

**Regular Meeting of the Combined Plan Commission/Zoning Board Of Appeals
Gregory J. Bielawski Municipal Center, Carol Stream, DuPage County, Illinois**

November 12, 2007

ALL MATTERS ON THE AGENDA MAY BE DISCUSSED, AMENDED AND ACTED UPON

Chairman David Michaelsen called the Regular Meeting of the Combined Plan Commission/ Zoning Board of Appeals to order at 7:30 PM and directed Recording Secretary Wynne Progar to call the roll.

- Present: Chairman David Michaelsen, Commissioners Anthony Manzzullo, Angelo Christopher, Lateef Vora, Dee Spink, and Joyce Hundhausen
- Absent: Commissioner Ralph Smoot
- Also Present: Village Planner John Svalenka and Recording Secretary Wynne Progar

MINUTES: October 22, 2007

Commissioner Manzzullo moved and Commissioner Spink made the second to approve the Minutes of the Special Meeting of October 22, 2007 as presented. The results of the roll call vote were:

- Ayes: 5 Commissioners Manzzullo, Christopher, Vora, Spink & Michaelsen
- Nays: 0
- Abstain: 1 Commissioner Hundhausen
- Absent: 1 Commissioner Smoot

PUBLIC HEARING:

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

**#06362: Village of Carol Stream – 500 N. Gary Avenue
Text Amendment – Subdivision Code Articles 2 & 3;
Zoning Code Articles 12, 16 and 18 – Regarding Utility
Structures
CONTINUED FROM 8-13-07 MEETING**

There were no comments or questions from those in attendance at the call for public hearing.

Mr. Svalenka stated that recent events have pointed to the need for an update to those sections of the Village Code that convey the community's standards with respect to utility structures. Historically, the community standard has been to require that utility structures be placed in rear yards only. However, utility companies and developers have been ignoring this standard of late – utility boxes have been placed in front and corner side yards, and the boxes themselves have grown larger.

In order to make the Village's requirements more clear in the Subdivision Code and the Zoning Code, a set of text amendments has been prepared. During the course of this work, staff learned that Wheaton and Roselle, both of whom recently placed a moratorium on new utility structures to allow time for the development of new standards, have brought proposed ordinances to their respective plan commissions. Wheaton is still working out details regarding their proposed ordinance. Roselle has recently finalized the adoption of their new standards. Staff believes there is value in placing Carol Stream's work on pause to review the new

standards of these communities. In this way, we will be able to achieve better consistency among neighboring communities, and also gain from the public review and comment that has taken place.

This matter was originally scheduled for Plan Commission review at their February 26, 2007, meeting, and was continued to March 26, 2007, May 14, 2007, June 25, 2007, August 13, 2007, and November 12, 2007. Staff recommends that this case be continued to the January 14, 2008, Plan Commission meeting.

Commissioner Hundhausen moved and Commissioner Vora made the second to continue this matter to the meeting of January 14, 2008 per staff recommendation. The results of the roll call vote were:

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

**#07276: Bill and Kathy Johnson – 976 Ridge Trail
Zoning Code Variation**

Bill and Kathy Johnson, 976 Ridge Trail were sworn in as witnesses in this matter. Mr. Johnson said that they were requesting a variance to build a second garage that needs a three foot variance. He said that his neighbor said that he does not have a problem with it being closer to his property.

There were no comments or questions from those in attendance at the call for public hearing. Mr. Svalenka stated that Bill and Kathy Johnson plan to construct a new 14-foot wide garage addition on the north side of their existing attached two-car garage. The required side-yard building setback in the R-3 District is 7.5 feet. The garage addition is proposed to be set back approximately 4.7 feet from the side property line. Therefore, the Johnson's are requesting a zoning variation to allow a reduction of the side yard setback requirement in the R-3 District from 7.5 feet to 4.7 feet.

