

A G E N D A

ZONING BOARD OF APPEALS
of the
VILLAGE OF LA GRANGE

Village Hall 1st Floor Conference Room

53 S. La Grange Road, La Grange, IL

Thursday, September 16, 2010 - 7:30 p.m.

1. Call to Order and Roll Call of the Zoning Board of Appeals
2. Approval of Minutes – May 13, 2010
3. Business at Hand:

ZBA CASE #589 – Chris T. Ryan, 21-23 S. 7th Avenue, to consider a variation from Subparagraph 3-110C1 (Required Front Yard) and Subparagraph 9-101-C4(c)(iii) (Maximum Allowable Gross Floor Area of a Detached Garage) in order to permit the construction of a detached garage within the R-5 Single Family Residential District.

ZBA CASE #590 – Chris and Kelly Wall, 141 S. Waiola Avenue, to consider a variation from Subparagraphs 3-110C (Minimum Yards), 3-110G9 (Side and Rear Yard Regulations for Accessory Uses and Structures), 3-110A (Height) and 3-110G1 (Height Limitations for Accessory Structures) in order to permit the construction of a detached garage within the R-4 Single Family Residential District.

4. Old Business
5. New Business
6. Adjournment

(Commissioners: Please call (708) 579-2320 to confirm your attendance.)

Individuals with disabilities and who require certain accommodations to participate at this meeting are requested to contact the ADA Coordinator at 579-2315, to allow the Village to make reasonable accommodations.

STAFF REPORT

CASE: ZBA #589 – Chris T. Ryan, 21-23 S. Seventh Avenue - Required Front Yard and Maximum Gross Floor Area of a Detached Garage

BACKGROUND

(Note: This Staff Report is solely based on information presented in the application and on a physical inspection of subject property and environs, and is not influenced by any other circumstance.)

The petitioner, Chris Ryan, wishes to construct a new 33 feet wide by 20 feet deep (660 square feet) three-car detached garage that would replace a three-car garage that was demolished within the last year due to its poor condition. The previous garage was 686 square-feet and located on the rear portion of the subject property, 21-23 S. Seventh Avenue. The property is a through lot; therefore it has two front yards (Seventh and Bluff) and no rear yard. The proposed new garage would have access off Bluff Avenue, whereas the original garage had access from Seventh Avenue. Construction of the new detached garage, as proposed, requires two variations: (1) Required front yard, and (2) Maximum gross floor area.

According to the Zoning Code, garages are not permitted within the front yard. Therefore, a building permit could not be issued for the detached garage in the same location as the previous non-conforming garage. The petitioner seeks a variation of 25 feet from Paragraph 3-110C1 (Required Front Yard) of the Zoning Code to maintain the setback of 0 feet at the closest point to Bluff Avenue. Subparagraph 14-303E1 (a) (Authorized Variations) allows the reduction of any required yard setback. The requested variation falls within the authorized limits of the Zoning Code.

The subject property's lot area is 7,021 square feet. The maximum allowable floor area of garages on lots of this size (between 6,501 to 10,000 square feet in total lot area) in any single-family residential district is 600 square ft. The petitioner proposes a 660 square-foot garage. A building permit could not be issued, because the garage would exceed the allowable floor area by 60 square feet or 10%. Subparagraph 14-303E1 (o) (Authorized Variations) allows the increase of the allowable gross floor area of a detached garage accessory to a single family dwelling by not more than 10%. The requested variation falls within the authorized limits of the Zoning Code.

VARIATION STANDARDS

General Standard - "No variation shall be granted pursuant to this Section unless the applicant shall establish that carrying out the strict letter of the provisions of this Code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this Subsection."

The subject property is a through lot—it has two front yards and no rear yard. Detached garages are not permitted within the required front yard per our zoning requirements. The required front yard for this property is 25 feet; if the garage were located the required distance from the property line on Bluff Avenue, it would be approximately 5 feet from the house. Village zoning and building code regulations require a setback of 10 feet between principal and accessory structures. Therefore, there is no possible location on the property for a detached garage. In addition, this property is a legal

non-conforming two flat. According to the petitioner, the two-unit building necessitates a larger garage to park vehicles from two residences.

