

VILLAGE OF GLENCOE
ZONING BOARD OF APPEALS

REGULAR MEETING
November 3, 2014

1. CALL TO ORDER

A meeting of the Zoning Board of Appeals of the Village of Glencoe was called to order at 7:30 P.M. Monday, November 3, 2014 in the Council Chamber of the Village Hall, Glencoe, Illinois.

2. ROLL CALL.

The following were present:

Howard Roin, Chair

Members: Deborah Carlson, Trent Cornell (left meeting at 7:52 p.m.),
Ed Goodale, David Friedman, Jim Nyeste and Steve Ross

The following were absent:

None.

The following Village staff were also present:

John Houde, Building and Zoning Administrator

Steven Elrod, Village Attorney

Stewart Weiss, Assistant Village Attorney

3. APPROVAL OF SEPTEMBER 8, 2014 MINUTES.

The minutes of the September 8, 2014 meeting were approved by unanimous voice vote.

4. APPROVE SKOKIE COUNTRY CLUB APPEAL AT 500 WASHINGTON.

The Chair stated that the purpose of this portion of the meeting was to continue a public hearing on the appeal by Skokie County Club of a decision by the Building & Zoning Administrator in denying a permit to construct a new in-ground swimming pool and two pool structures on the Grove Street side of their clubhouse property at 500 Washington. The existing pool and pool structures would be demolished. The proposed requires a 20% reduction in the required Grove Street building line setback from 40 feet to 32 feet. This variation is authorized by section 7-403-E-1-(a) of Zoning Code.

The Chair reported that notice of the public hearing was published in the October 16, 2014 GLENCOE NEWS and 8 neighbors were notified of the public hearing by mail and that no letters had been received. There had been one telephone inquiry on the proposal to review the location details. The Chair then swore in this in attendance who were expecting to testify.

SUMMARY OF TESTIMONY

The Chairman asked Brett Bunke of Booth Hansen, Chicago to proceed. Also present was Mike Paleczny, Skokie CC, Vice president; Chuck Scupham, General Manager; and Neil Luken, Consultant. Mr Burke noted:

1. The existing facilities are outdated and insufficient in size to accommodate the club's current needs.
2. The existing pool facility footprint is limited for expansion to the north by original non-conforming tennis courts, on the west by the location of the 1910 clubhouse, and on the south by the golf course. There is no other location on the property to allow the relocation of the pool facilities in close proximity to the clubhouse.
3. Skokie Country Club is at a competitive disadvantage with other neighboring clubs which have much larger pool facilities which is a major recruiting element for nearly all clubs.
4. A large elm tree southeast of the south pool structure is intended to be preserved.

The Chair made part of the record, as additional testimony the Agenda Supplement which the Secretary was directed to preserve as part of the record in this matter.

Following consideration of the testimony and discussion, a motion was made and seconded, that the request for a variance in the Grove Street setback be granted per the drawings presented, making findings and resolving as follows:

FINDINGS

1. The requested variation is within the jurisdiction of the Zoning Board of Appeals.
2. Based on the totality of the relevant and persuasive testimony heard and presented, the Zoning Board determines that:
 - a. The requested variation is in harmony with general purpose and intent of the Glencoe Zoning Code.
 - b. There are practical difficulties and there is a particular hardship in the way of carrying out the strict letter of Section 7-403-E-1-(a) of the Glencoe Zoning Code as applied to the lot in question.
 - c. The plight of the owner is due to unique circumstances.
 - d. The requested variation will not alter the essential character of the locality.
 - e. The requested variation will not set a precedent unfavorable to the neighborhood or to the Village as a whole.
 - f. The spirit of the Zoning Code will be observed, public safety and welfare

will be secured, and substantial justice will be done if the requested variation is granted.

RESOLUTION

NOW THEREFORE BE IT RESOLVED that the request for a 20% reduction in the required Grove Street setback from 40 feet to 32 feet for the property at 500 Washington be granted as shown in the drawings or plans submitted by the owner and made part of the record and with the previously noted conditions.

BE IT FURTHER RESOLVED that the decision of the Building and Zoning Administrator is hereby reversed insofar as he denied the issuance of a building permit on the aforesaid property for the aforesaid construction;

BE IT FURTHER RESOLVED that this variation shall expire and be of no further force or effect at the end of twelve (12) months unless during said twelve-month period a building permit is issued and construction begun and diligently pursued to completion; and

BE IT FURTHER RESOLVED that this resolution shall be spread upon the records of the Board and shall become a public record.

