WINNETKA ZONING BOARD OF APPEALS MEETING MINUTES
NOVEMBER 13, 2023

Zoning Board Members Present:	Matt Bradley, Chairman Mark Haller Lynn Hanley Kate Casale MacNally Mike Nielsen Todd Vender
Zoning Board Members Absent:	None
Village Staff:	David Schoon, Director of Community Development Ann Klaassen, Assistant Director of Community Development

<u>Call to Order & Roll Call</u>:
Chairman Bradley called the meeting to order at 7:00 p.m. Ms. Klaassen took roll call of the Board Members present.

<u>Approval of Minutes</u>:
a. <u>July 10, 2023, Regular Meeting Minutes</u>.
Chairman Bradley asked for a motion to approve the July 10, 2023, meeting minutes. A motion was made by Ms. Casale MacNally and seconded by Ms. Hanley. A vote was taken and the motion unanimously passed, 6 to 0:
AYES: Bradley, Haller, Hanley, Casale MacNally, Nielsen, Vender
NAYS: None

<u>Community Development Report</u>:
Mr. Schoon provided the Board Members with an update on 258 Ridge. He also informed the Board the Village Council would have another study session tomorrow regarding steep slope lakefront regulations as well as amendments to the zoning and subdivision code in connection with new large lot creation via the plat of consolidation process.

<u>New Cases</u>:
a. <u>Case No. 23-19-V2: 889 Sheridan Road</u>: An application seeking approval of a zoning variation to allow construction of a pickleball court at 889 Sheridan Road. The requested variation would permit the pickleball court to provide less than the minimum required corner yard setback from the south property line along Tower Road. The Village Council has final jurisdiction on this request.
Ms. Klaassen identified the property's location, zoning classification and trapezoid lot shape as well as photos. She then identified the pickleball court's proposed location, size and setback along Tower Road which required a variation. Ms. Klaassen stated the request included the installation of two light poles and referred to an illustration of a typical pickleball court and light poles. She stated one email was received from a neighbor and provided to the Board. Ms. Klaassen stated a draft recommendation is included on page 11 and asked if there were any questions.

Ms. Casale MacNally referred to page 3 and the May 2023 building permit application referred to in the Property History and Previous Zoning Applications section of the staff report and asked if the proposal was contemplated in conjunction with the May 2023 application. Ms. Klaassen responded the applicant submitted the building permit application for the pickleball court in August 2023. Ms. Casale MacNally then asked if the lighting would not be problematic on Tower Road if they are on at night. Ms. Klaassen responded all properties are allowed to have lights but they are required to direct light onto their own property and the applicant would be required to provide glare shields. Mr. Haller asked if no other neighbor comments were received and referred to neighbors directly across from the property. Ms. Klaassen confirmed no additional comments from other neighbors were received and confirmed notice was mailed to property owners within 250 feet. Chairman Bradley referred to the Board's consideration of what is being installed in the corner yard setback and asked if there was any Village Council guidance on the treatment of pickleball court noise on private properties. He referred to the amount of noise which would result with the project. Ms. Klaassen responded there have been no other pickleball requests which needed variation relief and confirmed this is the first of such an application. Mr. Haller questioned the noise ordinance. Ms. Klaassen responded there is not a specific decibel limit.

Chairman Bradley swore in those speaking to this matter. Gary Frank, the architect, and Aaron Bruder, the civil engineer, introduced themselves to the Board. Mr. Frank confirmed the pickleball court is only an issue due its location in the required setback. He stated the variation is being requested due to the location and there is no space for it to be located to the east. Mr. Frank described the proposed location as the clearest space on the property with there being impediments such as power lines and the storm sewer in other locations. He described the proposed location as being hidden by pine trees and the flattest part of the property. Mr. Frank then stated with regard to lighting, he identified Village street lights at the intersection with the proposed light fixtures being diminished by the street lights.

