

**City of Prospect Heights
Plan/Zoning Board of Appeals
October 23, 2014**

The regular meeting of the Plan/Zoning Board of Appeals was called to order at 7:05 pm by Chairman Weidman, at City Hall, 8 N. Elmhurst Road, in Prospect Heights, Illinois.

ROLL CALL:

Present: Commissioners Dash, Frank-Watson, Jones, Roscoe, Tammen, Wienold and Chairman Weidman
Absent: None

Present at the meeting: City Attorney Eric Yehl, Director of Building & Zoning Steve Skiber and Administrative Assistant Julie Malik-Mordian.

APPROVAL OF September 25, 2014 MINUTES

Motion made by Commissioner Tammen, seconded by Commissioner Roscoe, to approve the meeting minutes from September 25, 2014 as presented. The motion was approved by a roll call vote.

ROLL CALL VOTE:

AYES: Commissioners Dash, Frank-Watson, Jones, Roscoe, Tammen, Wienold and Chairman Weidman

NAYS: None

ABSENT: None

ABSTAIN: None

Motion carried.

Case No. 14-13TA

Applicant: City of Prospect Heights

Address: 2600 and 2700 Sanders Road, Northbrook, IL 60062

Reason: Requesting consideration of an amendment to the Comprehensive Land Use Plan to include a Sub-Area Plan.

Chairman Weidman entered the following exhibits into the record:

ZBA Exhibit 1: Application

ZBA Exhibit 2: Certificate of Publication

ZBA Exhibit 3: Sub-Area Plan Study

ZBA Exhibit 4: Statement from Allstate

Chairman Weidman swore in Steve Skiber at 8 N. Elmhurst Rd Prospect Heights, IL 60070

Steve Skiber spoke regarding the Allstate Sub-Area Plan. The City commissioned a study for 30 acres of vacant land owned by Allstate on Sanders Road. The purpose of the study was to determine possible development potential with the site with Allstate and with knowledge of possible future of office expansion. Previously a land contractor between The Finger Companies and Allstate resulted in a negative recommendation from this board to the City Council and subsequent withdrawal by The Finger Companies. There are no petitions pending at this time.

The study commissioned by Solomon Coldwell Buenz it's a very professional study. It outlines everything about the site, its location, its excitability potential, its land uses and its marketability. On pages 22-23 it has the site land use recommendations and you'll see that the North 8 acres is residential and the North corner 2 acres is Cook County Forest Preserve District land identified a potential for a gateway signage feature or civic marquee. This is something that the City has started to work on potentially to see if we can get a land lease to open up the heavily wooded area to provide some visibility and promote that site as a gateway.

If you look on page 22 on the site plan it does identify a small retail component at the center access point and that access point is for the Allstate campus which is the worldwide corporate headquarters. We expect that if any development happens on the 30 acres, even if it's the North 8 acres it a Class A residential property, we would expect that there would be a signalization there to provide a safety margin. There has been preliminary discussion with Cook County about that requirement. If you look at the plan going further south, it identifies the south 22 acres as office which originally was the intent of Allstate to develop that land and expend there campus.

These are just concepts that the study references and recommends. The City Council has seen this and remand back to PZBA. If PZBA so choses to recommend this study to City Council then it could be adopted as an addendum to the new Comprehensive Land Use Plan and use as a tool by the City Council to approve future development of the site. This is basically the layout and important points of the study.

Chairman Weidman stated where the current Comprehensive Plan stand, has that been approved at this point. Steve Skiber stated yes it is adopted; it would be up to the City Council to do that and looking for recommendation from PZBA in-order to have a recommendation to make it part of the land use plan. Chairman Weidman stated so the difference between this plan and what was already adopted for the same acreage is similar. Steve Skiber stated it's very similar and very supportive; again this study is the in-depth study it really gets into the market ability and a market study.

This question that needs to be answered was would a multi-family Class A which is a top-end rental community be the highest and best use for the North 8 acres of the Allstate property. Without a valid Comprehensive Land Use Plan and now with a study commissioned by the City Council, I believe they were certain of that answer. Based on the documents that we have that are available to us now I think those questions has been answered, that this is a good and valued use of this land. This land has never been developed before; the Allstate property was never developed.

