

**City of Prospect Heights
Plan/Zoning Board of Appeals
April 27, 2017**

I. MEETING COMMENCEMENT:

The regular meeting of the Plan/Zoning Board of Appeals was called to order at 7:00 pm by Commissioner Roscoe, at City Hall, 8 N. Elmhurst Road, in Prospect Heights, Illinois.

Commissioner Tammen made a motion to appoint Commissioner Roscoe as Chairman Pro-tem in Chairman Dash's absence. Motion Second by Commissioner Frank-Watson
Voice Vote: approved

II. ROLL CALL:

Present: Commissioners Frank-Watson, DeGraf, Patel, Roscoe, Tammen and
Kempa

Absent: Chairman Dash with prior notice

Present at the meeting: Asst. Director of Building & Development Darrell Taylor.
Recording Secretary Jennifer Myzia

III. APPROVAL OF March 23, 2017 MINUTES

Motion made by Commissioner DeGraf, seconded by Commissioner Tammen, to approve the meeting minutes.

ROLL CALL VOTE:

AYES: Commissioners Frank-Watson, DeGraf, Patel, Tammen and Kempa and
Chairman Pro-tem Roscoe

NAYS: None

ABSENT: Chairman Dash

ABSTAIN:

Motion carried.

IV. OLD BUSINESS – None

V. NEW BUSINESS

Motion by Commissioner Roscoe to change order of tonight's meeting to the following:

1. ZBA 17-05SU, Reuben Aviles, Lucky Seven Café
2. ZBA 17-06V, Joe Pascucci

Motion made by Commissioner Frank-Watson, seconded by Commissioner Tammen, to approve the meeting structure.

ROLL CALL VOTE:

AYES: Commissioners Frank-Watson, DeGraf, Patel, Tammen and Kempa and
Chairman Pro-tem Roscoe

NAYS:

ABSENT: Chairman Dash

ABSTAIN:
Motion carried.

1. PZBA – Zoning Public Hearing: Case No. ZBA-17-05SU

Applicant: Rueben Aviles, Lucky Seven Café

Address: 1513 E Thayer, Mt. Prospect, IL 60056.

Description of Requests:

- A. Consideration of special use permit for a 950 sq. ft. sit down restaurant in the B-1 Retail Business District per Section 5-7-2 C of the Zoning Ordinance, for the property commonly known as 5 S. Wolf Road, Prospect Heights, IL 60070

Motion made to open public hearing #17-05SU by Commissioner DeGraf, seconded by Commissioner Tammen at 7:03 p.m.

ROLL CALL VOTE:

AYES: Commissioners Frank-Watson, DeGraf, Patel, Tammen and Kempa and Chairman Pro-tem Roscoe

NAYS:

ABSENT: Chairman Dash

ABSTAIN:

Motion carried.

Chairman Pro-tem Roscoe swears in Reuben Aviles to speak.

Mr. Aviles asked for a continuance due to needed to provide more information and support and noted for the record a name change to Reuben's Bar & Grill due to copyright of the Lucky Seven gambling machine.

Chairman Pro-tem Roscoe called for a motion for continuance at 7:05pm for PZBA Case No ZBA-17-05SU to PZBA meeting Thursday May 25, 2017

Motion by Commissioner Frank-Watson

Seconded by Commissioner Kempa

Roll Call Vote

AYES: Commissioners Frank-Watson, DeGraf, Patel, Tammen and Kempa and Chairman Pro-tem Roscoe

NAYS:

ABSENT: Chairman Dash

ABSTAIN:

Motion carried.

2. PZBA – Zoning Public Hearing: Case No. ZBA-17-06V

Applicant: Joe Pascucci,

Address: 697 Glendale Drive, Prospect Heights, IL 60070

Description of Request:

- A. Applicant originally applied for a variation to encroach 13' into the required 15' side yard setback for the purposes of constructing a 3rd car bay onto his primary structure to store his work truck per Section 5-6-1E2 of the City of Prospect Heights Zoning Code. The application has been amended to request a variation to encroach 3' into the required 5' side yard setback for the purpose of constructing a driveway in the required side yard to access his rear yard so he can construct a detached garage per Section 5-6-2E2a

Motion made to open public hearing #17-06V by Commissioner DeGraf, seconded by Commissioner Frank-Watson at 7:07 p.m.