Chairman Bradley asked if there were any questions. Ms. Casale MacNally referred to sheet V-1-5 and the tree line and questioned how the pickleball court would be positioned. Mr. Frank identified the north area which showed the rationale of why that location could not be used. Ms. Casale MacNally asked if the site south of the pool was considered. Mr. Frank responded that location would have required a variation and there is a steep incline toward the beach which represented a fall hazard. He noted Sheridan Road is located 150 feet away from the court area and the trees would also provide a buffer. Mr. Bruder stated mature trees in that location made its consideration a non-starter.

Ms. Hanley referred to the aerial image and the driveway toward Sheridan Road. Mr. Bruder confirmed that portion of the driveway has been eliminated. Ms. Hanley asked if that is the utility easement location. Mr. Bruder confirmed the easements ran to the north of the prior driveway. Mr. Frank stated they are not technically utility easements; the utilities were installed to service the home built in 2001. Ms. Hanley asked if the court can be moved toward the front yard setback line and referred to sheet V-1-3. Mr. Bruder and Mr. Frank explained the rationale for the court's positioning in detail.

Chairman Bradley asked if there was any public comment. No public comments were made at this time. He then called the matter in for discussion and referred to the standards on page 6. Ms. Hanley stated she had no problem with the request and referred to the property's difficult shape and there are no neighbors to the north as well as the limited area within which to locate the court without a variation. She stated the request met the standards. Mr. Haller stated it would be difficult for the request to meet the standards with the request possibly setting a precedent and he did not see the essentiality of the request. Mr. Vender referred to the effect on the neighbors, specifically the neighbor across the street and stated he is not concerned with precedent. He also stated he did not find the overall request difficult and would be inclined to support it. The Board Members discussed the front yard alternative location. Chairman Bradley referred to the amount of noise attributed to pickleball and agreed the request is only being presented to the Board due to its setback location. He stated the request would also not be precedent setting and referred to the comments relating to the effect on neighbors. Chairman Bradley then stated the standards have been met with the exception of the reasonable return standard and he would be in support of the application. Ms. Casale MacNally stated she would not support the application and identified standard nos. 1, 3, 7 and 8 as giving her pause. She referred to safety issues and congestion. Mr. Nielsen questioned how the situation can be improved and referred to the unsuitable alternative locations. He stated he agreed with Ms. Casale MacNally in that several of the standards are not met and he is undecided.

Chairman Bradley asked the applicants to address the Board's comments specifically relating to the standards causing concern. Mr. Frank referred to congestion and noted there is a fence on the south property line with there being no impact on the court's location in that area. He also stated moving it 5 feet to the north would not change the effect. Mr. Bruder stated the court's location would replace the previous driveway's location and would reduce vehicular contact in that location. Mr. Frank then referred to the public health and safety standard and stated the request would not impact anyone noting if the south property owners were concerned, they would have voiced their opinion. He referred to altering the locality standard and noted the west side driveway was removed. Mr. Frank stated moving the court to the north would result in a more devastating impact and also result in removing the tree line. He described the proposed location as the least impactful location. Mr. Frank then stated with regard to reasonable return, the project would increase the property value for the homeowner. Mr. Frank reiterated if the pickleball court was in a conforming location, they would not be before the Board and referred to the lot's unique configuration. No additional questions were raised at this time.

Chairman Bradley took a straw poll of the Board's position and asked for a motion to recommend approval as indicated on page 6. Ms. Hanley moved to recommend approval of the request. Mr. Nielsen seconded the motion. A vote was taken and the motion passed, 4 to 2:
AYES: Bradley, Hanley, Nielsen, Vender
NAYS: Casale MacNally, Haller

b. <u>Case No. 23-20-V2: 84 Abbottsford Road</u>: An application seeking approval of zoning variations to allow construction of additions to the existing residence at 84 Abbottsford Road. The requested variations would permit the additions to (i) exceed the maximum permitted roofed lot coverage; (ii) exceed the maximum permitted gross floor area; (iii) provide less than the minimum required corner yard setback from the private road easement along the north property line; and (iv) perform structural changes necessary to provide new window openings in the legally nonconforming south side building wall. The Village Council has final jurisdiction on this request.

