

**Regular Meeting-Plan Commission/Zoning Board Of Appeals
Gregory J. Bielawski Municipal Center, DuPage County, Illinois**

APRIL 23, 2007

All Matters on the Agenda may be discussed, amended and acted upon

Chairman Don Weiss called the Regular Meeting of the Combined Plan Commission to order at 7:30 PM and directed Recording Secretary Wynne Progar to call the roll.

Present: Commissioners Christopher, Smoot, Vora, Michaelsen, Hundhausen, & Weiss

Absent: Commissioner Spink

Also Present: Village Planner John Svalenka and Recording Secretary Wynne Progar

MINUTES:

Commissioner Michaelsen moved and Commissioner Vora made the second to approve the Minutes of the Meeting of April 9, 2007 as presented. The results of the roll call vote were:

Ayes: 6 Commissioners Christopher, Smoot, Vora, Michaelsen, Hundhausen, & Weiss

Nays: 0

Absent: 1 Commissioner Spink

PUBLIC HEARING:

Commissioner Hundhausen moved and Commissioner Christopher made the second to open the public hearing. The results of the roll call vote were:

Ayes: 6 Commissioners Christopher, Smoot, Vora, Michaelsen, Hundhausen, & Weiss

Nays: 0

Absent: 1 Commissioner Spink

07071: Wojciech Menel - 402 Cochise Court
Variation - Zoning Code

Wojciech Menel and Thomaz Menel, 402 Cochise Ct. were sworn in as witnesses in this matter. Mrs. Menel said that the request is to have a third car garage by closing in the sides of the breezeway to provide more privacy and safety.

At the call for public hearing, Rene and Sean Valdez, 463 Sioux Lane said that they live across the street from this family and they state that they have done a wonderful job cleaning up the residence and the property and that finishing off the car port will not harm the neighborhood at all.

Mr. Svalenka stated that Wojciech Menel purchased the home at 402 Cochise Court in July 2005. At that time the house was already connected to the detached garage by a 16-foot wide by 11-foot long open breezeway. Mr. Menel wants to enclose the breezeway to create a third garage stall, and has approached the Village regarding the requirements to do so. At that time staff became aware that the breezeway was constructed without a permit and in violation of the standards of the Zoning Code regarding the rear yard setback. Therefore, Wojciech Menel has filed an application for a rear yard setback variation to allow his detached garage to remain connected to his house at 402 Cochise Court.

The property at 402 Cochise Court is located within the R-2 One-Family Residence District. The required rear yard setback in the R-2 district is 30 feet for the principle structure, which is the house. The required rear yard setback for a detached garage is 10 feet. The garage is set back 10 feet from the rear property line. However, by connecting the garage to the house with the breezeway, the garage and house are considered part of the same structure. Therefore, the attached garage is required to meet the 30-foot rear yard setback for the house.

In review of the request, staff has confirmed that a previous owner constructed the breezeway prior to purchase of the home by Mr. Menel in 2005. Based on aerial photographs, the breezeway was constructed sometime prior to November 1984. The lot is part of the original Carol Stream, and the Village does not have records documenting the construction of the house, garage or connecting breezeway. If the connecting breezeway had not been constructed, the house and detached garage would meet all zoning standards with regard to setbacks. Staff assumes that the house was constructed with a permit and that the Village lost the records some time ago. One can only speculate as to whether the detached garage was built with a permit, but it would meet the required setbacks if it were still detached, as mentioned. Because the connecting breezeway causes the garage to not comply with the standards of the Zoning Code, staff assumes it was constructed without a permit. Staff would require the property owner to obtain a building permit if the breezeway were allowed to remain or be updated into a third garage stall as requested.

Staff notes that the intent of requiring minimum yard setbacks is to prevent neighborhoods from becoming overly dense. The subject property is near several open areas, and therefore, density adjacent to these areas is not as great of a concern. The property across the street to the north is developed with Saint Luke Church, which includes large open lawn areas. Staff received the attached letter dated April 10, 2007, from Saint Luke Parish encouraging approval of the variation request.

Directly behind the Menel lot to the south is Carol Stream School. The school building is about 100 feet south of the garage. The area between the garage and the school building includes an open lawn area and a driveway. It is not likely that this area would be further developed, and therefore staff notes that the attached garage would not have a negative effect on the property to the south.

Staff also notes that the Plan Commission / Zoning Board of Appeals (PC/ZBA) has recommended approval of similar variation requests in the past. In January 2007, the PC/ZBA recommended approval of a rear yard setback variation for an existing attached screen porch at 1075 Buckskin Lane, which backs up to a storm water retention pond. In August 2006, the PC/ZBA recommended approval of a rear yard setback variation for an existing attached screen porch at 1099 Evergreen Drive, which backs up to Evergreen School. In April 2003, the PC/ZBA recommended approval of a rear yard setback variation to allow new construction of a room addition at 323 Dancing Court that reduced the rear yard setback to 15 feet. In June 2001, the PC/ZBA recommended approval of a rear yard setback variation for an existing three-season room at 351 Alabama Trail.