Chairman Weidman stated this is a very good plan, I was trying to push it earlier on to have a plan like this incorporated into the original plan, just the timing didn't work out. I read through the entire plan the work was really put into this, obviously for the Cities sake everyone wanted retail, sales tax and some revenue generating aspects of this property. Time has changed and it's not so easy anymore and I really like the plan and I would support it being an addendum to our Comprehensive Plan. Steve Skiber stated I have a couple more comments and I would like to be clear about the retail component, it's a service oriented retail component it could be a cleaners, a bank, and a convenient store, maybe a smaller 3,000sqft restaurant to serve in the residential community and Allstate office community. So the retail would be a beneficial in service a small scale service type.

Commissioner Wienold stated the only comment he would make is the whole redevelopment area would blend very well with all the new residential area.

Steve Skiber stated any of the retail service would not want to be indirect compotation with Glen Star Development they are also building 260 units of Class A rental apartments so this would be secondary to that, the Mariano's the larger uses there with Glen Star would be attractive to a residential development. Allstate is the owner of the property and they determine whether or not there is a contract with the developer. We can only communicate with them and wait for them to decide sooner than later.

Chairman Weidman read the e-mail that Steve Skiber received from Jessup French Senior Manager Administration Real Estate at Allstate. "With regard to the study commissioned by the City Council for Allstate 30 acres on Sanders Road, Allstate objects to its approval at this time. Allstate has not planned development on this site and is not proceeding with planning and developments on the site at this time. Allstate would like to partner with the City Council at the appropriate time to discuss the utilization of the site when and if Allstate moves forward with plans to develop the site." Allstate asked to have this read and entered into the minuets.

Commissioner Jones stated we are not changing the zoning, this is long term planning what we fill what would be the best use at this time. Steve Skiber stated this is Zone office 1, we are not proposing any changes at this time.

Chairman Weidman swore in John Faulk at 99 Detering Street, #200 Houston, TX 77007

John Faulk stated to thank the City Staff and the board taking on this special study, if Allstate should sell the land to a multi-family developer which we hope would be The Finger Company. We would like to give our gratitude and support for the company.

Motion made by Commissioner Jones, seconded by Commissioner Tammen, to approve the consideration of an amendment to the Comprehensive Land Use Plan to include a Sub-Area Plan.

ROLL CALL VOTE:

AYES: Commissioners Tammen, Dash, Frank-Watson, Roscoe, Jones, Wienold and Chairman Weidman

NAYS: None

ABSENT: None

ABSTAIN: None

Motion carried.

Case No. 14-14V

Applicant: Brian and Gail Biagini

Address: 1127 N. Drury Lane

Reason: Requesting a variance to construct a twenty foot, eleven inch (20'11") high, detached garage.

Chairman Weidman entered the following exhibits into the record:

ZBA Exhibit 1: Application

ZBA Exhibit 2: Ownership Tax Bill

ZBA Exhibit 3: Certificate of Publication

ZBA Exhibit 4: Hardship Letter

ZBA Exhibit 5: Plat of Survey

Chairman Weidman swore in Dave Cook at 1204 Potter Rd. Park Ridge, IL 60068

Dave Cook stated to request a variance to a detached garage that the applicant is proposing at the rear of 1127 N. Drury Lane. The variance requested is to go beyond the allowed 15'ft height up to 20' 11"; the reason for the request is to provide dry storage above the normal height of the garage. The garage is in the Arlington Countryside subdivision it's a flood area, the applicant has been working with the City staff for the last couple of years to make sure the drainage is done the proper way. They have done a lot of extra measures to make sure that it gets corrected and it's not going to be habitable, it's just dry storage above the normal 15'ft height.

Chairman Weidman stated that there are some circumstances that are unique and would like to have our City Attorney give an overview.

City Attorney Eric Yehl stated the property owner granted an easement to the City to put in a storm sewer through the property the owner granted a 5'ft easement to which the City could lay the storm sewer. It has come to the Cities attention that the storm sewer was laid outside the 5' ft. easement that was granted from the City. Therefore currently the storm sewer is on the private property and not within the easement in which the City granted. The City is currently in discussions with the property owner to widen and enlarger the easement to have access to enough of his private property and to continue to keep the storm sewer in its current location. This would in turn decrease the amount of usable property that the property owner would have that agreement to extend the easement to the property owner.

Commissioner Jones stated looking at the plat of survey in the area the garage appears to be constructed the elevation is 677.96, though in this plan here it shows the garage to be 680.50 is this your plan that you will be regarding the whole backyard. Dave Cook stated that yes the backyard is going to be regarded.

