permit in 1981. Village Attorney Kenny responded that when the shed prohibition ordinance was passed in 2007, there was an amortization schedule to remove sheds, and that ending date was in 2014. He noted that the

concept of amortization is to get some useful life, so the amortization schedule in the shed ordinance was deemed a reasonable type of grandfathering.

Mr. Johnston noted that although he sympathizes with the petitioner, the Village Board passed this law in 2007, and the Zoning Board of Appeals must uphold the law. Regarding Mrs. Horcher's permit, Mr. Johnston stated he did not believe a permit would override the ordinance.

Mr. Kosik also stated he was sympathetic, but believed the Village Board gave seven years for property owners to remove their sheds.

Mr. Kaiser spoke of the obligation of the Zoning Board of Appeals to uphold the law the Village Board passed. He suggested that the petitioner could speak to the Village Board about changing the law, but for tonight's hearing, the Zoning Board of Appeals was obligated to uphold the law.

Mr. Johnston expressed concern that others in town may have already taken down their sheds; therefore, it was important that the Village strictly enforce the law.

Motion by Kaiser, second by Schildkraut to approve the variation request of Mrs. Horcher, 1 Victoria Lane to allow for a shed, which is identified as a prohibited structure.

Roll call vote.

Ayes: None

Nays: Kaiser, Johnston, Schildkraut, Scaletta, Sedlacek

Absent: Rycklik

Abstain: None

Motion failed.

B. 18 Elm Street—Variation to Section 9-3-15 of the Village Code to Allow for a Shed, Which is Identified as a Prohibited Structure

Motion by Johnston, second by Sedlacek to open the public hearing. Upon a voice vote, all voted aye and the motion carried unanimously.

Wei and Jeff Frei testified that Uno Larson, former homeowner, built the garden structure in 1961, and that it is well maintained. They stated that the structure is functional, aesthetic and sentimental. Mr. Frei spoke about their responses to each of the three standards. He noted that they do not have a basement and that they only have a two car garage to store their gardening supplies. He testified that a potential purchaser of his home may see the value in the structure due to their space limitations. Mr. Frei also noted that the circumstance for their request to keep the garden structure was functional. He also testified that he has only received compliments on the structure, not complaints. He stated he believes the ordinances

make sense in some areas of town where large homes are located, but it does not address the needs of all neighborhoods in the Village.

Mr. Kaiser questioned the petitioner regarding the first standard. Ms. Frei responded that there would be a negative impact because they have a small garage and no basement, and that this would be considered a negative factor for a potential buyer.

Mr. Kaiser noted he has neighbors with small garages and no basement, and they are still able to function. He commented that in spite of the fact that the petitioners are avid gardeners, their situation is not unique. He suggested that an addition could be built.

Mr. Johnston cautioned the Board on determining a reasonable return. He said the burden is on the petitioner to prove they cannot get a reasonable return if the variation is not granted. Village Attorney noted that it is up to the Zoning Board of Appeals members to determine if the standard has been met.

Mr. Kosik commented that if one shed is allowed, this would set precedence others will want. Ms. Frei stated she could modify the structure with vines and no longer use it as a shed.

Mr. Cassata was asked whether the Village allowed playhouses. He responded playhouses were permitted.

Mr. David Kaplan, 15 Elm Street, testified that he liked the Frei's garden structure and supported their application for a variation.

Mr. Jim Wasseluk, 13 Juel Drive, testified that he supports his neighbors' request to maintain their garden structure. He spoke of the lack of storage space found in some of the homes in the Village, and that some people have to resort to storing equipment outside. He asked that the Village address the shed ordinance.

Mr. Thomas McGuire, 4 Oak Lane, reminded the Board that six trustees voted the shed ordinance into law. He urged the Board to deny the variation request.

Mr. Thomas Grisamore, 20 Elm Street, testified that his property is impacted by the garden structure more than any other neighbor's property. He said he has no issue with the structure.

There being no further testimony, a motion was made by Kaiser, second by Johnston to close the public hearing. Upon a voice vote, all voted aye and the motion carried unanimously.

The Zoning Board of Appeals members deliberated amongst themselves.

Mr. Schildkraut stated he did not believe the petitioner met the three standards. Mr. Johnston and Mr. Sedlacek agreed.

The Board discussed the playhouse use, and suggested the petitioner withdraw their petition and classify their structure as a playhouse. Mr. Cassata noted that the Village does not inspect playhouses, and that we have to take the word of the property owner on the use of the structure; however, we will treat it as a shed if we find out it is being used that way. Mr. Kaiser said he heard tonight from the petitioner that the structure was more important to keep as opposed to using it for a garden structure, thus requiring it to be removed.

Village Attorney Kenny suggested the petitioner work with staff to see if the structure can be put back into a playhouse status.

Motion by Kaiser, second by Sedlacek to continue the public hearing to allow for the petitioner to discuss the options with staff.