ROLL CALL VOTE:

AYES: Commissioners Tammen, Frank-Watson, DeGraf, Patel and Kempa and Chairman Pro-tem Roscoe

NAYS:

ABSENT: Chairman Dash

ABSTAIN:

Motion carried.

Chairman Pro-tem Roscoe swears in Joe Pascucci to speak.

Mr. Pascucci asked for a continuance due to needing to submit more information and figuring out details with the City of Prospect Heights.

Asst. Director Taylor states more information is needed including but not limited to location and flood plain, etc.

Chairman Pro-tem Roscoe called for a motion for continuance at 7:09 pm for PZBA Case No ZBA-17-06V to PZBA meeting Thursday May 25, 2017

Motion by Commissioner DeGraf
Seconded by Commissioner Kempa
Roll Call Vote

AYES: Commissioners Frank-Watson, DeGraf, Patel, Tammen and Kempa and Chairman Pro-tem Roscoe

NAYS:

ABSENT: Chairman Dash

ABSTAIN:

Motion carried.

3. PZBA – Zoning Public Hearing: Case No. ZBA-17-04

Applicant: Joseph Papanicholas

Address: 1201-1209 N Drury Lane, Arlington Heights, IL 60004

Description of Request:

- A. The applicant has purchased the property at 1209 N. Drury Lane and legally demolished the old structure on the property. The applicant is applying for a plat of consolidation/subdivision to combine the lots into a single lot so he can legally construct an in ground pool and accessory structure on his lot. City Ordinance prohibits accessory structures to be constructed on a lot without a primary structure.

Chairman Pro-tem Roscoe open public meeting #17-04 by
Chairman Pro-tem Roscoe, no vote needed as this is a public meeting not a hearing at
7:10 p.m.

Chairman Pro-tem Roscoe swears in Joseph Papanicholas of 1201 n Drury Lane
Arlington Heights, IL

Mr. Papanicholas states he is in attendance to request the consolidation of lots 1201 &
1209 N. Drury Lane.

Chairman Pro-tem Roscoe confirms the goal is to make these lots one property not
divisible in the future.

Mr. Papanicholas confirms that is correct at this time.

Asst. Director Taylor states this request meets all requirements.

Chairman Pro-tem Roscoe requests a motion to approve the lot consolidation for ZBA
17-04.

Motion by Commissioner Tammen

Seconded by Commissioner DeGraf

Roll Call Vote

AYES: Commissioners Frank-Watson, DeGraf, Patel, Tammen and Kempa and
Chairman Pro-tem Roscoe

NAYS:

ABSENT: Chairman Dash

ABSTAIN:

Motion carried.

Public meeting closed at 7:12 pm

4. PZBA – Zoning Public Hearing: Case No. ZBA-17-04V

Applicant: Joseph Papanicholas

Address: 1201-1209 N Drury Lane, Arlington Heights, IL 60004

Description of Request:

- A. The applicant is requesting a variation to allow the maximum height of an accessory structure (pool house) to be 27' 1" above grade which is higher than the 15' maximum height permitted by Section 5-3-9 D of the City of Prospect Heights Zoning Code.

This is an amended request as the original request was published and noticed for a 25'1" heights.

Chairman Pro-tem Roscoe enters a few items into the record

- Item #1 - completed application
- Item #2 – subdivision and plats
- Item #3 – hardship letter
- Item #4 – elevations

- Item #5 – site plans
- Item #6 – modified variation request letter
- Item #7 – elevations (again)
- Item #8 – proof of notice
- Item #9 – zoning review from Director Peterson

Chairman Pro-tem Roscoe confirms receipt of green cards to the file.

Motion made to open public hearing #17-04V by Commissioner Tammen, seconded by Commissioner DeGraf at 7:13 p.m.

Chairman Pro-tem Roscoe has asked Mr. Papanicholas to speak about what he would like to do and notes that Mr. Papanicholas has already been sworn in.