Commissioner Frank-Watson stated how many requests have we had in the past 15 years for height or square footage variances for detached garages. Steve Skiber stated we probably had requests in the last 15 years none have been granted to his knowledge.

Commissioner Dash stated if they're going to be 3'ft above the existing grade as it is with the proposed garage floor and there is additional grading on the lot and additional storm sewer, is flooding a concern for this lot.

Steve Skiber stated we had Christopher Burke storm water engineer map this area and the flooding that occurs in the area is unique to this location, it's a large area in Arlington Countryside that extends from Windsor through Phelps on an east west orientation. It's a large depressional area there are many homes that suffer in an excessive of rain event. Mr. Roscoe's home is in the depressional area and has experienced significant flood water issues.

The storm water tops at Drury Lane first, Stratford Rd. and then Forest Ave., once we get rainfall of 3-4 inches you're going to suffer property losses. We know that this happens for over the last 20 years, it's an un-engineered subdivision the storm water is relieved is handled by pipes in the ground, swells and ditches with an outlet under Rand

Rd. that is not able to handle the volume. The depressional area conferences many of the adjacent properties to this one, even though there is going to be regarding, when you have a 100 year event that this property will still be impacted and we hope that there is no property damage or repetitive losses.

Commissioner Dash stated the garage is still going to be 3'ft above the rim grades on those storm structures. Commissioner Jones stated it appears that the garage floor is higher than any point on this plat that's made by John David dated 2009, I understand the flooding issue and the sewer issue, why does it need to be as tall as it is. Dave Cook stated where looking to get storage off the garage floor. Commissioner Jones stated the floor is higher than any other spot.

Dave Cook stated the neighborhood experiences severe flooding; the applicant has experience severe flooding on his property. There making a significant investment with the new home and new garage in this area. All there looking to do is be able to get some dry storage, above the garage. There not looking for more livable space just a 6'ft variance to get storage. Anybody that's driven in the area in some of the recent rain events, it's bad. The applicant loves the area and would love to move in; all they want is a garage to have dry storage above the floor.

Commissioner Tammen asked to attach the garage to the house. Dave Cook stated the plan you have in front of you, this is the plan the home owner would like to proceed with.

Commissioner Frank-Watson stated it seems the dry storage can still be accomplished without a 6'ft variance. Unfortunately if we allow this were setting a precedence for the entire Arlington Countryside subdivision to allow these types of variances because of the flooding issues. Where also granting the variance when really it doesn't appear that there really isn't a significant hardship, considering that the grade is going to be changed. As far as the encroachment of the City storm sewer, that this is two separate issues that have nothing to do with each other. The issue before us is granting the height variation and unfortunately I will have a very hard time approving it.

Chairman Weidman asked to Mr. Skiber in the zoning code it calls for a maximum 720'ft on a detached garage, that code was written and doesn't specify per floor if we had a 15'ft total height, so it's always been a one story garage. If you had a two story garage would you then have to add the square footage or the footprint. Steve Skiber stated it would be the footprint, because the second story would not a height of 7'6" or greater so it would not be consider habitable space, its considered storage. It would be the footprint consideration in this case.

Chairman Weidman stated the problem he has with this is setting a precedence and it's not just for this area. We have seen it in other cases before not specifically on a garage size but an attached garage. If one is granted than everyone else that comes in front of the board will point to that case and say "if you let them do it then we want to do it", if we allow this 15'ft height, then we should change our zoning codes. We are not going to win any of them; everyone that comes in here that wants to build a 2 story garage in their rear yard is going to do it.

Dave Cook stated I appreciate it, I understand you have a unique circumstance here, in an area that is flood prone. I have been through that neighborhood in the rain events and I don't know that the applicant is asking for anything that anybody else who lived in that area who wouldn't want it.

Chairman Weidman stated if you were asking for the foundation to be allowed a foot taller than what typically would be allowed, then I would support it. That to me would mitigate some of the flooding; a 2 story sets a precedence that we will wrestle with the rest of this board forever, if we grant it. I can appreciate how beautiful it is, looks like a great plan and garage. Though not everyone that comes in front of this board in years to come that build such a nice garage, and would it be fair to the other residents in this town to see an aluminum sided 21'ft garage while sitting on their back patio. You can't control that if we allow this, there are parameters. I have sat on this board for a long time and we have people come to ask for square foot variance and height variance. We have not allowed it. In this particular case I wish it didn't set a precedence, though it does.