If the connecting breezeway were allowed to remain, we note that the owner would be required to obtain a building permit and upgrade the structure as necessary to comply with the building codes. The Village Building Division has pointed out a specific concern regarding the footing and foundation of the breezeway and garage. The Building Code requires a deeper footing and foundation for the house than for a detached garage. Attached garages are required to have the same type of footing and foundation as the house. The garage was constructed as a detached garage and it is not likely that it would have been constructed with the type of footing and foundation required for an attached garage. Therefore, if the variation request were

approved and the connecting breezeway were allowed to remain, the property owner would be required to expose the foundation for inspection and provide a new foundation in compliance with code if necessary.

In staff's evaluation of this case, we note that the need for the variation was self-created by a previous owner, as the breezeway connecting the house to the garage was constructed without a permit and not in compliance with the rear yard setback standards of the Zoning Code. In addition, the standards for approval of a variation have not been met. Therefore, staff is unable to recommend approval of the petitioner's request. However, we note that there are mitigating factors that favor the petitioner's request. The Village has approved several similar rear yard setback variations in the past, the rear yard is adjacent to an open, non-residential area, the construction does not have a negative impact on the character of the surrounding neighborhood, and the request is supported by an adjacent property owner.

As noted above, staff cannot recommend approval of the request for variation. However, if the Plan Commission determines to recommend approval of the requested rear yard setback variation, staff recommends that it only do so subject to the following condition:

That the applicant must obtain a proper building permit for the breezeway and upgrade the structure as necessary to comply with the standards of the Building Code.

Commissioner Christopher said that he concurs with the staff recommendation.

Commissioner Smoot also concurred with the staff recommendation.

Commissioner Hundhausen said that she does not agree with the staff.

Commissioner Michaelsen asked if the concrete driveway is permitted and was told that it is. He asked what the width of the current opening is and was told that it is 11 feet wide, but with the garage door installed it will be an eight-foot opening. Commissioner Michaelsen asked about the access from the breezeway into the house and was told that there is a service door from the garage as well as one from the breezeway. He asked if the resident understands that the foundation for the garage and breezeway will have to be inspected by the Village to determine if it is suitable for doing what is requested and was told that they are willing to do whatever is necessary to do it right.

Chairman Weiss said that he went and saw the property and was shown the area in question. He also noted that as well as the neighbors that spoke this evening, there has been a letter received from St. Luke's Church acknowledging the fact that the Menel's are making upgrades to the property.

Commissioner Hundhausen moved and Commissioner Christopher made the second to recommend approval of the variation for a rear yard setback in accordance with staff recommendations. The results of the roll call vote were:

Ayes:	6	Commissioners Christopher, Smoot, Vora, Michaelsen, Hundhausen, & Weiss
Nays:	0	
Absent:	1	Commissioner Spink

The petitioner was reminded that this matter will be heard by the Village Board at their meeting on April 16, 2007 and was advised to attend that meeting.

07064: Advance America Cash Advance Centers of Illinois - 492 Army Trail Road
Special Use Permit – Financial Institution

The petitioner was not present at the meeting.

Commissioner Hundhausen moved and Commissioner Michaelsen made the second to continue this matter to the meeting of May 14, 2007 and requested Mr. Svalenka to inform the petitioner that they will require a representative to be present to answer questions.

The results of the roll call vote were:

Ayes: 6 Commissioners Christopher, Smoot, Vora, Michaelsen, Hundhausen,
& Weiss
Nays: 0
Absent: 1 Commissioner Spink

Commissioner Michaelsen moved and Commissioner Hundhausen made the second to close the public hearing. The motion passed by unanimous voice vote.

New Business:

Chairman Weiss asked for a motion to cancel the meeting of May 28, 2007 since that will be Memorial Day. Commissioner Hundhausen moved and Commissioner Michaelsen made the second to cancel the meeting on May 28, 2007. The results of the roll call vote were:

Ayes: 6 Commissioners Christopher, Smoot, Vora, Michaelsen, Hundhausen,
& Weiss
Nays: 0
Absent: 1 Commissioner Spink

Chairman Weiss noted that he received an e-mail from former Village Planner Don Bastian, congratulating him on his election to the Village Board and noted that he is now the City Planner for the City of Geneva, IL.

Chairman Weiss then read his letter to Mayor Ferraro regarding his resignation from the Plan Commission effective at the conclusion of this meeting. Chairman Weiss thanked the staff and all of the Commissioners for their support and cooperation and with them continued success as Plan Commissioners. Each Commissioner also congratulated the Chairman on his election and was wished success in this next venture.

At 8:00 PM, Commissioner Smoot moved and Commissioner Michaelsen made the second to adjourn. The motion passed by unanimous voice vote.

FOR THE COMBINED BOARD