Unique Physical Condition - *"The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot."*

This zoning lot is atypical with frontage on two streets – Seventh and Bluff Streets. Also unique is the legal non-conforming two-flat located within a single-family district. The previous, recently demolished detached garage was 686 square feet, which is larger than the proposed 660 square feet.

Not Self-Created - *"The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid."*

The original two-flat and parking area location have been in place since approximately the late 1910s or early 1920s. The petitioner has not altered the number of units or the location of the parking area.

Denied Substantial Rights - *"The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision."*

The location and size of the proposed garage would be consistent with other garages that face Bluff Avenue. Since Bluff Avenue is at an angle, the 0-foot setback would apply only to the northeast corner of the garage.

Not Merely Special Privilege - *"The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation."*

Due to the unique condition of through lots, several other similar variances have been granted throughout the Village, and neighboring through lots on this block have detached garages similarly situated. The maximum allowable gross floor area for a detached garage on properties similar in size to the petitioner's property is 600 square feet. According to the petitioner, the proposed 660 square feet garage is not a special privilege. Several properties in the immediate neighborhood also have legal non-conforming garages that exceed the current standards for allowable size.

Code and Plan Purposes - *"The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code*

and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan."

The petitioner does not have a rear yard; therefore, without the variation, a detached garage would not be permitted on this property. The variation from the Code is necessary to construct any garage on this property. This proposal would significantly increase the amount of green space on the property by eliminating the driveway to change the access from Seventh Avenue to Bluff Avenue. Increasing green space was a goal of the Village in adopting a lot coverage (impervious surface) limitation in 2007. In addition, the size of the garage is necessary to accommodate a two unit building that is located directly across the street from a multiple family district in close proximity to the Village's core retail district.

Essential Character of the Area - "The variation would not result in a use or development on the subject property that:

- a. Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or***
- b. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or***
- c. Would substantially increase congestion in the public streets due to traffic or parking; or***
- d. Would unduly increase the danger of flood or fire; or***
- e. Would unduly tax public utilities and facilitates in the area; or***
- f. Would endanger the public health or safety."***

According to the petitioner, granting the requested variation would not adversely affect the character of the neighborhood. The proposed garage would be consistent with the location of the adjacent properties' detached garages, and contribute positively to the neighborhood character by replacing a dilapidated parking area with a suitable garage in the same location. The immediate surrounding area has several two-unit buildings and is located directly across the street from the R-8 multiple family residential district in close proximity to the Village's C-1 Central Commercial District.

No Other Remedy - "There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property."

Due to the configuration of the property as a through lot with no rear yard, a detached garage would not be permitted in any location on the property. A variation from front yard requirements is the only means to construct a new garage that would meet the distance requirements from the principal structure, the two flat.

The only option for the size of the garage would be construction of a new three car detached garage as large as 600 square feet. However, the proposed garage is smaller than the original garage; and the petitioner has stated that the allowable garage size is not sufficient to serve the existing two flat.

STAFF REPORT

CASE: ZBA #590 – Chris and Kelly Wall -141 S. Waiola Avenue - Maximum Height and Side & Rear Yard Regulations for a Detached Garage

BACKGROUND

(Note: This Staff Report is solely based on information presented in the application and on a physical inspection of subject property and environs, and is not influenced by any other circumstance.)

In June of this year, the petitioners, Chris and Kelly Wall, applied for a building permit to demolish an existing 22.25 feet by 24.12 feet (approx. 540 square feet) detached garage and replace the structure with a new 25 feet by 25 feet (650 square-foot) detached garage that resembles more closely the architecture of their historic house constructed in 1899-1900. A building permit could not be issued, because the mean height, measured to the midpoint of the two-story dormer bay roof on the west elevation measured 18 feet – exceeding the mean height of 15 feet by 3 feet. The petitioners seek a variation from Subsection 3-110A (Height) and Paragraph 3-110G1 (Height Limitation for Accessory Structures) of the Zoning Code in order to construct the detached garage. Subparagraph 14-303E1 (p) (Authorized Variations) allows an increase in the height of a detached garage accessory to a single family dwelling by no more than 3 feet. The requested variation falls within the authorized limits of the Zoning Code.