In review of the variation request, staff has attempted to determine whether there are any unique circumstances or any particular hardship that would prevent the owner from complying with the 7.5-foot side yard setback. In the attached cover letter, and in the responses on the attached Variation Application, the applicant maintains that their circumstance is unique and that they have a hardship because of Mrs. Johnson's medical condition. Mrs. Johnson has suffered spinal cord injuries that resulted in her going through several surgeries to have part of her spinal cord fused together with a plate and to have several screws placed in her neck. Mrs. Johnson has also suffered nerve damage. As a result, she must walk with a cane and needs her car door fully open in order to enter and exit the car. Mr. and Mrs. Johnson believe that the proposed third garage bay needs to be 14 feet wide in order to allow Mrs. Johnson to fully open her car door. Staff notes that a hardship for a zoning variation is typically associated with the physical characteristics of a specific property, and not the medical condition of the owner of the property. However, staff notes that the Plan Commission and Village Board have approved variations on the basis of a unique medical hardship on the part of an owner or dependent.

Staff has reviewed the proposal to determine the impact the proposed garage addition might have on adjacent properties and the surrounding neighborhood. In viewing the conditions in the field, we noted a significant grade differential between the subject property and the adjacent lot to the north. If the request were to be granted, the garage and driveway would be very close to the neighboring property line and might cause grading concerns. In one of the responses on the attached Variation Application, the applicant maintains that the variation request would be justified because the third garage stall would cause the property to look more like other

properties on the block. Staff notes that there are 103 residences in the surrounding Shenandoah Valley Subdivision and all of them have two-car garages. None of the residences on the block or in the subdivision have three-car garages. The proposed third garage stall would be unique within the subdivision, and might cause grading concerns along the neighboring property line.

Staff has reviewed the proposal to determine whether the physical shape of the property would cause a hardship. The typical lot in the surrounding Shenandoah Valley Subdivision is 70 feet wide and 130 feet deep. The subject lot is 70 feet wide and is 138.39 feet deep at its shallowest point. The side lot lines are parallel and the rear of the lot is rectangular. The only atypical area of the lot is a triangular area at the front of the lot. This area adds space to lot, making it larger than the typical lot, which certainly does not cause a hardship. Staff believes that the physical shape of the property does not cause a hardship.

In consideration of the applicant's statement that the 14-foot wide garage addition is necessary to allow Mrs. Johnson to fully open her car door, staff has reviewed the request to determine how the standards of the Zoning Code could be met without need for the variation, while also meeting Mrs. Johnson's needs. Staff has observed that the requested expansion of 14 feet is rather large for a third garage space. We see two seemingly viable options that would not require a variation. One option would be for the Johnson's to construct an 11-foot wide garage expansion. As a matter of comparison, an average-sized car with one door completely open occupies approximately nine feet of width. Assuming a one-foot wall thickness, and a car parked one foot from the side of the garage bay, an 11-foot expansion would appear to meet the stated need. A second option would be for the Johnson's to construct a paved parking pad instead of the garage. Per Section 16-12-1(D)(3) of the Carol Stream Zoning Code, the parking pad would be allowed to be located not less than one foot from the property line. Therefore, the parking pad could be 17.7 feet wide without need for a variation. We acknowledge that an enclosed garage would be preferred. However, we note that seven other residences in the Shenandoah Valley Subdivision have such paved parking pads and, therefore, it is a viable option that is within the character of the neighborhood.

Staff notes that the Johnson's previously constructed an illegal brick-paver driveway extension along the north side of their driveway without a permit, causing the width of the driveway at the property line to exceed the maximum allowable 20 feet for a two-car garage. If a third garage space or parking pad were to be constructed, then the driveway width would become legal, since the maximum is 30 feet for a 3-car garage. However, if the garage addition or parking pad were not constructed, then the driveway extension would have to be removed. Even if the third garage space or parking pad were to be constructed, the owner would still need to obtain a building permit after-the-fact for the driveway. If the Plan Commission/Zoning Board of Appeals were to recommend approval of the variation, staff would advise that the recommendation include the condition that the owners obtain a proper building permit for the driveway as necessary to comply with the standards of the Building Code.

With regard to any variation, the Zoning Board of Appeals shall not recommend a variation unless it shall make findings based upon the evidence presented to it in the following case, as per Section 16-15-6(D) of the Zoning Code:

1. The property in question, other than a single-family residential lot, cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.

The property is a single-family residential lot, and the "reasonable return" standard does not apply.

2. The plight of the owner is due to unique circumstances.

The petitioner maintains that the proposal is unique due to Mrs. Johnson's medical condition. Staff notes that the unique circumstances apply to one of the owners, not the property, and would therefore cease to exist upon transfer of ownership of the property.

