

**MINUTES
CITY OF ST. CHARLES
ZONING BOARD OF APPEALS
THURSDAY, APRIL 22 2021
COUNCIL CHAMBERS**

Members Present: Chairman- Elmer Rullman, III
Scott Buening
James Holderfield
Bryan Wirball

Member Absent: Ryan Bongard

Also Present: Russell Colby, Assistant Director of Comm. And Econ. Development
Rachel Hitzemann, Planner
Court Reporter

1. Call to order

Chairman Rullman called the meeting to order at 7:00 p.m.

2. Roll call

Mr. Buening called roll with four members present. There was a quorum.

3. Presentation of minutes of the March 25, 2021 meeting

A motion was made by Mr. Holderfield and seconded by Mr. Buening with a unanimous voice vote to approve the minutes of the March 25, 2021 meeting.

4. Variation Application V-2-2021, filed by Christopher Walton, record owner of the property located at 390 Hamilton Rd. in the City of St. Charles.

Secretary Buening summarized/read into the record the following:

- The requested action is a zoning variation to reduce the rear-yard setback from 30 feet to 26.62 feet to allow a 10-foot-by-16-foot screened-in porch and encroach 3.38 feet into the rear yard.
- Proposed is the construction of a 10-foot-by-16-foot addition for the purpose of adding a screened-in porch.
- The applicant is requesting to construct the enclosed porch 3.38ft into the 30ft rear yard setback.

- Screened porches are classified as enclosed porches and are not permitted to encroach into the rear yard.

Chairman Rullman swore in the following:

- Christopher Walton, 390 Hamilton Road St Charles, IL 60174

The attached transcript prepared by Planet Depos Court Reporting is by reference hereby made a part of these minutes.

A motion was made by Mr. Wirball and seconded by Mr. Buening to table the application until the May 27th meeting per the applicants request.

Roll called:

Ayes: Buening, Wirball, Holderfield, Rullman

Nays:

Absent: Bongard

Motion carried; Application was tabled until the May 27th meeting

- 5. Additional Business from Board members or Staff- None**
- 6. Public Comment- None.**
- 7. Adjournment at 7:41 p.m.**



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Transcript of Variation Application for 390 Hamilton Road

Date: April 22, 2021

Case: St. Charles Zoning Board of Appeals

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BEFORE THE ZONING BOARD OF APPEALS
OF THE CITY OF ST. CHARLES

-----x
In Re: Variation :
Application by Christopher : V-2-2021
Walton; Property located :
at 390 Hamilton Road :
-----x

HEARING
St. Charles, Illinois 60174
Thursday, April 22, 2021
7:00 p.m.

Job No.: 336759
Pages: 1 - 34
Reported by: Joanne E. Ely, CSR, RPR

1 HEARING, held at the location of:

2

3 ST. CHARLES CITY HALL

4 2 East Main Street

5 St. Charles, Illinois 60174

6 (630) 377-4400

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13 Before Joanne E. Ely, a Certified Shorthand
14 Reporter, and a Notary Public in and for the State
15 of Illinois.

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Transcript of Variation Application for 390 Hamilton Road
Conducted on April 22, 2021

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PRESENT:

ELMER RULLMAN, III, Chairman

RYAN BONGARD, Member

SCOTT BUENING, Member

JAMES HOLDERFIELD, Member

BRYAN WIRBALL, Member

ALSO PRESENT:

RUSSELL COLBY, Community Development

Division Manager

RACHEL HITZEMANN, Planner

Transcript of Variation Application for 390 Hamilton Road
Conducted on April 22, 2021

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1 P R O C E E D I N G S

2 CHAIRMAN RULLMAN: We will call this
3 meeting of the St. Charles Zoning Board of Appeals
4 to order at 7:00 o'clock.

5 Mr. Buening, please call the roll.

6 MEMBER BUENING: Bongard.

7 (No response.)

