

Village of Deer Park
Zoning Board of Appeals Minutes
April 9, 2007

CALL TO ORDER

The Zoning Board of Appeals of the Village of Deer Park met on Monday, April 9, 2007 at the Village Office, 23680 W. Cuba Road, in the Village of Deer Park, in the counties of Lake and Cook, Illinois. Chairman Szczesny called the meeting to order at 7:00 p.m.

ROLL CALL AND DETERMINATION OF A QUORUM

Upon roll call, the following were present: Chairman Szczesny, Members Barbara Evans, Jack Honomichl, Beth Noll, Russell Mills, Bill Michael and Randall Pinchot. Other Village officials present were Administrator Connors, Clerk Meyle, Attorney Keller, Inspector Holmes, and Trustee Rotter. Others present were petitioners Mr. and Mrs. Jan and Regina Christiansen of 20877 Wildrose Drive. Chairman Szczesny stated there was a quorum.

Members of the public present were: Mr. Randy Borchardt and Mrs. Bridget Baker of 20888 N. Laurel Drive; Mr. and Mrs. Donald and Sheryl Wheeler of 20866 N. Laurel Drive; Mrs. Mary LaRocque of 20910 N. Laurel Drive; Mr. David Rolls of 20992 Laurel Drive; Mr. Richard Chay of 408 Bramble Lane; Mr. Bob Fallon of 20933 Laurel Drive; Mrs. Susan Randall of 21001 N. Wildrose Drive; Mr. Bill Vischer of 23255 Fairview Drive; Mr. Karl Rosenberg of 20899 Laurel Drive; Mrs. Barbara Roller of 20992 Laurel Drive.

VARIANCE FOR ACCESSORY BUILDING SIZE AT 20877 WILDROSE DRIVE

Applicants, Jan and Regina Christiansen, request a variance to construct an accessory building (pool house) exceeding the 10' X 12' size limitation at the existing residence at 20877 Wildrose Drive, Lot 41 in Deerpath Estates subdivision, in Lake county, Illinois. PIN: 14-32-206-004. The property lies in the R-1 single-family residence district.

Per Chairman Szczesny's request, Attorney Keller read the definition of hardship as it is stated in the Village Code, and pointed out the underlined section as the essential language pertaining to this situation:

158.102 VARIATIONS, (A) Standards and Purpose, (1) The Board of Appeals shall in no case recommend variation to this chapter unless a property owner can show that a strict application of this chapter relating to the use, construction, or alterations of buildings or constructions or utilization of the land will impose upon him unusual or impractical difficulties or particular hardship, that such variations of the strict application of the terms of this chapter are in harmony with the general purpose and intent, and only when the Board of Appeals is satisfied that granting such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to practically deprive the owner of any use of the property and thus warrant a variation from the comprehensive plan as established by this chapter, and that surrounding property will not be adversely affected.

Attorney Keller explained that state courts interpret hardship language in municipal codes as indicating that a hardship must be a condition of the land itself and should not be a condition that is particular to the land owner.

Member Honomichl asked Attorney Keller to clarify what the Village's response should be in regards to subdivision covenants. Attorney Keller explained that subdivision covenants are private agreements between homeowners and that the Village has no authority or responsibility to enforce them.

Mr. Christiansen, the petitioner, read a memo he wrote to provide the Zoning Board members with up-to-date information regarding his request for a variance. This memo provided the following information:

- 1) The hardship is that it will be extremely expensive to achieve the enjoyment and visually pleasing aspects of the pool if the variance is not approved.
- 2) An anonymous letter making allegations regarding Mr. Christian's variance request was placed in the mailboxes of the property owners of Deer Path Estates.
- 3) All property owners within 500 feet of 20877 Wildrose Drive were properly notified.
- 4) The president and treasurer of Deer Path Estates Homeowners Association have assured Mr. Christiansen that his variance request will not violate the subdivision's covenants.
- 5) The enclosed portion of the proposed structure includes a 10' X 10' changing area with a bathroom and an 8' X 14' equipment and storage room. The remaining portion of the proposed structure is a covered porch with a wet bar.
- 6) The proposed structure will not be used as a guest house.
- 7) The proposed structure is 12' in height.
- 8) The landscape design plan for the screening of the proposed structure has been submitted.
- 9) Most property owners around the lake will be able to see the proposed structure. Two satellite photos were provided detailing the surrounding area in Deer Path Estates.
- 10) Mr. Christiansen believes that the proposed structure will enhance the value of his property as well as the surrounding area.
- 11) A summary of an addendum prepared by Mr. Christiansen's attorney provided his opinion of the legal standards for a variance. A copy of this addendum was provided.

Member Mills commented that it might be possible for the petitioner to have his needs met by constructing two separate accessory buildings that are each within the Code. Attorney Keller confirmed that the Code does not state how many accessory buildings are allowed per residence.

Member Pinchot clarified that the size of a building is determined by the size of the foundation and the size of the roof regardless of whether the structure is enclosed or open on the sides.

Attorney Keller clarified that on the first permit issued for the pool in March of 2006 there was a notation made by Inspector Holmes that specifically mentioned that the permit did not grant permission for any structure other than the pool; and when the permit was issued for the foundation of the equipment pad a notation was made that a separate permit was required to put a building on that foundation.

Chairman Szczesny asked if there were comments and questions from the public:

Mr. Rolls of 20992 Laurel Drive stated that he is concerned that approving this variance would set precedence for approving future requests of this kind and that he feels the structure is too large and will be in the line of sight of his property across the lake.

Mr. Vischer of 23255 Fairview Drive stated that he is concerned that approving this variance would set precedence.

Mr. Borchardt of 20888 N. Laurel Drive provided photos of the view from the back of his property and stated that he does not want to see the proposed structure from his back balcony or his beach. Mr. Borchardt stated that if the variance is approved, the Deer Path Estates Homeowners Association will litigate because the structure is not allowed according to the subdivision covenants.

Member Pinchot stated that he would like clarification with regard to the type of building a pool house is so that the proper section of the Code can be applied when considering approval of the variance. The general consensus was that since the petition was filed as a variance for an accessory building, the section of the Code pertaining to accessory buildings applies.

A discussion ensued regarding the hardship of the petitioner. The Board concurred that although they understand the position the petitioner is in due to the guidance he received from his builder and his structural engineer, they do not see a hardship as defined by the Municipal Code.

Member Evans left the meeting at 7:52pm.

MOTION: by Member Mills to approve the variance to construct an accessory building (pool house) exceeding the 10' X 12' size limitation at the existing residence at 20877 Wildrose Drive, Lot 41 in Deerpath Estates subdivision, in Lake County, Illinois, PIN: 14-32-206-004. Upon roll call: YES: (0) / NO: (5) Honomichl, Michael, Mills, Noll, Pinchot / ABSENT: (1) Evans
Motion fails 0/5

Attorney Keller stated that according to the Zoning Code a report and recommendation regarding this decision will be sent to the Board of Trustees for consideration.

MOTION: by Member Honomichl to approve and release the minutes of the August 28, 2006 Zoning Board of Appeals meeting. Upon voice vote: YES: (5) / NO: (0) / ABSENT: (1)
Motion carries 5/1

Member Pinchot stated that he feels that the Code needs to be reviewed and updated to reflect the current times and needs of the residents particularly with regard to enclosed structures (sheds, accessory buildings etc...). The Board members concurred with this need. Trustee Rotter and Attorney Keller committed to helping with this process.

MOTION: by Member Noll to adjourn. Upon a voice vote: YES: (5) / NO: (0) / ABSENT: (1)
Motion carried 5/1

The meeting of the Zoning Board of Appeals was adjourned at 8:14pm.

Randy Szczesny, Chairman

Susan Meyle, Village Clerk