Ms. Klaassen identified the property's location, zoning classification and size noting there is a recorded easement which she identified. She explained how the lot is considered a corner lot and that the easement area is eliminated from the nonconforming lot area. Ms. Klaassen then identified the proposed addition, porch location and elevations in illustrations and described the proposed addition's features and square footage. She explained how the window replacement required a variation due to its placement in a nonconforming wall. Ms. Klaassen noted no public correspondence was received regarding this application and stated a draft motion is included on page 9. She then asked if there were any questions. A Board Member asked what the minimum lot width on a non-corner lot in the R-5 district is. Ms. Klaassen responded 60 feet. Ms. Casale MacNally asked for further clarification on the windows in the south elevation. Mr. Haller referred to Figure A-8. No additional questions were raised at this time.

Chairman Bradley swore in those speaking to this matter. Michael Venechuk, the architect, stated the applicant decided to remodel the home to make it more usable for today's standards by enlarging the small mudroom by 6 square feet, the existing screened porch and second floor bedroom over existing first floor space. He stated the home is slightly over allowable roofed lot coverage and GFA making any modifications require modest variations. Mr. Venechuk stated having a private road affected the setback by 2 feet. He then described the reasoning behind the new windows in the south building wall, noting the request met the remainder of the zoning requirements.

Chairman Bradley asked if there were any questions. Mr. Nielsen asked if the home is being fully rehabbed. Mr. Venechuk stated the second floor bedrooms would be reworked.

Chairman Bradley asked if there were any comments from the public. No comments were made at this time. He then called the matter in for discussion.

Mr. Haller stated he would be in favor of the request and described how the modest request would improve the older, smaller home. He also referred to the odd shaped lot and amount of driveway easement. Mr. Nielsen agreed the standards have been met with any modifications requiring a variation. He stated he appreciated the window explanation and stated he would be in favor of the request. Ms. Casale MacNally stated she would be in favor of the request. Ms. Hanley stated there would be a minimal increase in nonconformity given the amount of work being done and she would be in favor. Mr. Vender stated he is also in favor. Chairman Bradley stated he is in favor of the request and specifically referred to the unique circumstances standard. He then asked for a motion to recommend approval as indicated on page 49. Ms. Casale MacNally moved to recommend approval of the request. Mr. Nielsen seconded the motion. A vote was taken and the motion unanimously passed, 6 to 0:
AYES: Bradley, Haller, Hanley, Casale MacNally, Nielsen, Vender
NAYS: None

c. Case No. 23-21-V2: 717 Park Avenue: An application seeking approval of a zoning variation to allow construction of an addition to the existing residence at 717 Park Avenue. The requested variation would permit the addition to provide less than the minimum required front yard setback from the easterly property line along Park Avenue. The Village Council has final jurisdiction on this request.
Ms. Klaassen identified the property's location, zoning classification and irregular shape and explained the dramatic change in topography on the lot. She noted the lot is legal nonconforming with respect to the lot depth and referred to the home's illustrations and proposed improvements in the setback. Ms. Klaassen then described the proposed improvements and various elevations. She noted no public correspondence was received and a draft motion is included on pages 93 and 94 of the packet and asked if there were any questions. Ms. Casale MacNally referred to Figure 6 of the steps being 2 feet from the lot line. Ms. Klaassen confirmed the steps are that close to the lot line and explained there have been four previous front yard setback variations for the home, though not for the original construction. No additional questions were raised at this time.

Chairman Bradley swore in those speaking to this matter. Jan Wesemann, the homeowner, and Alan Nasel, the general contractor, introduced themselves to the Board. Mr. Nasel stated they discovered the bad roof condition after the home was purchased and decided to address other issues. He identified the master bedroom, roofline and windows and described how they would be modified. Mr. Nasel stated the home predated the street and was built in 1910 and was a coach home for the home on Prospect. He also identified the easement which belonged to Ms. Wesemann and described the difficulties with the street and easement. Ms. Wesemann stated they also discovered the air conditioning needed to be replaced which required going through the roof. Mr. Nasel and Ms. Wesemann described how the property is not visible from the street.

Chairman Bradley noted the Board's only concern related to the stairway and setback. Mr. Haller asked if the proposal of the staircase is to let the dog out with minimal effort in terms of access. Ms. Wesemann confirmed that and stated it would also provide a view and described the French doors and deck to be installed. Ms. Casale MacNally asked if the backyard is fenced. Ms. Wesemann responded there is temporary fencing at the bottom of the patio. No additional questions were raised at this time.