8 MEMBER BUENING: Buening, present.
9 Holderfield.

10 MEMBER HOLDERFIELD: Here.

11 MEMBER BUENING: Rullman.

12 CHAIRMAN RULLMAN: Here.

13 MEMBER BUENING: And Wirball.

14 MEMBER WIRBALL: Here.

15 MEMBER BUENING: We have a quorum.

16 CHAIRMAN RULLMAN: Are there any additions
17 or corrections to the March 25, 2021, meeting?

18 Hearing none, I accept a motion to accept.

19 MEMBER HOLDERFIELD: So moved.

20 MEMBER BUENING: Second.

21 CHAIRMAN RULLMAN: All in favor.

22 (Ayes heard.)

23 CHAIRMAN RULLMAN: Any opposed?

24 (No response.)

Transcript of Variation Application for 390 Hamilton Road
Conducted on April 22, 2021

1 CHAIRMAN RULLMAN: At this time, we will
2 open up Variation Application V-2-2021 filed by
3 Christopher Walton, record owner of the property
4 located at 390 Hamilton Road in the City of
5 St. Charles.

6 Secretary, please read the file.

7 MEMBER BUENING: This is Variation
8 V-2-2021 for 390 Hamilton Road. This is a zoning
9 variation to reduce the rear-yard setback from
10 30 feet to 26.62 feet to allow a
11 10-foot-by-16-foot screened-in porch and encroach
12 3.38 feet into the rear yard.

13 The applicant is proposing to construct a
14 10-foot-by-16-foot addition for the purpose of
15 adding a screened-in porch. The porch will add
16 3.38 feet -- will encroach 3.38 into the 30-foot
17 rear-yard setback.

18 Screened porches are classified as
19 enclosed porches and are not permitted to encroach
20 into the rear yard. The proposed structure would
21 otherwise meet zoning requirements if the screen
22 was omitted.

23 This is an existing private residence in
24 the RS-4, Suburban Single-Family Residential

1 District, Lot 8, in the Corporate Reserve of
2 St. Charles planned development. It was filed by
3 Christopher Walton as property owner.

4 The City has published a notice in the
5 newspaper the Daily Herald, which was published on
6 April 5th, and then certified mail was mailed to
7 the surrounding property owners within 250 feet on
8 April 7th.

9 We do have proof of publication, and then
10 we also have a letter that is from the neighbor
11 Todd Gayhart in support of the variation request.
12 They are located at 400 Hamilton Road.

13 CHAIRMAN RULLMAN: That will all be marked
14 as Exhibit A.

15 Is the petitioner present?

16 MR. WALTON: Yes.

17 CHAIRMAN RULLMAN: All right. All people
18 who wish to give testimony on this variation,
19 please rise. Raise your right hand.

20 (Witnesses sworn.)

21 CHAIRMAN RULLMAN: Please give your name
22 and address to the reporter.

23 MR. WALTON: Christopher Walton. Do you
24 need me to spell that? It's on the application.

Transcript of Variation Application for 390 Hamilton Road
Conducted on April 22, 2021

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1 390 Hamilton Road, property owner of the property
2 in question.

3 CHAIRMAN RULLMAN: Please let the record
4 show that Russell Colby and Rachel Hitzemann from
5 the City were also sworn.

6 The floor is yours.

7 MR. WALTON: Okay. Thank you all very
8 much for your time this evening.

9 I just wanted to take a couple minutes
10 just to summarize some of the key points in our
11 application that you have before you. My wife,
12 Lauren, and I were the first original owners of
13 the home when we purchased it in January 2019.

14 The existing deck that was built on the
15 back of our home is approximately a 9 foot square,
16 including a staircase that intrudes on that
17 9 square feet. So it's a very small exposed deck.

18 My wife and I are both UV sensitive; and
19 in addition, our property backs up to a retention
20 pond. So mosquitoes are a big concern for us. So
21 we're not able to really use that deck very much
22 right now. It's our desire to construct a new
23 combination enclosed screened porch and exposed
24 deck.

1 And our understanding is the zoning
2 variance does permit us -- or the zoning
3 ordinance, excuse me, does permit us to construct
4 the screened-in porch as we would like.
5 Dimensionally it's limited to the setbacks as you
6 stated before, a little over 6 1/2 feet outside
7 dimensions.

8 Because of our circumstances and our
9 personal issues here, we really need that
10 screened-in porch. It's our desire to be able to
11 use that, hopefully very soon, and be able to
12 entertain family and friends. We missed out on
13 that quite a bit this past year.