Commissioner Jones stated I understand the storage but a clear 10'ft ceiling can you bring it down to a 4'ft ceiling. Dave Cook stated if there is a number that the board is interested in talking about; I believe it's less than 7' 6" which is the guidance that we got to design the second floor for the dry storage area.

City Attorney Eric Yehl stated I just wanted to make it clear that Chairman I believe you were saying your vote will set a precedence. to vote like this in the future. I just wanted to make it clear that legally speaking all these cases comes before you individually and that you could make a different decision in each individual case based on facts and circumstances.

Commissioner Tammen stated we had a couple of these before us and we lost. The City has gotten sued because we tried to uphold the code, when previous variance was granted. City Attorney Eric Yehl stated I'm unaware of these specific active code cases.

Commissioner Tammen stated there is a long history on garage size; very frequently we would have residents come in requesting variance on the size of their garages for storing yard tools. Our requirement for garages to 720 sq. ft., we always held to that and never approved a variance beyond that.

City Attorney Eric Yehl commented that I understand that but from a legal stand point I don't believe any future applicants would be able to use this case, because the applicant would not have a storm sewer on their private property.

Commissioner Frank-Watson stated can you explain how these two issues are related the storm sewer and the variance. City Attorney Eric Yehl stated the storm sewer encroaching being laid within his private property is the hardship he is using to bring the variance forward. Whether or not the Commissioner feels that the hardship is valid or should be used to support this application.

Commissioner Dash commented I thought that the hardship application was for flooding.

City Attorney Eric Yehl commented that I believe it's part of the application both the memo from Steve Skiber and a written letter from the applicant.

Commissioner Frank-Watson commented in the letter written by the applicant he states that he seeks the relief for the exchange for the placement and relocation of the City storm sewer. I believe these are two separate issues that the hardship related to the request for the variance for height with the flooding, not so much the fact that the City storm sewer is encroaching on the property. Although legally we have to take each case as it comes before the board.

As Mr. Tammen stated we had issues in the past, where applicants come before the board and because we have granted a variance we either grant there variance or where sued. I think this is something that we want to avoid and in this situation where there are several areas in the City that experience significant flooding.

I can't even imagine how many applications will have for similar variances. This is new construction for a new home, not sure if it's been constructed; it appears there is a two car garage. I'm sure within that house and two car garages, which are attached to the home, there is storage space. We had two garages built within our City, the past 10 years which didn't need a variance to build. One is on Maple & Clarendon and the second is on School Lane & Clarendon. These garages are plenty big and didn't need a variance and they dry storage space above the garage.

Chairman Weidman swore in Mayor Nick Helmer at 505 Kenwaunee Ct Prospect Heights, IL 60070

Mayor Nick Helmer stated something's confused me and I would someone professional, to ask some questions. First Mrs. Frank-Watson you're an attorney so you're coming from the expertise and your state licensed. Commissioner Frank-Watson commented on that I'm not a municipal attorney, just to clarify I don't practice municipal law. Mayor Nick Helmer stated thank you for letting me know.

Mr. Tammen you say we were sued, what does that mean were we sued 50 times. Commissioner Tammen stated we were sued on a garage addition on Derbyshire and we lost. Mayor Nick Helmer commented so we only had one law suit and not 20 or 30. Mr. Steve Skiber you stated there are non-conforming pipe variations that our inexistences. Mr. Steve Skiber stated my recollection there was some granted by the City.

Mayor Nick Helmer stated so then some were granted by the City and thank you for clarify the precedent issue. To say someone doesn't need more square space, or the one the neighbor has is enough. I don't think you would want to be told that if you wanted something. I didn't come here to speak tonight; I just wanted to sit in and watch the board, giving their opinions on this situation. Let's take our citizens at heart, if this causes a shadow issue, something that got built to high. Meaning there is a shadow instead of sunshine.

There are some points to be made, some valid points we have already heard the plaintiff, the person requesting to work with the board to see what they actually could live with. Those are some points I like to make and lastly I'd like to ask, was there any variation to the house which they put up a very nice second floor with stained glass windows, do you recall. Steve Skiber commented your taxing my memory Mr. Helmer. Mayor Nick Helmer said it was 4 years ago. Steve Skiber stated it was legal non-conforming, however when the roof was reconstructed it was attached with a breezeway. Mayor Nick Helmer said so it may very well be higher than. Steve Skiber stated I believe it is higher it's considered attached by the breezeway.