Adopted by the Zoning Board of Appeals as follows:

AYES: Carlson, Cornell, Friedman, Ross and Roin (5)


NAYS: Goodale and Nyeste (2)

ABSENT: None (0)

5. VILLAGE ATTORNEY EDUCATIONAL REVIEW SESSION ON STANDARDS FOR VARIATIONS IN THE ZONING CODE.

Village Attorney Steven Elrod and Assistant Village Attorney, Stewart Weiss, presented a power point presentation titled Zoning Variation Standards: "Practical Difficulties and Particular Hardships." A copy of the power point pages is attached.

There being no further business to come before the Zoning Board of Appeals the meeting was adjourned at 9:15 P.M.


Secretary

Holland & Knight

Zoning Variation Standards
"Practical Difficulties and Particular Hardships"

The Village of Glencoe
Zoning Board of Appeals

Steven M. Elrod
Stewart J. Weiss

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	Variations Under Illinois Law
	<p>Variations are authorized "in cases where there are <i>practical difficulties or particular hardship</i> in the way of carrying out the strict letter of any of those regulations relating to the use, construction, or alteration of building or structures or the use of land."</p> <p>65 ILCS 5/11-13-5 (emphasis added).</p> <p>Holland & Knight</p>

Variations Under Illinois Law

Evidence must be presented by applicant that:

- (1) the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone; and
- (2) the plight of the owner is due to unique circumstances; and
- (3) the variation, if granted, will not alter the essential character of the locality.

65 ILCS 5/11-13-4

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Variations Under Glencoe's Code

Section 7-403 B: The Zoning Board of Appeals may grant variations to "provide a narrowly circumscribed means by which relief may be granted from particular applications of this Code that create practical difficulties or particular hardships for which no other remedy is available."

Section 7-403 E: Only certain variations are authorized

- No use variations permitted

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As a non-home rule municipality, Glencoe has to follow State statutes and court cases.

Glencoe's Standards for Variations

Section 7-403 F (Six Standards Derived from 11-13-4)

- 1) Strict application of Zoning Code would create "particular hardship" or "practical difficulty"
- 2) Subject property has unique physical condition compared to other lots subject to Zoning Code arising from existing use, structure, sign, or exceptional topographical features
 - More than a "mere inconvenience"
 - Not arising from personal situation of current owner of lot"Community Variation" - strict application would harm physical, historical, or architectural features that have exceptional relevance to community as whole
 - Certified landmark or honorary status qualify

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Glencoe's Standards for Variations

Section 7-403 F (Cont'd)

- 3) Need for variation not self-created.
 - Unique physical condition not result of owner's actions/inaction OR those of prior owners IF current owner knew about condition prior to purchase.
- 4) Variation will not grant owner a special privilege or right that similarly situated property cannot also enjoy.
 - Inability to maximize return on investment is not a particular hardship
- 5) Variation will not cause development that is in conflict with purposes and goals of Zoning Code
- 6) Variation will not be detrimental to public welfare or surrounding properties and area

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Burden of Proof

The Applicant must prove:

- The strict application of the Zoning Code creates a practical difficulty or particular hardship
- All standards in Section 7-403 F of the Zoning Code have been met
- Fact specific determination made on case-by-case basis

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Hardship Issues of Note

- **Disability:** ADA and FHA – “Reasonable Accommodation” may be appropriate
 - So long as accommodation does not (i) unduly burden Village financially or administratively or (ii) undermine purpose of Zoning Code.
 - Village not required to provide all of relief requested, just enough to accommodate disability
- **Off-Premises Hardships:** Strict application would be detrimental to surrounding properties or community at large
 - Embodied in Village’s “Community Variation”
- **Self Created:** What constitutes a “self-created” need for variation?
 - Actions of predecessor owner

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	Hardship Issues of Note Cont'd
	<ul style="list-style-type: none">• Economic Obsolescence• The "No Objection" Variation Application <p data-bbox="462 913 682 955">Holland & Knight</p>

- Economic Obsolescence
- The "No Objection" Variation Application

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Hardship and Precedent

- Each case fact-based analysis
- Standard of review favors ZBA so long as decision based on evidence

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