14 And the zoning ordinance, as written,
15 would significantly hinder our ability to be able
16 to do that and fully enjoy our property and that
17 porch and deck. So because of that we're
18 requesting a dimensional variance on the building
19 setback line, as stated previously, so that the
20 enclosed portion of the deck, the screened-in
21 porch area will be as noted 16 foot by 10 foot.

22 The proposed improvements will not alter
23 or impact the characteristics of our neighborhood.
24 As stated, it's in the rear of our property, so it

1 won't be visible from the street; and our intent
2 is to match the color, style, construction of our
3 home so that it looks like a natural extension of
4 the home, like it was intended to be that way all
5 along.

6 I've spoken with several of our neighbors,
7 including both of our next-door neighbors, who
8 would be the main persons potentially impacted by
9 this proposed variance; and all of our neighbors
10 either do not object or support our project, per
11 the letter that the Chairman read earlier.

12 So in short, I won't take up any more of
13 your time here, unless you have any questions for
14 me. We're respectfully requesting that the City,
15 the Zoning Board grant our request.

16 Thank you.

17 CHAIRMAN RULLMAN: Any questions? Yes.

18 MEMBER WIRBALL: Are the screens
19 removable, or are they fixed? Are they going to
20 be permanent, or can they be removed, the screens?

21 MR. WALTON: They would be fixed, subject
22 to maintenance, replacement, et cetera. There
23 will be a -- as shown in the sketch, there will be
24 a knee wall around the entire perimeter with the

1 screens above that and then one access door
2 between the screened-in porch and the exterior
3 deck.

4 MEMBER HOLDERFIELD: I have nothing.

5 MEMBER BUENING: I have a few questions.

6 Did you know the pond was there before you
7 bought the home?

8 MR. WALTON: We did, yes.

9 MEMBER BUENING: Okay. Did you know the
10 setbacks based on the survey that you were
11 provided in the documents when you did the
12 closing?

13 MR. WALTON: We were not, I would say,
14 cognizant of it. Certainly we had a copy of the
15 plat. As I'm sure you can understand, there's
16 multiple things at play with the purchase of a new
17 home and the process of moving.

18 Our intent was always to -- because the
19 offer -- the options from the builder only
20 included that standard deck, which is very much
21 undersized compared to our surrounding neighbors.
22 They have larger deck spaces. And we always
23 wanted to be able to convert that at some point
24 down the road.

1 I was aware and am aware of typical
2 setbacks from property lines. We did not realize
3 that there was a further building setback line
4 where that screened-in -- where basically a deck
5 with a roof and screened-in sides would be
6 considered a structure that would fall under that
7 classification, until we went through the initial
8 permit application with our contractor here.

9 MEMBER BUENING: A couple of clarification
10 questions for staff.

11 So the screened-in portion is what's at
12 issue here. So if they built this without screens
13 or an enclosure, that would be allowable?

14 MS. HITZEMANN: Yes. So a covered porch
15 would be an 8-foot permitted encroachment into the
16 rear yard; but once they add the screens, it's
17 considered part of the building, and therefore
18 would need to meet that building setback line.

19 MEMBER BUENING: And then is this setback
20 consistent within the zoning district, or is this
21 part of the planned development setback?

22 MS. HITZEMANN: The setback within the PUD
23 and also the underlying zoning are the same.
24 There are some lots in this PUD that do have

1 reduced rear setbacks, but that's because the lot
2 depths are less, so it evens out. That was part
3 of that subdivision.

4 MEMBER BUENING: So those were granted as
5 part of the planned development?

6 MS. HITZEMANN: Correct.

7 MEMBER BUENING: So my concern is that,
8 you know, this is going to start a precedent of
9 allowing for encroaches into that building setback
10 line. You're the first one. Your home has only
11 been here two years, and you're already asking for
12 a variance. My concern is maybe that will open
13 the door for everybody else, your neighbors and
14 others, to do the same.

15 The setback lines are established by code,
16 by ordinance for a reason. And, you know, you're
17 asking for something that, to be honest with you,
18 I don't know that I'm in favor, of course, because
19 you kind of knew the conditions when you moved in
20 there. You know, you had options to put a covered
21 porch on that without screens.