3. The variation, if granted, will not alter the essential character of the locality.

The proposed addition would cause the residence to be somewhat different than all other residences in the neighborhood, in that none has a three-car garage at this time. Of course, the construction of the garage addition itself does not require approval of a variation; rather, it is the width of the proposed addition that is at issue. Staff notes that a 14-foot garage addition exacerbates the effect of the garage size in that it would, in fact, be a 3½-car garage.

4. The particular physical surroundings, shape, or topographical conditions of the specific property involved bring a particular hardship upon the owner as distinguished from a mere inconvenience.

The lot is generally rectangular and slightly larger than the typical lot in the subdivision. The particular physical shape of the property does not cause a hardship

5. The conditions upon which the petition for the variation is based would not be applicable generally to other property within the same district.

The petition for the variation is based on a medical hardship justification, which could be applied to any other property within the district.

6. The granting of the variations will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

If constructed, the proposed garage addition would be very close to the neighboring property line and might cause grading concerns. If approved, the garage addition might be injurious to the adjacent property to the north if not designed and constructed properly with respect to drainage and problems were to develop.

In staff's evaluation of this case, we note that the petitioner maintains that they have a hardship because of Mrs. Johnson's medical condition. We do not believe this condition justifies the request because a hardship for a zoning variation is typically associated with the physical characteristics of the property and not the medical condition of the owner of the property. We believe that a parking space that meets Mrs. Johnson's need to fully open her car door could be constructed in compliance with the side yard setback standards of the Zoning Code by simply reducing the size of the garage addition to 11 feet in width or by constructing a paved parking pad instead of the garage addition. We note that none of the residences on the block or in the subdivision has a three-car garage, and construction of the proposed 3½-car garage addition would be somewhat out of the character of the neighborhood. However, we note that the Plan Commission and Village Board have approved variations on the basis of a medical hardship on the part of an owner or dependent.

As detailed above, the petitioner has not demonstrated circumstances unique to the subject property nor a particular hardship that would meet the standards for a variation listed in the

Zoning Code. Therefore, staff recommends denial of the requested variation to allow a decrease of the required side yard setback of the R-3 One Family Residence District from 7.5 feet to 4.7 feet. However, we note that the Plan Commission has recommended approval of variations for cases in which a medical hardship can be demonstrated. If the Plan Commission determines to recommend approval of the requested side yard setback variation, staff would advise that it only do so subject to the following conditions:

1. That the applicant must obtain a proper building permit for the driveway as necessary to comply with the standards of the Building Code; and,
2. That the applicant must obtain a proper building permit for the garage addition as necessary to comply with all state, county and village codes and requirements.

Commissioner Christopher asked what kind of car Mrs. Johnson drives and was told that it is a Mustang.

Commissioner Spink commented that in these types of requests there is usually quite a bit of documentation regarding the property, a drawing of the proposed project and other back-up materials that favor a decision to allow a variation. In this case the only item given is a request for a variance to allow a 3½-car garage. She also noted that she supports the staff in the belief that the variance is granted for a uniqueness of the property not for the owner since owners can change but the characteristics of the property do not. Mrs. Johnson said that they have never done this before and she said that in reading the report she does have architects plans with her and copies of all of the permits that they have applied for including the pavers at the side of the driveway. Mrs. Johnson said that she does not know what a parking pad is, or if it is a covered structure since she cannot risk falling and damaging the surgical repairs that she has had. At this time the drawings and the permit copies were given to the commissioners.

Commissioner Manzullo asked if they would build some kind of structure even if this variance is not approved and Mrs. Johnson said that they have to do something that will allow her to open her car door all the way so she can get out of the car in a covered, dry garage, so as not risk injury from ice or wet pavement. She said that she cannot do this in their current two car garage. Commissioner Manzullo said that he is concerned that since the property sits higher than the neighbors to the north, there could be drainage problems. Mr. Johnson said that most of the water problems are on the south side and they have installed drainage to help eliminate the problem.

Chairman Michaelsen asked how many cars are in the family. It was determined that they have three drivers but there are a conversion van, an Explorer, the Mustang, and a Firebird. A 14 foot addition would go outside of the setback and Chairman Michaelsen asked if they had even considered an 11 foot addition by removing the existing garage wall and adding 11 feet. He said that he would recommend doing the smaller addition and not extending into the setback and added that he would not vote in favor of the variance due to the fact that there are concerns with drainage as well as precedent for a three car garage in the neighborhood. Mrs. Johnson asked that if they were to revise their plan to go with the 11 foot addition, could they proceed immediately since she wants this done before there is any ice or snow. Commissioner Michaelsen said that the new plans would have to be reviewed and approved before any construction could begin.