Mr. Papanicholas since the lots have been consolidated Mr. Papanicholas would like to asked for a variance on the 15' max height requirement for an accessory structure for two reasons;

- #1 – no that there is another 100x266 worth of land Mr. Papanicholas would like to appropriately fill that space with one structure set back about 150 ft from the roadway.
- #2 – design something that is in scale with the main home.

Chairman Pro-tem Roscoe asked if anyone in the audience would like to speak that they come forward and state name and address for the record. No one speaks and therefore the discussion is brought back to the commissioners.

Commissioner Patel asks Mr. Papanicholas what his plans are for the utilities between the two buildings including the well.

Mr. Papanicholas responds that the accessory structure (pool house) will have all of it's own utilities and none will be coming from the main/existing structure at 1201 N Drury.

Commissioner Patel asks if a fence will be put around the house.

Mr. Papanicholas responds there will be a fence, the fence will be modified around 1201 and continued around 1209.

Commissioner DeGraf comments on the height of the structure that after taking a look at the property and the set back of the structure that he agrees it does need to match the house and is in agreement with the height of the structure. Commissioner DeGraf directs a question to Asst. Director Taylor when the Code requires for an additional out building such as a garage or a pool house in this case for a normal half acre lot it would be 720, since Mr. Papanicholas is consolidating the lots and has over an acre and a half now there is a provision in there for an additional 400 which would be at 1120. The pool house which I did quick calculations on is coming up at 1320 so it is maxing the property out.

Asst. Director Taylor states the pool house is maxing the property out and there will be no additional structures, pavement, or anything that can be added to that lot. You could not get another shed. You could not get another sidewalk. You couldn't get any covered surface area so at that point there is no leeway.

Chairman Pro-tem Roscoe states his calculations were just under 1200 based on what he saw.

Mr. Papanicholas states it is approximately 30x34.

Chairman Pro-tem Roscoe states the height is something that he is concerned about. He understands the height of the main house. After looking at the drawings the 25' original seemed a little high and an additional two feet in his mind no one will notice an additional two feet. 27' over 15' is 12' higher than what you would normally expect to see there.

Commissioner Patel points out that when this structure has been completed built it will look like a separate house. However Commissioner Patel states that with the height of the main residence the pool house would not see a house of 15' high and in relation to the main house it will look proportionate. The pool house being 27' vs. 15' high will be aesthetically more pleasing since it will appear as a separate structure and go along with the development of the area.

Commissioner Frank-Watson states that even though this is a beautiful plan her concern is that this is an accessory structure. It is not a single family home. The ordinance is designed to protect the residential neighborhoods for this very reason. In looking over the standards for variation, Commissioner Frank-Watson is having difficulties comprehending how Mr. Papanicholas meets the standard of the hardship requirement. The variance should be granted only when the ordinance would create an unnecessary hardship in order to obtain the variance you must show the following,

- #1 – the hardship would result from strict application of our ordinance
- #2 – the hardship would result from conditions peculiar to the property
- #3 – the hardship is not a self-created hardship

In this situation Commissioner Frank-Watson does not see how Mr. Papanicholas has met these standards. She does understand that Mr. Papanicholas desires curb appeal and has a much larger home than the surrounding homes and would like the accessory building to match and fill in the space unfortunately by allowing such a significant variance, Commissioner Frank-Watson feels the board would be undermining the ordinance and what it has been designed to protect and therefore will not be able to approve the 12'1" variance but would be willing to approve something less than that but feels approval of this would water down what this ordinance has been created to protect and is looking to come to a compromise.

Commissioner Patel states he feels the ordinance was created to keep an accessory structure from being taller than the actual main structure of a property. This is a special situation in which the accessory structure will look like its own residence.

Mr. Papanicholas states that with as far set back as it will be and the height that it is 150' back from the road and the angle you may only see about eight feet of the structure.

Commissioner Kempa states he feels the scale of the building is right and proportionate. The top of the roof is 22' which is 7' over 15', the accessory on top makes it beautiful in his opinion. The balance and scale of the building is nice.

Commissioner DeGraf states that since the lot is going to be consolidated theoretically Mr. Papanicholas could put a permanent structure and from the main house to the pool house he could officially go to 30' so at this point it really doesn't matter but

Commissioner DeGraf agrees the pool house would look dwarfed on the single lot if it was lower.