22 Frankly, these things have a tendency to
23 become enclosed rooms. They usually do it without
24 permits. That's what will happen.

1 So I'm not sure that, you know, you
2 provided convincing evidence to me as to why this
3 should be granted.

4 MR. WALTON: Am I allowed to respond to
5 that or --

6 MEMBER BUENING: Of course.

7 MR. WALTON: So I consulted with our
8 attorney, and my understanding is that in the case
9 of a variance, dimensional variance, which is
10 really the issue here, that if the zoning
11 ordinance as written unduly, unfairly, negatively
12 impacts us, as the property owners, and our
13 ability to enjoy our property and the space, then
14 that in and of itself is grounds for requesting
15 and receiving a variance.

16 And as stated, the minimal building
17 setback line for what the City considers this to
18 be, as an enclosed structure, a part of the house
19 would limit our ability to be able to enjoy that
20 space, to entertain company. A 6 12, 6.62-foot
21 outside dimension structure, that's a very narrow
22 hallway. There's room for maybe a couch, a couple
23 of chairs, but not any kind of table with chairs
24 around it, again, for, hopefully, when we're soon

1 able to entertain company.

2 So our contention is that because of our
3 UV sensitivity, we need the overhang, the cover
4 because of the mosquitoes and concerns about
5 potential pathogens. You know, we're in a year of
6 very unusual times with a very serious pandemic
7 ongoing, but there are other potential diseases
8 that can be caused by mosquitoes and things of
9 that nature.

10 MEMBER BUENING: To rebut that, you know,
11 you knew that that was there when you bought the
12 home. You knew the pond was there. You knew that
13 it potentially had, you know, the ability to
14 generate mosquitoes. That's not an unknown
15 condition. That is a known condition.

16 MR. WALTON: I guess my response to that
17 is I did not realize that a deck with a roof and
18 screens on the side would be considered a
19 structure or part of the main residential
20 structure that has a concrete foundation and all
21 the bells and whistles of a typical home.

22 You know, it was never our intent -- my
23 understanding is that the deck itself can extend
24 the entire width and length of the yard within the

1 15-foot setback line, which would certainly -- I
2 can see that being a concern for neighbors and
3 others with such a large encroachment behind our
4 property.

5 So, again, we did not realize that this
6 would be an issue when the time came looking to
7 make this improvement, and frankly, I feel that
8 it's a very modest request with the dimensional
9 variance here.

10 MEMBER BUENING: One other follow-up
11 question for staff.

12 Is this something that would -- you know,
13 again, my concern is that a precedent will be set
14 here with this type of a variance, depending on
15 the homes there. Is this something that could be
16 considered as a planned development amendment, if
17 other property owners are interested, to reduce
18 the setback from say, 30, feet to 25 feet?

19 MR. COLBY: There is that ability to draft
20 an amendment to the planned unit development to
21 adjust the rear-yard setback requirement or to
22 allow additional rear-yard encroachment.

23 The application could only be filed for
24 the property that's in control of the property

1 owner. The only way to amend the PUD for the
2 entire development would be to have the sign-off
3 of all the other property owners in the
4 subdivision. Typically, in a development of this
5 nature, PUD amendments aren't approved on a
6 per-lot basis.

7 MEMBER BUENING: Sure. Thank you.

8 CHAIRMAN RULLMAN: I have a couple of
9 questions also.

10 MR. WALTON: Yes.

11 CHAIRMAN RULLMAN: So two of the things
12 we're asked to consider here in granting the
13 variation are did the owner -- were they aware and
14 could they have prevented this; and I think you
15 have told us both that, A, you are aware of the
16 zoning ordinance. That's not a problem for us.
17 It's a problem for you if you intended to do this.

18 So let me ask you did you recently get UV
19 sensitive, or have you been that way for a while?

20 MR. WALTON: No. We've both been that way
21 our entire lives as far as we know. We burn very
22 easily. So having a sun-drenched deck
23 unfortunately limits our ability to be able to sit
24 out there.

1 CHAIRMAN RULLMAN: All right. Well,
2 that's something you knew about when you purchased
3 the property.

4 MR. WALTON: Yes.

5 CHAIRMAN RULLMAN: All right. And then
6 it's a screened porch, and as Mr. Buening said,
7 they have a way of becoming rooms. What would the
8 floor structure of this porch be? What's the
9 plan?