In addition, one condition of any variation from garage height is that the “*garage is set back not less than one foot further from the lot lines than the distances required by Subsection 3-110C or any other provision of this Code for every additional foot of height, or fraction thereof, for which a variation is granted.*” With this request for an increase in height of 3 feet, the new required setbacks from side and rear lot lines would be 6 feet. However, due to the protection of a mature tree in their yard, the petitioners’ propose to locate the new garage in the same location as the existing garage – three feet from both property lines. The petitioners seek a variation from Subsection 3-110C (Minimum Yards) and Paragraph 3-110-G9 (Side and Rear Yard Regulations for Accessory Structures) of the Zoning Code. The detached garage would encroach into the required side yard setback by 3 ft. Subparagraph 14-303E1 (a) (Authorized Variations) allows the reduction of any required yard setback. The requested variation falls within the authorized limits of the Zoning Code.

I. VARIATION STANDARDS - GARAGE HEIGHT:

Beginning in August 2008, the Plan Commission held public hearings and in December 2008, the Village Board established a new variation to authorize increases in height for detached garages, with the following standards:

Not Merely Special Privilege - *"The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation."*

The petitioners believe that the proposed garage height is not a special privilege since the only feature exceeding mean height is the 18-ft. two-story dormer bay structure. They have examined several design alternatives in order to create a design that replicates this specific architectural feature of their historic home.

Code and Plan Purposes - *"The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan."*

In 1999, the Village Board adopted amendments including the addition of a maximum absolute height regulation for a garage of 19 feet. At that time, authority to obtain a variance from height was not contemplated. Recently, in 2008 the Village adopted a text amendment to the Zoning Code granting variation authority to construct a garage that would be taller than the allowable height with new standards and several conditions.

Essential Character of the Area - *"The variation would not result in a use or development on the subject property that:*

- a. *Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or*
- b. *Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or*
- c. *Would substantially increase congestion in the public streets due to traffic or parking; or*
- d. *Would unduly increase the danger of flood or fire; or*
- e. *Would unduly tax public utilities and facilitates in the area; or*
- f. *Would endanger the public health or safety."*

According to the petitioners, granting the requested variation would not adversely affect the character of the neighborhood. This proposal would bring the property closer to the original design and would be consistent with the historic character of the property.

Historical Significance - *"The single family dwelling to which the garage is accessory is established, by historical documentation, to be historic and to have distinct, historic architectural features, and the garage, with a height variation, can and will be built with a faithful re-creation of those features."*

The petitioners' home was constructed in 1899-1900 and the house has been maintained to its original architectural characteristics. The intent of the petitioners is to adhere to key architectural and historic features of the house as well as historic elements of design such as carriage-style garage doors. The height variation applies only to the historic dormer bay element of the garage.

Setbacks - *"The garage is set back not less than one foot further from the lot lines than the distances required by Subsection 3-110C or any other provision of this Code for every additional foot of height, or fraction thereof, for which a variation is granted."*

As proposed, the petitioners have requested a 3 feet increase in height. Therefore, the required setbacks (3 feet) would be increased by 3 feet to 6 feet from the side and rear lot lines. The proposed plans indicate setbacks of 3 feet. In order to grant this variation, the petitioners would have to be granted a second variation from setback requirements (see Section II below).

LIMITATIONS AND CONDITIONS:

In addition to the variation standards, every variation granted from garage height is subject to all of the following limitations and conditions:

- (1) *“No variation may exceed three feet in height (to a total height of 18 feet) or three feet in maximum height (to a total maximum height of 22 feet).”*

The proposed garage would be 18 feet to the mean height and 19 feet maximum height, which is less than the maximum allowable.