Chairman Pro-tem Roscoe points out that normally the primary structure would not be five feet off the property line and this is right at the property line and the neighbor on the north needs to be taken into consideration.

Chairman Pro-tem Roscoe asks Mr. Papanicholas what his plans are for lighting. Chairman Pro-tem Roscoe introduces himself as one of Mr. Papanicholas' neighbors even though they have not previously met. Chairman Pro-tem Roscoe states that the lighting on the sporting court is apparent to the neighborhood and assumes no one has ever come up and approached you about the lights.

Mr. Papanicholas states there will be no lighting like the sport court in the pool area. There will be accent lighting at night for safety.

Chairman Pro-tem Roscoe asks Mr. Papanicholas to consider doing something about the lighting as there is a lot of spill over into the neighborhood. That with the LED fixtures in place a light shield would be a consideration.

Mr. Papanicholas states the design of the lights was for the court but will look into shielding the spillover of lighting.

Chairman Pro-tem Roscoe brings up the retaining wall is a concern of his. The retaining wall will be located on the street side and the concern is that the retaining wall is building up the foundation and the structure would be even higher.

Mr. Papanicholas states there are two retaining walls as a product of the existing grade that is there. The original intent at 1021 was to have a retaining wall on the north side of the tennis court. In lieu of that I was able to obtain permission from the previous owner at 1209 to not put a retaining wall in because of the tennis court so we carved the grade back a little bit and put a fence in. We are actually going to put that retaining wall back in behind the tennis court, fill the grade back into where it originally was and put a retaining wall on the west side to accommodate the deck in which I do not want more than 1 percent pitch so in order to achieve that and maintain the existing grade we are going to end up with a retaining wall on the west side.

Chairman Pro-tem Roscoe confirms there is no retaining wall on the north side where the fence is located. Chairman Pro-tem Roscoe also confirms the drainage will be directed south.

Mr. Papanicholas confirms the drainage will be underground heading south.

Commissioner Patel confirms that being an accessory structure this only needs to be five feet off the property line and not 15'.

Mr. Papanicholas confirms the structure will be at least 10' off the property line.

Commissioner Patel states he is treating this like a house and that it should be 15' off the property line and asks Mr. Papanicholas if he has considered moving it closer to the main house in which it is confirmed it is 11.5' from the main building.

Asst. Director Taylor adds the City has a few questions:

- #1 – hours of operation, bringing up noise concerns

- #2 – lights are part of the concern
- #3 – stipulation that this is an accessory structure, the pool will never become a residential use and if it were to turn into a residential use you would have to go through the proper procedure. As this is an accessory structure, no one can live in there and it can only be used for accessory purposes.

Chairman Pro-tem Roscoe called for a motion to close the public hearing for PZBA Case No ZBA-17-04V at 7:31 pm

Motion by Commissioner Tammen
Seconded by Commissioner DeGraf

Roll Call Vote

AYES: Commissioners Frank-Watson, DeGraf, Patel, Tammen and Kempa and Chairman Pro-tem Roscoe

NAYS:

ABSENT: Chairman Dash

ABSTAIN:

Motion carried.

Chairman Pro-tem Roscoe called for a motion to approve the variation to allow the maximum height of an accessory structure (pool house) to be 27' 1" above grade which is higher than the 15' maximum height allowed by Section 5-3-9 D of the City of Prospect Heights Zoning Code with the following conditions:

1. The property is maxed out on square footage for accessory structures and no additional accessory structures shall be permitted.
2. The accessory structure (pool house) will not be an occupied residence.
3. The accessory structure shall be a minimum of 11' off the side yard lot line.

Motion: Commissioner DeGraf moved to approve the motion with the stated conditions.
Second: Commissioner Kempa

ROLL CALL VOTE:

AYES: Commissioners Tammen, Kempa, DeGraf, Patel and Chairman Pro-tem Roscoe

NAYS: Commissioner Frank-Watson

ABSENT: Chairman Dash

ABSTAIN:

Motion carried

VII. Communications

Grandbrier Grand Opening May 10, 4-7pm

VIII. Adjournment: At 7:35 p.m.

Motion to Adjourn: Commissioner Tammen
Second: Commissioner Frank-Watson
Voice Vote: Unanimous