10 MR. WALTON: It would be a -- are you
11 familiar with the Trex decking? -- similar product
12 of that nature. That would be for the entire deck
13 including the enclosed porch area.

14 CHAIRMAN RULLMAN: It's a solid floor or a
15 plank floor?

16 MR. WALTON: A plank floor.

17 CHAIRMAN RULLMAN: All right. I don't see
18 the -- the pond was there when you purchased the
19 property, and you knew that was there; correct?

20 MR. WALTON: The property -- we knew the
21 pond was there. And I just -- I would humbly ask
22 just that consideration be given that -- I'm an
23 engineer. So I know of setback lines and
24 understand the purpose for them. I'm not -- I

1 don't plan to be an expert in matters of surveying
2 and zoning and things of that nature.

3 What we did not realize is that, again,
4 and I apologize for repeating myself, that a
5 screened-in porch would be considered something
6 that is subject to the building setbacks lines,
7 BSL, not the property setback, the general, which
8 is 15 feet, I believe, of the rear of our
9 property.

10 CHAIRMAN RULLMAN: Again, the ordinance
11 hasn't changed in recent years. It was the same
12 when you purchased the property as it is today.

13 So what's the largest enclosed or
14 screened-in porch that you could put on the
15 property?

16 MR. WALTON: Well, my understanding is
17 that, based on the meeting that we had with
18 Rachel, the screened-in porch could extend the
19 entire width of our house --

20 CHAIRMAN RULLMAN: Right.

21 MR. WALTON: -- and go out to the
22 6.62 feet, but our argument why that is a
23 significant hindrance and would in legal terms
24 detrimentally impact our enjoyment of the

1 property, as the owner, is that that limits the
2 usable space -- once you factor in the structure
3 and the construction, the walls and everything,
4 that limits the usable space to a very narrow
5 hallway, if you will, outside of the building.

6 And the additional 3.38 feet would provide
7 much more added space, and it's not the full width
8 of the house. It's only 16 feet. It would
9 provide enough space so that we can be able to sit
10 outside and enjoy that space and be able to
11 entertain friends and loved ones when -- and use
12 that outdoor space that we would not be able to
13 sit in unless it's enclosed.

14 CHAIRMAN RULLMAN: Well, I think the porch
15 can be the full length of the house. You already
16 testified to that; right?

17 MR. WALTON: That's my understanding. I'd
18 ask is that correct?

19 MS. HITZEMANN: What was that?

20 MR. WALTON: That the screened-in porch
21 can be the full width of the house. The City's
22 issue is that it cannot extend to the outside of
23 the structure past 6 1/2 feet.

24 MS. HITZEMANN: Yes. So I'm not sure if

1 it could cover the whole width because that would
2 be a lot -- that would be a potential lot coverage
3 issue that could get into; but it's, yes, as long
4 as it was in the buildable lot area, that screen
5 porch could be built in the buildable lot area.

6 MR. WALTON: I'd like to say I certainly
7 understand the concern with a precedent. I want
8 to do the same thing. I don't believe because
9 most of our other neighbors -- the options for the
10 house given by the builder with no explanation,
11 it's just, you know, the designs. You could have
12 this configuration deck, and that's it.

13 Our surrounding neighbors have a much
14 larger deck behind their house, and they have an
15 extension on their house that actually extends all
16 the way to that building setback. So they would
17 not be able to construct any kind of enclosed --
18 apparently, any kind of enclosed screened-in porch
19 behind their property because the house itself,
20 the structure extends the entire length of that
21 wall of space.

22 I understand that there is precedent for
23 this Board to approve, maybe not in this exact
24 nature, but requests for variances for structures

1 with single-car garages, slab-on-grade enclosed
2 porches.

3 Several years ago, I believe, there was a
4 similar case, that they requested a similar
5 dimensional variance, granted it was a
6 slab-on-grade, which potentially has even greater
7 potential to become part of the actual dwelling,
8 not an outdoor space.

9 Our deck is raised above the ground
10 elevation. So to be able to convert that to truly
11 part of the home, the structure would be much more
12 significantly difficult, in my opinion. It would
13 never be anything more than a deck with screens.