Chairman Bradley asked for public comment. No comments were made at this time. He then called the matter in for discussion.

Mr. Vender referred to its location and the amount of work being done. Mr. Nielsen stated he would be in favor. Ms. Hanley commented she really liked the home and appreciated the applicant updating the home. She agreed the home is well hidden and referred to the lot's irregularity and stated the request is a small ask. Ms. Hanley concluded she is in favor of the request. Ms. Casale MacNally agreed with Ms. Hanley's comments. Mr. Haller agreed with the comments made. Chairman Bradley stated the standards have been met and described the property as extraordinarily unique. He referred to the amount of the existing nonconformity and commented the design plans make good sense. Chairman Bradley then asked for a motion to recommend approval. Mr. Haller moved to recommend approval of the request. Ms. Hanley seconded the motion. A vote was taken and the motion unanimously passed, 6 to 0:
AYES: Bradley, Haller, Hanley, Casale MacNally, Nielsen, Vender
NAYS: None

d. <u>Case No. 23-13-TX: 808 Oak Street</u>: An application seeking approval of (i) a Text Amendment to the Zoning Ordinance, (ii) Special Use Permits, and (iii) a zoning variation to allow construction of a four-story, three-unit, multi-family residential building at 808 Oak Street. The text amendment would allow residential uses in the C-2 General Retail Commercial Zoning District (the "C-2 District"), on the ground floor that are less than 50 feet from the front street line, as a special use. The special use permits would allow (a) a residential use in the C-2 District, on the ground floor and less than 50 feet from the front street line; and (b) off-street parking at street level. The variation would permit the proposed building to provide more than the maximum permitted front yard setback from the north property line along Oak Street. The Village Council has final jurisdiction on this request.

Ms. Klaassen identified the property's location and zoning classification and described the lot's size and ingress/egress. She referred to the land use map and outlined appropriate uses for the site and the site's photos. Ms. Klaassen noted the application did not include commercial space and described the proposed multi-family residential building and the text amendment and special use requests for residential uses within the front 50 feet of the lot line. She then referred to the additional development standards suggested by the Applicant with respect to the requested text amendment which include that the lot shall be along the south side of Oak Street between Chestnut Street and Green Bay Road/Linden Street and the width of the lot makes it physically impractical to provide both a commercial space within 50 feet from the street lot line and to provide any portion of the number of required parking spaces. Ms. Klaassen described the project's proposed setbacks and various building elements, parking spaces and its access. She outlined the special use permit to allow parking on the site at the street level. Ms. Klaassen noted the recessed garage entry would provide a break in the garage door's visual nature and to allow light and air to the neighboring property to the west and provide depth for vehicles to sit onsite while waiting for the garage door to open. She then described the proposed residential units, their sizes, the terrace, interior courtyard, various building elevations and noted the building complied with the height requirement. Ms.

Klaassen then referred to renderings of the building's views from various locations, the interior courtyard and rear elevation.

Ms. Klaassen stated the DRB first considered the request in September 2023 with the Board finding the building to be more modern and noted their concern with the front vertical slats. She stated the application was continued to address the comments and revised renderings were submitted to the DRB, she noted that the DRB ultimately recommended approval of the design. Ms. Klaassen stated the Village Council heard the initial request with respect to the requested text amendment in August 2023, at that time the Council decided the ZBA and Plan Commission would conduct public hearings relating to the text amendment, special uses, and variation. She then stated one additional email from the public was received since the packet was provided to the Board and referred to the draft motion on page nos. 132 through 134 and asked if there were any questions.

Ms. Hanley asked who drafted the text amendment language. Ms. Klaassen responded the applicant provided draft language. Mr. Schoon noted the Village Attorney would review it. Ms. Hanley described the text amendment language as vague by referring to the language regarding the physical impracticality of providing a commercial use on the lot due to the lot's width. She commented the request appeared to be spot zoning.