Voice vote:

Ayes: 4

Nays: 1

Absent: 1

Abstain: 0

Motion carried.

C. 25706 N. Gilmer Road—Hidrogo Property—Variation to the Building and Zoning Codes in Conjunction with an Annexation Petition

Motion by Sedlacek, second by Schildkraut to open the public hearing. Upon a voice vote, all voted aye and the motion carried unanimously.

Mr. Michael Ralph, attorney for the petitioners, introduced Hugo and Jose Hidrogo to the Board. The Hidrogo's explained to the Board their intended use of the property. Mr. Cassata noted that he did not receive any communication from any of the surrounding property owners regarding the Hidrogo petition.

The Hidrogo's noted that the bins would not be seen above the fence. When asked about the variation for a larger sign than what is allowed, Mr. Ralph noted that the larger sign was needed due to Gilmer Road being so busy.

The Board discussed the zoning request, but noted the location was a strong factor in this application.

Motion by Kaiser, second by Schildkraut to close the public hearing. Upon a voice vote, all voted aye and the motion carried unanimously.

The Board members spoke of future potential commercial development in this area.

Motion by Kaiser, second by Johnston to recommend the first variation:

1. Variation to Section 8-4-2 of the Village Code to allow for a 6-foot high, wooden, structural fence, running along the northern and eastern sides of the Subject Realty.

Upon a voice vote, all voted aye and the motion carried unanimously.

Motion by Kaiser, second by Schildkraut to adopt the same roll call for the next seven variations as listed:

1. Variations to Section 9-3-2.E of the Village Code to allow the following accessory structures on the property: (i) one (1) 50-square foot (approximately) pump house; and (ii) five (5) concrete storage bins for landscaping materials.
2. Variation to Section 9-8B-2.B of the Village Code to exceed the minimum 3-acre lot size requirement and allow a 1.6-acre lot.
3. Variation to Section 9-8B-6 of the Village Code to exceed the minimum 300-foot lot-width requirement and minimum 5-acre lot area requirement and allow a 160-foot lot width (approximately) and 1.6-acre lot area.
4. Variations to Section 9-8B-7.A of the Village Code to exceed the minimum 300-foot yard requirement (setback) for buildings to include the principal structure and pump house accessory structure.
5. Variations to Section 9-8B-7.B of the Village Code to exceed the minimum accessory structure setback requirement for a pump house and concrete storage bins.
6. Variations to Section 9-8B-7.C and Section 9-11-3.F of the Village Code to exceed the minimum yard requirements (setback) for parking.
7. Variation to Section 9-12-8.D.1a of the Village Code to exceed the maximum allowed ground sign size of 16 square feet and allow a 24-square foot ground sign.

Upon a roll call vote, all voted aye and the motion carried unanimously.

### **Public Meeting**

- A. 9 Turnbury Court—Variation to Section 8-4-2 of the Village Code to Allow for a Fence, Which is Identified as a Prohibited Structure

Mr. Cassata stated the petitioner was not available for tonight's meeting; however, he provided renderings of fence materials which were distributed to the Board for their review. The Board members discussed the type of fence material being proposed. Mr. Cassata stated that Mr. Ferguson has now requested that the Board consider allowing him to keep the already existing wooden fence due to the cost of removing and replacing it.

From the additional materials submitted, the Board members could not determine which fence Mr. Ferguson was proposing.

The Board members also noted that the homeowner's association will also be addressing this issue. Village Attorney Kenny stated that the Village's approval will not override the homeowner's association.

Mr. Kosik stated he was not in favor of the variation request, because the petitioner ignored the code and has not met the standards for a variation. Furthermore, Mr. Kosik commented that Mr. Ferguson built the swimming pool after his home was being hit by golf balls, and that he exasperated the situation by installing the pool.

The Board discussed trying to accommodate the petitioner so as to avoid damage to his pool equipment, and because his request was to enhance exercise therapy for his special needs adult son.

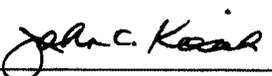
Motion by Sedlacek, second by Scaletta to recommend the variation request with the following conditions:

1. That the existing wooden stockade fence be removed.
2. That the replacement fence shall be of the same material as the fence installed around the swimming pool.
3. That the fence be no higher than six feet (6').
4. That if the fence is to be backed by clear polycarbonate or acrylic, it shall be located on the inside of the fence, and the height shall be no higher than the fence.
5. That only open-type fencing would be allowed.
6. That the evergreen landscaping shall be consistent with the density, placement and height of the landscaping depicted in the pool plans dated January 31, 2014 with a last revision date of April 29, 2014, designed to screen the pool equipment fence.
7. That PVC fence material is not acceptable.

Upon a voice vote, all voted aye and the motion carried unanimously.

## VI. Adjournment

Motion by Schildkraut, second by Kaiser to adjourn the meeting. Upon a voice vote, all voted aye, and the motion carried. There being no further business, the meeting adjourned at 8:57 p.m.

  
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John Kosik, Chairperson