14 CHAIRMAN RULLMAN: Okay. A zoning action
15 sets a precedent. Every zoning variation is
16 considered on its own merit.

17 MR. WALTON: Sure.

18 CHAIRMAN RULLMAN: Let me ask you in the
19 houses -- I mean, I visited your home. So it
20 appeared to me that every home backing up to this
21 pond was basically in the same spot and subject to
22 exactly the same condition in terms of mosquitoes;
23 is that correct?

24 MR. WALTON: That's correct. I can't

1 speak to my neighbors' susceptibility to falling
2 ill because of that or similarly their potential
3 susceptibility to UV radiation. I can only speak
4 on our --

5 CHAIRMAN RULLMAN: You testified to the
6 fact that when you purchased the home, you were UV
7 sensitive, and so you knew that.

8 MR. WALTON: Yes, yes.

9 CHAIRMAN RULLMAN: As you mentioned here,
10 there was nothing that prevented you, if you were
11 interested in building a large-screened porch,
12 from investigating what kind of porch you could
13 construct on the home; is that correct?

14 MR. WALTON: We had no reason to believe
15 that a screened-in deck -- I'm not going to call
16 it a porch -- a screened-in deck would be subject
17 to the structure setback that is the issue here.

18 The structure, in my mind, is the house,
19 not the foundation. So that the porch -- I mean,
20 I guess, that was my shortsightedness with
21 everything going on personally in our life, not
22 just moving, but other issues that are immaterial
23 to this discussion. I've leave that out.

24 But I guess in short, you are correct. I

1 apologize for my shortsightedness, and I would ask
2 if there's any way the Board can look past that
3 and not break my wife's heart.

4 MEMBER WIRBALL: Can I ask a question?

5 CHAIRMAN RULLMAN: Anybody have a
6 question?

7 Go ahead.

8 MEMBER WIRBALL: This is for the staff.
9 If the screens were not fixed and removable, would
10 that change this situation?

11 MR. COLBY: Our review of the proposal was
12 based on the information submitted with the
13 building permit. So the building permit plans are
14 showing what's being proposed, and then what would
15 be inspected at the time it's constructed.

16 The code says that a porch enclosed with
17 screens is considered enclosed. We can't
18 necessarily regulate that after the permit
19 inspection is completed. Obviously, if it's
20 observed if something has changed based on the
21 permit that was issued, then the City has the
22 ability to enforce the zoning requirement. But
23 that part too is based on the information that's
24 within the permit.

1 MEMBER WIRBALL: I see. So if this porch
2 did not have the screens, it would be admissible
3 as is.

4 MS. HITZEMANN: That's correct. It would
5 be allowed to encroach 8 feet from the building
6 setback lines.

7 MEMBER WIRBALL: If I may ask the
8 applicant.

9 Would you be interested in doing the porch
10 without the screens, or is that something you have
11 no interest in doing?

12 MR. WALTON: That would be a
13 significant -- I mean, in our mind that's half the
14 impetus.

15 CHAIRMAN RULLMAN: We're going to take a
16 temporary recess.

17 (A recess was taken from 7:25 p.m. to
18 7:27 p.m.)

19 MR. WALTON: I guess one more thing I
20 would like to say, if I may.

21 This is my second home that I've owned.
22 So I would consider myself new to the game, and I
23 acknowledge that. In my experience, my previous
24 neighborhood was a mix of town homes and

1 single-family homes. This neighborhood that we
2 currently live in is only single-family homes.

3 There were items that were not permitted
4 by the association for whatever authority they
5 have or by the County, it was unincorporated where
6 we lived. But they just went ahead and built it
7 anyway and asked for permission later, and
8 sometimes they didn't ask for permission, just
9 built it.

10 I'm of the mindset that stinks. I want to
11 do things the right way; and so for this project,
12 we submitted for a permit, got all of our ducks in
13 a row, and we were made aware of the
14 classification of this type of structure as that
15 relates to the zoning setbacks and requested
16 information about how to go about if there was a
17 way to get to the end or being able to construct
18 this.

19 And that's why we're here tonight. Again,
20 I sincerely appreciate the seven of you taking
21 time out of your schedules to hear our request.