Chairman Bradley asked if the proposed text amendment language is to allow as a special use residential uses on the ground floor in the commercial C-2 district less than 50 feet from the street frontage. Ms. Klaassen confirmed that is correct. Mr. Schoon stated they worked with the applicant in terms of narrowing the text amendment request as they did not know if the community would be open to having residential on the first floor anywhere in the commercial districts. He stated it is not actually spot zoning and it is being limited to where it can occur and the features the property needed to be eligible for that use. He described suggested limitations in terms of where that type of use could go. Chairman Bradley asked if there were any other properties in the C-2 General Retail District that would otherwise meet the relief such that they could apply for a special use. The Board Members discussed which areas would qualify. Mr. Schoon provided the Board with a further explanation of spot zoning . The Board Members discussed at length how the proposed text amendment would in effect apply only to one lot.

Chairman Bradley swore in those speaking to this matter. Paul Konstant and Heather Niehoff introduced themselves to the Board. Ms. Niehoff provided the Board with background in terms of the site interpretation and what they felt was appropriate with regard to the design and the rationale behind the case for the text amendment, special uses, and zoning variation. She described the site in the C-2 District as tricky and referred to the uses of the surrounding zoned parcels. She stated the proposed four story building would add vibrancy, vitality and support neighboring businesses and described the three bedroom, 3,400 square foot units and required parking. Ms. Niehoff further described the architecture and the site's difficulties as well as the vertical louvers. She described the neighboring buildings and their efforts in terms of being respectful of the surrounding neighbors.

Ms. Niehoff stated in terms of the proposed building's design, she referred to the proposed building's illustrations and the fact that subterranean parking would not be feasible due to the lack of width noting parking is required to be enclosed inside a residential building. She described how the courtyard would be aligned with that of the neighboring building and described the green roof and its amenities. Ms. Niehoff referred to various elevations which held the street wall and described the proposed landscaping, the green roof, recessed parking entry and the day/night views as well as other projects which used the screen wall element.

Ms. Niehoff stated with regard to the text amendment, it was important to provide the ability for the block to provide residential uses which they discussed with the Village in terms of how it should be worded as well as how to limit it in terms of possible future proposals. She described the block as a filter between purely residential districts to the west and buildings including multi-family to the east and represented how they proposed the text amendment be worded.

Ms. Niehoff stated the lot's width represented a hardship and reiterated the reasons for the difficulty in having a purely commercial building on the lot. She stated the elimination of retail on this site would not disrupt the block's continuity and that underground parking could possibly compromise the adjacent buildings' structure. Ms. Niehoff then referred to their response to the special use standards which they felt were met. She stated in connection with the front yard setback zoning variation, the parking garage entrance was set back for safety, security and vehicular and pedestrian safety. Mr. Konstant stated the way the building was designed created a fence between the two properties and served to mitigate the issues.

Chairman Bradley asked if there were any questions. Ms. Casale MacNally referred to the second floor green spaces and asked if they would be open to the building residents or would only be visual in nature. Mr. Konstant responded they would be visual. Ms. Casale MacNally asked how the residential lobby would be used and Mr. Konstant responded it would be used as a lounge space.

Chairman Bradley described the proposal as an elegant building and asked for clarification with regard to not being able to have underground parking. Ms. Niehoff and Mr. Konstant further described the inability in terms of installing a ramp down as well as the turning radius and having six spaces underground. Mr. Konstant noted they have received six commitments for the three proposed condominium units which would be priced between $1.5 and $2 million. Mr. Haller referred to the Design Review Board's comments relating to the vertical slats and asked if it was an essential part of the view and referred to the proposed material and whether or not they would consider using a wood tone. Mr. Konstant responded they considered different materials and decided on the proposed material. He said he would consider a wood tone but they have code requirements to consider. No additional questions were raised at this time.

Chairman Bradley asked for public comment and swore in those speaking to this matter. Bill Schermerhorn, building manager for both the 800 Oak and 812 Oak buildings, stated the development would be good for the community and commented the applicant did a beautiful job in considering the 812 Oak neighbor. He agreed the lot is challenging and the proposal was not completely thought through and specifically referred to their light shafts at 800 Oak where their views would be completely covered. Mr. Schermerhorn also referred to vents on the side of their building which need to be dealt with as well as the existing transformers, shed and curb cut in the front. He also referred to how water would flow with the buildings being so close together. Mr. Schermerhorn stated the drawings are not accurate and asked for these issues to be addressed.