Chairman Weidman swore in Robert Rolla at 1414 Euclid Ave Arlington Heights, IL 60004

Robert Rolla stated all I want to know is there is a house being put up two doors away from me, what is his variance. Steve Skiber commented there is a brand new house going up at 1201 N. Drury Lane. Robert Rolla stated how come he doesn't have a

problem with flooding. Steve Skiber stated the house is on the edge of the depressional area, how is that related to this case sir. Robert Rolla stated I just want to know why this guy can put up a new house two doors away with no problem, and this guy putting up one over here he needs to have a special dispensation. Steve Skiber stated that the house on 1201 N. Drury Lane doesn't have a detached garage so it's not similar. Robert Rolla stated then what he is storing in there, that he needs a 21'ft garage, is he putting a truck in there, a bulldozer it's a residential area. Steve Skiber stated he can put whatever he wants to put in the garage. City Attorney Eric Yehl commented you may ask general questions to the board, I don't think or recommend getting into an argument of what may or may not be stored inside someone's personal property. As a public body you can't ask or demand that someone default what they would be storing inside their private residences. Robert Rolla stated well I'm against it; I sure don't want somebody putting up a 21'ft garage in this neighborhood. City Attorney Eric Yehl stated do not stop speaking sir, just to clarify if you have further things to say please say them.

Chairman Wiedman stated I would like to entire a motion.

Dave Cook commented is there a height the board would consider above 15'ft, I'm just wondering. If there is something about the 21'11" - 5' 11" variance that is holding a challenge, the applicant is here tonight and would love to hear could we have a 5'ft variance, is there something less than that we would be considered by the board.

Commissioner Tammen commented could you please describe to us how much space there is for the second floor for storage verse the amount of space below the garage. We understand it's a flood plan area and the applicant requires some additional storage space.

Chairman Weidman swore in Brian Biagini at 1127 N. Drury Lane Prospect Heights, IL 60070

Brian Biagini stated this is not a flood plan area, why am I dedicating 50x100 feet for water detention on the back of my lot. I'm the only person in Arlington Countryside area is being asked to dedicate 50 feet of my lot for water detention. So if it's not a flood area, I think than we need to talk about that because why am I giving 50feet of my property. Secondly the inland heights have nothing to do with the whether or not if the lot drains. There is a 8 or 10 inch pipe that goes across Rt.12, there is a 21 inch storm sewer that goes along Arlington Countryside when its surcharges and becomes full it backs up and goes through my lot and surcharges on my property.

I'm the recipient of all the water that comes from Arlington Heights. I have video of the water coming out of the storm sewer because you have efficient capacity going across Rt.12. Why do I need dry storage because I'm the recipient of inadequate engineering of lack of financials to get across Rt.12, as Mr. Roscoe who lives behind me and everyone who lives in Arlington Countryside.

For many years it's been devastating, we all team together as neighbors to pump our basements out and work together to pump it across the streets of Arlington Heights. So I have inherited a deficient engineering, and the storm sewer was put in with no regards to the homeowners. So I'm asking to take and put my valuables up above the ceiling of the garage. I think this is a reasonable thing, and then when we start to look at the property we see that the storm sewer is 8 – 10 feet onto my property, out of the utility easement.

So the water will be surcharging down into the drain tile of my house, of my inch and half pump out for Arlington Countryside from my basement, so I ask for some relief. I think I'm being very reasonable you're getting 50-100 feet of depression in the backyard, for a detention that I'm donating to the City of Prospect Heights. I'm also giving you 5 feet of easement, 147 feet by 5 feet of property that I paid \$5,000.00. Plus out of good will I paid to move your storm sewer out of easement. I have done everything I can to try to corporate with the City of Prospect Heights. Where is the empathy for a fellow citizen, I have worked very close with the City staff to come up with a plan that will help the negative impact of the water in the Arlington Countryside district. I think the construction of my home, I think will be a positive for all of my neighbors.

Commissioner Jones commented we need to come up with a compromise.