22 And I guess I would just -- I'm certainly
23 happy to answer any more questions, but I would
24 make one last appeal if there's any way to grant

1 this or if there's any other suggestions, as
2 Mr. Wirball started thinking, for a way to make
3 this as proposed palatable to the City.

4 MEMBER HOLDERFIELD: I just want to make
5 sure I understand. Regarding the screens, even if
6 they were removable, if it has screens, they would
7 not permit this to be built if it's encroaching
8 the back-yard setback?

9 MEMBER BUENING: Right. According to
10 staff.

11 CHAIRMAN RULLMAN: Let me point out to you
12 that this Board is constructed of seven members.
13 So it doesn't work on a majority basis. The Board
14 has to have four affirmative votes one way or the
15 other.

16 And so I can't guarantee you that we would
17 have more members at another meeting, but you do
18 have the option to wait until there is a full
19 quorum.

20 MEMBER BUENING: You have to get four
21 minimum.

22 CHAIRMAN RULLMAN: Whatever the decision,
23 there has to be four in order for it to pass.

24 MEMBER BUENING: It's not three out of

1 four. You'd have to get all four.

2 MR. WALTON: Four of five members, plus
3 Mr. Colby and --

4 CHAIRMAN RULLMAN: No.

5 THE WITNESS: So there's another two then?

6 MEMBER BUENING: There's two vacancies
7 here on the Zoning Board.

8 MR. WALTON: Are you taking applications?
9 Sorry. May I ask for a point of information? So
10 if, my understanding, there's the screened-in
11 porch, permanent screens were the length that we
12 have proposed, the 6.62, the overhang roof could
13 extend out the full 10 feet beyond the
14 screened-in. That would be acceptable?

15 MS. HITZEMANN: So the covered porch could
16 extend 8 feet past the 30-foot building setback
17 line. So if you started the covered porch from
18 the house, the back of the house, then it could,
19 in theory, extend 15 -- 14 feet into the rear
20 yard.

21 So if you started at the building line, as
22 they did, the screened porch to the building line,
23 it could go -- the covered portion only could then
24 extend 8 feet further into the rear yard.

1 MR. WALTON: And that would require --
2 regardless of the final vote here, that would just
3 require an amended permit application to the City?

4 MS. HITZEMANN: Correct. Yes. If you
5 were going to meet the current zoning code, then
6 all you need to do is submit revised permit
7 drawings.

8 MR. WALTON: My wife had significant
9 medical issues that delayed this project by a
10 year. I don't want to take up any more of your
11 time. It seems like for better or worse, I think
12 you all stated your positions. Again, I
13 appreciate your time.

14 And I think unless there are any more
15 questions, I'm certainly happy to answer any other
16 questions anybody has, but, I guess, I don't see
17 the benefit in continuing this later. I don't --
18 yeah. It seems like everyone has expressed their
19 view on this, it seems like.

20 CHAIRMAN RULLMAN: Do you want us to
21 continue it?

22 MEMBER BUENING: Your options are to have
23 us vote on it, and also, if you're inclined to,
24 you know, build it according to the zoning

1 regulations. If we do that, obviously, we don't
2 have a denial on a variance. That's the way the
3 Zoning Board goes. But it may also be approved.
4 Until we vote, we don't know, so.

5 MR. WALTON: Well, what are our options if
6 the request for variance is not approved by, it
7 would have to be, all four of you?

8 MEMBER BUENING: It has to be all four
9 of us.

10 CHAIRMAN RULLMAN: The next remedy is the
11 court system, if you choose to go there, and then
12 reapply, or you could do something to comply with
13 the building ordinance, in which case I don't
14 think you need to come here to this Board.

15 MR. WALTON: So it wouldn't be an appeal.
16 The appeal would either go into the legal system,
17 or we go back to our drawing board --

18 CHAIRMAN RULLMAN: Correct.

19 MR. WALTON: -- essentially.

20 MEMBER BUENING: You could also ask to
21 table it and, you know, wait either for more
22 commission members or to discuss it with staff as
23 to, you know, what you'd like to do. You know,
24 negotiate what you could do that's compliant with

1 code. We could table this and then --

2 CHAIRMAN RULLMAN: We could table it to a
3 specific future date as well, which would give you
4 time to think about what you want to do.