Richard Myer, 812 Oak, stated they participated in the development process with different Boards and approval was given by a limited number of DRB members. He stated he is concerned with the approval of material which is specifically determined not acceptable in the Design Guidelines. Mr. Myer agreed the lot is complicated and required creativity and they have only received reasons and excuses in terms of getting a building built to extract value out of the lot as opposed to what the public is being asked to give up in connection with what they are supposed to preserve in terms of Village character. He concluded creativity is lacking on both sides with regard to the development.

Jennifer Coaker, 800 Oak, agreed with Mr. Schermerhorn's comments and stated she did not think the proposal would work and referred to the effect on their views. She also referred to the trees removed and lack of sunlight planned to be projected toward the proposed trees. Ms. Coaker stated the proposal would result in their building losing value and would have a significant effect on greenery as well as the effect of garbage bins and trucks in the rear. No additional comments were made at this time.

Mr. Konstant stated accommodations were made for trash removal at the rear of the building and with regard to ventilation, they would make accommodations for rerouting the vents. He stated for the light wells, there is not much that can be done in that regard and noted there would be enough light for the trees. Mr. Konstant then described the lot's history for the Board. Mr. Schoon also provided information relating to the lot's history. The Board Members and applicants further discussed the lot's zoning and history.

Chairman Bradley then called the matter in for discussion. He referred to the special use and text amendment and asked for the Board's comments. The Board Members discussed the text amendment. Mr. Schoon clarified the Board's role relating to the text amendment approval, its language and applicability to this lot and similar lots.

Chairman Bradley took a straw poll as to whether the Board would recommend a residential use inside of the C-2 General Retail Commercial District with specific language to be determined. The Board Members agreed they would be in favor. Chairman Bradley then stated with regard to the special use permit, he referred to the applicant's proposed language. A Board Member questioned whether the lot's width and length should be mentioned. Mr. Schoon suggested the following language and referred to Item 1, paragraph (5) on page 133: "Dwelling units at the ground floor less than 50 feet from the front street line in the C-2 General Retail Commercial District. The lot on which the dwelling units are located shall be no wider than 35 feet." The Board Members agreed with the suggested language. The Applicant indicated agreement.

Chairman Bradley then referred to the Board's review of the special use permit standards on page 133 (a)-(f) as well as the off-street parking and its compliance with the special use standards noting the applicant's testimony stated it is impossible to construct underground parking and the front yard setback variation. Ms. Hanley noted the injurious neighboring standard should be considered although a 4-story building in this district could be built by right and she otherwise did not have an issue with the special use request. Ms. Casale MacNally referred to the public comments and correspondence submitted and stated she has some concern with regard to standard (a) (public health and safety in the area) as well as standard (d). She then referred to the drainage issue raised by Mr. Schermerhorn. Chairman Bradley then referred to the zoning variation and asked for a motion to approve the amended text amendment language as stated earlier by Mr. Schoon, the special use permits, and the front yard setback. A motion to recommend approval of the applicant's request with the amended text amendment language stated earlier by Mr. Schoon was made by Ms. Hanley and seconded by Ms. Casale MacNally. A vote was taken and the motion unanimously passed, 6 to 0:

AYES: Bradley, Haller, Hanley, Casale MacNally, Nielsen, Vender
NAYS: None

New Business:

a. December 11, 2023, Regular Meeting - Quorum Check.

Mr. Schoon stated there are no items scheduled for the December 11 meeting, so a quorum check was unnecessary.

Public Comments:
No comments were made at this time.

Adjournment:
Chairman Bradley asked for a motion to adjourn. A motion to adjourn was made and seconded. A vote was taken and the motion unanimously passed, 6 to 0:

AYES: Bradley, Haller, Hanley, Casale MacNally, Nielsen, Vender
NAYS: None

The meeting adjourned at 10:05 p.m.

Respectfully submitted,

Antionette Johnson
Recording Secretary