Commissioner Dash asked Steve Skiber is Mr. Biagini stating that the City is asking him to dedicate detention, is that a true statement. Steve Skiber commented based on what he said that is correct, there is a depressional area in his yard which is part of the storm water management plan. Commissioner Dash said it's going to be within the easement. Steve Skiber stated no the easement it's already going to be established in the north property line the with the storm pipe. It will be a grading plan involved the depressional area for storm water management.

Commissioner Dash stated so you're requiring him to provide detention on his property as part of the approval of the building permit. Steve Skiber stated no the result of the approved grading plan, will detain water is a more accurate statement. What he said is about the performance under flood condition is correct. Commissioner Dash stated so this is a proactive design to accommodate the water when it happens, it's not a requirement.

Steve Skiber commented the engineering for this lot was not a simple task, it was many conversations in order to get a plan that we could approve so it didn't impact the joining properties. The statement about the depressional area in Arlington Countryside is correct, we didn't engineer the subdivision; this was engineered by Cook County which was engineered deficiently for storm water management. Where trying to manage every property that gets redeveloped and were trying to improvements as were our on this property.

Commissioner Tammen commented we have some highly unique citations on this piece of property.

Steve Skiber stated that's correct, in my staff memo I think references a unique variation, so no this is not a stander "run of the mill" variation, I knew this was going to be a very difficult discussion. I think we have a lot good points here and maybe a suggestion of a compromise is a possibility.

Commissioner Jones stated I'm trying to put all the math in here, a 9ft garage door, do we need a 10ft clear ceiling in this loft.

Dave Cook stated it's under 7'6"ft at the peak and it goes with the roofline, this is what the applicant wants. The area in back the detention area, is the width of the lot by 700

feet, so it's 50x100 is non-usable. It's a depression in his backyard; he is voluntarily given as part of the building permit process.

Commissioner Dash asked Steve Skiber what is our rear yard setback.

Steve Skiber commented saying for a principal dwelling that is required yard is 50 feet.

Dave Cook stated the applicant isn't looking to construct anything in there but the physical grading that happens, there is a depression that is being artificially graded 2-3 feet below grade, which is non-usable. It is going to fill up with water in rain events, the home owner doesn't want this but they want to build this house in Prospect Heights. As part of the building permit process they were willing to donate that and willing to grade for the approved plan for an exchange for storm water movement and simply asking for a 6'ft variance on the garage.

Commissioner Frank-Watson commented that I have been a commissioner for 13 years and never had an applicant request on a variance exchange for something. We don't grant variances in exchange for anything, we grant variances because they meet the standards per our zoning ordinances. This does not meet our standards; I don't believe we have an applicant stand before us and say "this is what I want, so give it to me". That is the tone I feel you are taking and I resent that. Dave Cook said I apologize that's not the tone intended.

Commissioner Tammen stated there are some very unique situations with this piece of property.

Commissioner Dash stated it's not unique to all the relative lots that are there, in this lot it had a predisposing of flooding prior to the owner purchasing the lot. I think the proposed grading plan that is being approved here is going to improve the situation. This is a positive unique situation because it's going to be a new constructed home, you can try work what you have there but with the surrounding residents their homes are already built they don't have the opportunity to improve their grading.

Commissioner Roscoe commented I live right behind the property and grew up in the area for over 38 years, it floods. You have a piece of property that takes all the water, elevations on the map 677.96 that's the lowest spot. My property is northeast; the backyard at 678 takes about a good foot of water during a rain event. Even after the storm water was constructed, you're in a spot that gets flooding. Your elevation changes up to 679 to 680 around the garage, would give you a defiant help in that back area.

You're moving the garage up 2-3 feet above what the current grade. The option of raising the floor up another foot would help protect your items. I think the boards problem with the height variation as you heard tonight, is in the past history it hasn't been done. I wouldn't be against trying to negotiate something to making it closer; going up on the garage floor. The home is 681.2 adding another foot to the garage that would help the garage floor grade. The rest of the property is gaining another foot along the usable areas; the back absolutely is usable except for when it rains.

Commissioner Jones stated how about going bigger on the garage of 670sq.ft.