- (2) *“No garage, whether attached or detached, is allowed on the subject property except the detached garage for which the variation is granted.”*
- (3) *“The second level of the garage may not be occupied as a dwelling unit at any time.”*
- (4) *“No stove, range, cook top, or similar installed cooking equipment is permitted on the second level of the garage. This limitation does not prohibit use of a countertop microwave oven, toaster oven, toaster, or similar device.”*
- (5) *“The variation may be granted only for a specific design of the garage satisfying the historic design standard above, and the garage must be built in strict compliance with that design.”*
- (6) *“The property owner must execute and record a declaration of covenants and restrictions on the subject property permanently limiting the use of the second level of the garage as provided in a form satisfactory to the Village Manager, before the variation becomes effective.”*

The petitioners have agreed to all of the above conditions.

II. VARIATION STANDARDS – SIDE AND REAR YARD REGULATIONS:

General Standard - *“No variation shall be granted pursuant to this Section unless the applicant shall establish that carrying out the strict letter of the provisions of this Code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this Subsection.”*

According to the Zoning Code, detached garages must be setback three feet from the property lines. The petitioners propose a setback of three feet. However, because they wish to exceed the mean height limitations by three feet, they are required an additional three feet for both rear and side yard setbacks. Due to the location of an existing tree and the proximity to their house, they believe it is not possible to meet the required setbacks.

Unique Physical Condition - *"The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot."*

This zoning lot measures 75 ft. wide by 135.90 ft. deep. This lot is larger than most single lots in the R-4 Single Family Residential zoning district. Typical lots measure 50 ft. wide.

Not Self-Created - *"The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid."*

The petitioners would like to recreate a detached garage that closely resembles the original design of their historic house. However, this proposal for a new garage requires increased setbacks.

Denied Substantial Rights - *"The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision."*

The petitioners wish to enjoy the same rights as the neighbors and other village residents. They believe a garage in this location is a right enjoyed by many residents in La Grange for automobiles and storage.

Not Merely Special Privilege - *"The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the use of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation."*

The petitioners seek to construct a detached garage, which would be similar in size to many garages in La Grange. The proposed garage would be smaller than the maximum allowable gross floor area of 660 square feet for a garage on a zoning lot similar to the petitioner's property.

Code and Plan Purposes - *"The variation would not result in a use or development of the subject property that would be not in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan."*

In 1999, at the Village Board's request, the Plan Commission held workshops and public hearings to address concerns related to the bulk and height of garages. As a result, the Village Board established a new maximum height for detached garages of 19 feet. The proposed garage would not exceed this standard, which was intended to limit the bulk of structures located in close proximity (minimum

setback of 3 feet) from neighboring properties. The feature of the detached garage requiring variation from mean height would not exceed the 19-foot maximum height requirements and would not be adjacent to neighboring properties; rather it is located on the side of the garage that faces their house.

Essential Character of the Area - *"The variation would not result in a use or development on the subject property that:*

- a. *Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity; or*
- b. *Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity; or*
- c. *Would substantially increase congestion in the public streets due to traffic or parking; or*
- d. *Would unduly increase the danger of flood or fire; or*
- e. *Would unduly tax public utilities and facilities in the area; or*
- f. *Would endanger the public health or safety."*

According to the petitioners, granting the requested variation would not adversely affect the character of the neighborhood. In fact, this proposal would bring the property closer to the original historic design and would be consistent with the historic character of the property.

No Other Remedy - *"There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property."*

Remedies for a new detached garage on the subject property would include, among other options: (1) construction of a new detached garage without two-story dormer-like feature, and (2) locating the newly proposed garage six feet from the property lines. However, the petitioners have stated that the allowable garage height would not allow a design that replicates the original historic features of the house. The petitioners with their architect have critically looked at the proportions and design elements, and they feel that scaling down the height of the dormer bay feature would not allow adequate height and proportions. According to the petitioners, moving the detached garage three feet to the south and west would not be possible due to the location of an existing mature tree and the proximity to the house –with the required 6 ft. setback, the petitioners’ garage would be only 15 feet from the house making access difficult.