Commissioner Hundhausen asked Mr. Svalenka if the residents go with the 11 foot addition and the Commission made that recommendation would that make the permit process go faster. Mr. Svalenka said that this case is in regard to a Zoning variation that would allow a reduction in the side yard setback and if the reduction request is denied and the petitioners go with the smaller addition, a variation would not be required. Mr. Svalenka said that one option would be that if the variation request is denied, the matter would go before the Village Board who could override the recommendation and the petitioner could proceed. Another option would be for the petitioners to withdraw their request and re-submit new plans for the 11 foot addition and continue with the process.

Chairman Michaelsen asked if the siding on the addition would match the siding that is on the house and Mrs. Johnson said that the siding on the house was done about three years ago and that there is still the same siding available from the manufacturer and the same is true for the shingles. In response to a question by Commissioner Manzullo, Chairman Michaelsen explained that if the request for the variance is recommended for denial it proceeds to the Village Board who can either over-ride the recommendation and allow the variance or they can sustain the recommendation and the petitioners would then have to submit new drawings for an 11 foot addition and continue the process with no need for a variation.

Commissioner Manzullo moved to recommend denial of a variation to a side yard setback from 7.5 feet to 4.7 feet. The motion failed for a lack of second.

Commissioner Manzullo moved to recommend approval of a variation to a side yard setback from 7.5 feet to 4.7 feet in accordance with staff recommendations. Commissioner Christopher made the second. Commissioner Manzullo withdrew his motion upon being told he could not vote Nay. (Upon further research, it has been determined that he could have made a Nay vote, he just could not speak to the motion-WP) Commissioner Christopher withdrew his second.

Commissioner Hundhausen moved to recommend approval of a variation to a side yard setback from 7.5 feet to 4.7 feet in accordance with staff recommendations. Commissioner Christopher made the second. The results of the roll call vote were:

Ayes:	3	Commissioners Christopher, Spink and Hundhausen
Nays:	3	Commissioners Manzullo, Vora and Michaelsen
Absent:	1	Commissioner Smoot

The recommendation fails.

Chairman Michaelsen told the petitioners that this matter will be heard by the Village Board at their meeting on November 19th and he suggested that they bring drawings, pictures, agreements by their neighbors and any other information they might have.

Mr. Svalenka said that since the vote did not pass, he recommended that someone may wish to motion to reconsider just so that there could be a recommendation to the Board. Mr. Svalenka advised the PC/ZBA that it would be preferable to bring the case to the Village Board without a tie vote, and urged the PC/ZBA to discuss the matter further. He added that it may come down to the same decision again or the Commissioners may not wish to take a up a new motion of reconsideration.

Chairman Michaelsen asked for a motion to deny or approve this matter.

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

Ayes:	4	Commissioners Christopher, Spink, Hundhausen and Michaelsen
Nays:	2	Commissioners Manzullo, and Vora
Absent:	1	Commissioner Smoot

The petitioners were told that this matter will be heard by the Village Board at their meeting on November 19, 2007 and were advised to attend that meeting.

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

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

NEW BUSINESS:

Mr. Svalenka said that the Staff Appreciation Event is being planned for December 10th at Flip Flops Tiki Bar & Grill and invited all of the Commissioners to attend.

Mr. Svalenka reminded everyone that the November 26th meeting would be the conclusion of the 3-part training session. A couple of Commissioners said that they would not be able to attend on that date and it was noted that the training could be postponed to January.

In regard to the second meeting in December, 12/24, Commissioner Hundhausen moved and Commissioner Manzzullo made the second to cancel that meeting since it is Christmas Eve.

The results of the roll call vote were:

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

Commissioner Hundhausen commented that Lowes on Army Trail Road continues to live up to their commitment to keep their property clean and orderly.

Commissioner Vora said that he will out of the country for the month of December.

Staff and Commissioners wished each other and everyone a Happy Thanksgiving.

At 8:25 PM Commissioner Spink moved and Commissioner Hundhausen moved to adjourn.

The motion passed by unanimous voice vote.

FOR THE COMBINED BOARD