5 MR. WALTON: May I ask, and my
6 understanding is you may not be able to answer
7 this, is there any possibility that your minds may
8 change between now and a future meeting? Because
9 I'll be honest, I don't know what other evidence
10 from a legal standpoint to justify a dimensional
11 variance that we can present.

12 CHAIRMAN RULLMAN: We're perfectly willing
13 to go ahead, if you wish, on the information
14 presented.

15 MEMBER BUENING: Or we could table it and
16 see if there's more Commission members, or, again,
17 you can talk to staff about it. It's really up to
18 you.

19 MR. COLBY: If I can make a point of
20 clarification. The Zoning Board is comprised of
21 seven members. There's currently only five that
22 are appointed. There's two vacancies. The City
23 will be going through the process of new
24 appointments to the Commission at the end of May.

1 So it's possible there will be seven seated
2 members at the time of the next meeting in May.

3 We can't necessarily guarantee that all
4 members will be present, but it is possible there
5 will be additional members appointed.

6 MR. WALTON: Obviously, the results of
7 appointments would be public information. Is
8 there advanced notice to the public of how many
9 members will be at a meeting, or is it you don't
10 know? To establish a quorum, you don't know until
11 the meeting who is able to attend?

12 MS. HITZEMANN: Yes. We don't know until
13 the meeting, essentially, who is going to be here
14 or not. We actually request the Board members or
15 other members to let us know if they're not going
16 to be present, so we know we're going to have at
17 least a quorum. But as to the full extent of how
18 many people will be there, we don't know until the
19 meeting starts. Even if they said they will be
20 there, something can always pop up, so.

21 MR. WALTON: Well, I personally feel I
22 need more time to decide if I'm comfortable moving
23 to a vote. It's a risk. We're delaying certainly
24 the procedure, but I think that's the option --

1 I'm sorry. Go ahead.

2 CHAIRMAN RULLMAN: -- if you wish a
3 specific date, which would be.

4 MS. HITZEMANN: May 27th.

5 MR. WALTON: May 20th?

6 MS. HITZEMANN: 27th.

7 MR. WALTON: Then, yes, I won't take up
8 any more of your time here tonight, and I'm not
9 comfortable making the decision to move to a final
10 vote right now. I'd like to reassess here and
11 hopefully revisit with you all in five weeks time.

12 CHAIRMAN RULLMAN: Per your request, we
13 will table this until May 20th, was it?

14 MR. COLBY: 27th.

15 CHAIRMAN RULLMAN: May 27th at
16 7:00 o'clock.

17 MEMBER BUENING: Do you need a motion for
18 that?

19 MEMBER WIRBALL: I'll make a motion.

20 MEMBER BUENING: I'll second the motion to
21 that.

22 CHAIRMAN RULLMAN: All right. All in
23 favor.

24 (Ayes heard.)

1 MR. WALTON: Thank you.

2 CHAIRMAN RULLMAN: We will table that.

3 That ends the hearing on this variation
4 application.

5 Any public comments?

6 (No response.)

7 CHAIRMAN RULLMAN: Any additional business
8 from the Board or staff?

9 (No response.)

10 CHAIRMAN RULLMAN: Hearing none, I'll
11 entertain a motion to adjourn.

12 MEMBER HOLDERFIELD: So moved.

13 MEMBER BUENING: Second.

14 CHAIRMAN RULLMAN: Moved and seconded.

15 All in favor.

16 (Ayes heard.)

17 CHAIRMAN RULLMAN: The meeting is
18 adjourned at 7:41 p.m.

19 (Off the record at 7:41 p.m.)

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CERTIFICATE OF SHORTHAND REPORTER

I, Joanne E. Ely, Certified Shorthand Reporter No. 84-4169, CSR, RPR, and a Notary Public in and for the County of Kane, State of Illinois, the officer before whom the foregoing proceedings were taken, do certify that the foregoing transcript is a true and correct record of the proceedings, that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision, and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 30th day of April, 2021.

My commission expires: May 16, 2024



Notary Public in and for the
State of Illinois

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Conducted on April 22, 2021

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