Brian Biagini stated this plan was formulated with the City for 3 years and it's not something that we came up with on a Tuesday afternoon. It's a lot of background

education, when people say it's a low area of 677.96 and the guy next door is 678. The reason why is previous 94 year old owner that lived in the house, also had a house on Cedar Post. All the houses had basements, so what do you think that happens when somebody builds a house on a 100x300 lot and they dig the basement, the dirt would be thrown into the backyard. Back in the 1950s & 1960s when all these houses were built, they would throw the dirt in the backyard. The storm sewer surcharges every time it rains into my yard. I'm sorry the storm sewer surcharges all its water in my yard and always floods it. Every time it rains everybody is out there putting sand bags freaking out, I can understand it none of you care; you're watching TV of the weather. I'm just asking for dry storage and if the board can't understand it and I'll accept what your answer is tonight. Thank you

Mayor Nick Helmer commented isn't the variance granted because of hardship. The hardship here is obvious the applicant's yard is flooding every time it rains. Variances are granted because of a hardship, it's not a tradeoff for a sewer line you give me a height variation. So the point of the story is grant the variance maybe you can cut it down by 2 feet, I don't know anything about engineering. Don't berate someone for simply thinking to improve the sewer to benefit the City, so he can get the variance. In that case he has a hardship grant the hardship variance. Thank you

Chairman Wiedman stated I would like to entertain a motion.

Commissioner Jones stated Mr. Skiber did you see the new revised plan. Steve Skiber stated yes I did see it. Chairman Weidman said Mr. Skiber was this detached garage part of the plan when Mr. Christopher Burke engineering approved for this lot. Steve Skiber said no Mr. Christopher Burke did a regional study; Manhard Engineering did the study unique for this lot. Chairman Weidman stated so this detached garage was part of the plan when Manhard did the engineering study. Steve Skiber said this has been a work in progress for a long time; to get in the final stage has been an exercise.

Chairman Weidman stated what is your relationship to the owner, are you the architect. Dave Cook said no I'm not. Commissioner Dash said so you're not Dave Cook who stamped these drawings. Dave Cook said yes I was the engineer 3 years ago for that plan, not for the current plans that are for the building permit. As Steve Skiber stated Manhard is the current engineer.

Chairman Weidman stated that the Commissioners are trying to come up with a compromise; I would like to say it's a beautiful looking garage. It's not easy to take 2 or 3 feet it wouldn't be a nice looking garage.

Commissioner Dash commented if this area floods what is the potential damage to the garage, if this area did flood what it would be salvageable or have to be repaired. Steve Skiber said if you have repetitive flooding scenario, even if you have treated wood that has base plates, it's going to suffer the effects of repetitive moisture. Once the wood gets moisture continent at some point and structurally become unsound. The life of the garage will be cut short and drastic by competitive loss due to storm water.

City Attorney Eric Yehl commented on that the application states (426.11) if the board and the applicant were to agree to amend this application prior to a vote, then we could vote on a different height. If the applicant doesn't agree to amend with this application then the only action you could take is on the height of (20.11).

Steve Skiber said Mr. Chairman that being said the question should be directed to the applicant, could he construct the design to meet that elevation. Chairman Weidman said are we just going to pick a number that hasn't worked out architecturally. If you're going past the 15'ft ceiling, and the applicant has support for that, let him do it right the way it was drawn.

Brian Biagini stated it's well thought out, it's set back in the lot so it's architecturally appealing when you drive by the house. The roof design is given a country look to it, instead of a brick type similar to the house. We would need the extra storage space to put the keep sakes up in a dry area, instead of cramming it in there.

Commissioner Tammen stated so there is no basement in the house. Brain Biagini said yes there is a basement in the house, there is a high anxiety factor of keeping things dry in the basement. We tried to work with the engineers; this I believe is my third or fourth engineer. I'm just asking for a variance, I believe this is a very nice design which will improve the neighborhood and overall surroundings. I hope you consider my request, thanks for your time.

Motion made by Commissioner Tammen and seconded by Commissioner Roscoe for a variance to construct a twenty foot, eleven inch (20'11") high, for the detached garage.

ROLL CALL VOTE:

AYES: Commissioners Dash, Jones, Roscoe, Tammen and Wienold

NAYS: Commissioner Frank-Watson and Chairman Weidman

ABSENT: None

ABSTAIN: None

Motion carried.

COMMUNICATIONS

The next meeting will be held on 11/20/14

OLD BUSINESS

None

NEW BUSINESS

None

ADJOURNMENT

The October 23, 2014 Plan/Zoning Board of Appeals meeting was adjourned by unanimous voice vote, at 8:35pm with a motion made by Commissioner Tammen and seconded by Commissioner Roscoe.

Respectfully Submitted,

Julie Malik-Mordian, Recording Secretary