

**Village of Pewaukee**  
**Zoning Board of Appeals**  
Wednesday, April 16<sup>th</sup> , 2014

**1. Call to Order and Roll Call**

Chairperson Flowers called the April 16, 2014 Zoning Board of Appeals meeting to order at approximately 7:01 p.m.

Roll call was taken with the following present: Chairperson Dean Flowers, Theresa Opie, Thomas Gund and Bill Hansen.

Absent: Matt Haydack and Casey Smith

Also present: Village Attorney Mark Blum and Clerk/Treasurer Nancy J. Zastrow

**Citizen Comments**

Pat Nauth – 112 Highland Avenue

Ms. Nauth lives right next to the current house. She stated she has a survey and it does not match what is presented this evening. Attorney Blum advised Ms. Nauth to address the board during the public hearing on this matter.

Mike Dietz – 137 Highland Avenue

Mr. Dietz has concerns on the 35' encroachment. He was also advised to speak during the public hearing on this matter.

**2. Public Hearings**

**An appeal for a variance from Section 40.150(5) to reconstruct a residence of an existing structure and 40.29(a) of the Village Code requiring a 35 foot street yard setback. The applicants, Patti Pearson, owner and Crowne Stephens Contracting, LLC are requesting relief from front yard setback and relief allowing them to tear down and construct a new structure which exceeds the existing foundation. This parcel is legal nonconforming due to lot size.**  
**Location: 388 Park Avenue**

Chairperson Flowers opened the public hearing at approximately 7:04 p.m.

Steve Schwartz & Steve Forthum are the petitioners for the variance. Documentation was included in the agenda packet for the zoning board. They explained the current house on this property was gutted by the previous owner. The proposal is to tear down the home and build a new home on the lot that will increase the backyard setback but reduce the side and front yard setback. Mr. Schwartz stated Crowne Stephens does not currently own this property, but they have an accepted offer to purchase contingent on the variance being approved.

Attorney Blum noted the following documents were distributed to the Zoning Board of Appeals with the agenda packet:

- Application form
- Plat of Survey dated 3-26-2014
- Topographic view of property dated 3-26-2014
- Copy of proposed plan

- Set of photographs – Park Avenue view of current property, Highland Avenue view, one showing the view of the neighbor behind, a view of the basement, a view of the second floor looking to the first floor, a view of the neighbor to the northeast and a view of the rear door.

Attorney Blum explained to the board they need to decide if the request is unnecessarily burdensome in order to grant the request.

Mr. Schwartz stated all setbacks overlap the current lot lines.

Attorney Blum asked Mr. Schwartz if they considered building in the same footprint. He stated they looked into it, but it would be harder to sell. They want to purchase, build and resell.

Chairperson Flowers noted the lot is 1/3 of the code requirements for a residential lot.

Attorney Blum stated this is the time for any additional testimony from those present.

Pat Nauth – 112 Highland Avenue

Ms. Nauth addressed the Zoning Board stating she is concerned about the survey which is about one foot difference. She has a survey that does not match the one presented. Ms. Nauth stated the Village passed an ordinance regarding rebuilding property within current foot print and this is a substantial increase. She feels there is a potential hazard for the corner. She also noted for the property to be grandfathered it must be continuous use for twelve months.

Mike Dietz – 137 Highland Avenue

Mr. Dietz addressed the Zoning Board stating he is concerned the building is outside the current footprint. There is no sidewalk, so pedestrians use the hill to walk on. He stated there is another offer that will build within the footprint. The property has been on the market for three years.

Mr. Schwartz questioned the comment about another offer on the property. Attorney Blum stated this is immaterial to the hearing this evening.

Richard Benkstein – 384 Park Avenue

Mr. Benkstein addressed the Zoning Board stating he is in support of the project. He does not see an alternative the current structure needs to be torn down. The only other alternate is to have a little park. He is in support and states all lots in this area are small.

T. Gund asked if there is a drawing of the current house. Mr. Schwartz stated the dotted lines on the survey map indicate the current footprint.

B. Hanson asked if Ms. Nauth's property is directly behind this house? Ms. Nauth referred to the submitted pictures and identified her home.

Ken Krawzyk – 387 Park Avenue

Mr. Krawzyk addressed the Zoning Board stating he lives in front of the house and thinks this will improve the neighborhood.

Mr. Dietz addressed the board stating he feels his comments are not being viewed as relevant by the board, but he feels they are.

Chairperson Flowers closed the public hearing at approximately 7:24 p.m.

**3. Approval of the Minutes of the March 27, 2014 meeting.**

T. Opie moved, T. Gund seconded the motion to approve the minutes as presented at the meeting. Motion carried 4-0.

**4. New Business**

**Review and Action on Appeal for a variance from section 40.150(5) and 40.209(a) of the Village Code as fully described above in Item 2a.**  
**Applicant – Patti Pearson, owner and Crowne Stephens Contracting, LLC**  
**Location – 388 Park Avenue**

Chairperson Flowers introduced this item and opened it to discussion from the board.

T. Gund asked Attorney Blum if there is an ordinance requiring them to build on the same footprint. Chairperson Flowers asked if there is a time constraint. Attorney Blum explained there is a provision in the ordinance for non-conforming use which has a twelve consecutive month constraint for the abandonment of non-conforming uses. He explained this is a dimensional variance not a use variance, so the abandonment of use ordinance would not apply.

T. Opie asked if they are changing the setback from Park Avenue. Mr. Schwartz explained the setback is 34.9' and the foundation in the front yard will be the same setback as there is currently. They explained the deck would extend an additional 2' requiring a variance for this setback.

Chairperson Flowers stated there is a recommendation from the zoning inspector for non-approval and the board has heard from neighbors, he asked if the applicant has researched not changing the setback. Chairperson Flowers noted the property is over built. T. Opie stated every property on Park Avenue is overbuilt.

B. Hanson stated he is not concerned with the deck but is concerned with the vision. He does not feel there is any obstruction. Mr. Schwartz stated they intend to level the site off so there is not a steep drop-off.

T. Gund stated the only issue is with making the house bigger on the other side. T. Opie pointed out the house is growing by about 90 square feet.

Attorney Blum stated the property as it exists in the survey could be repaired in the current footprint. The reason they are here is for relief of the standards. The board needs to decide whether they want to give relief to side yard and front yard standards and whether the relief is necessary because it is burdensome to not approve.

B. Hanson asked if the garage is in the same location. It would be a one car garage on Highland. T. Gund noted the deck will be over the garage door.

Chairperson Flowers asked if the board was ready to make a motion.

B. Hanson moved the proposal for variance be approved. Each variance is burdensome, does impact property to strictly follow ordinance. T. Opie seconded the motion. Attorney Blum noted all four members will need to vote in favor in order to approve. Chairperson Flowers reviewed the testimony presented. Roll call vote was taken.

T. Opie	yes	B. Hanson	yes
T. Gund	yes	Chairperson Flowers	yes

Motion carried 4-0. M. Haydack was absent.

**5. Presentation by Village Attorney regarding the Role and Responsibilities of Zoning Board of Appeals**

Attorney Blum gave a presentation on the Role and Responsibilities of the Zoning Board of Appeals. This was a power point presentation.

**6. Set date for next meeting**

It was noted the regularly scheduled Zoning Board of Appeals meetings will be conducted on the third Thursday of each month. Clerk/Treasurer Zastrow noted she will contact members after the submission deadline each month, if a meeting is required or not. Members asked to be notified via e-mail.

**7. Adjournment**

B. Hanson moved, seconded by T. Gund to adjourn the April 16, 2014 Zoning Board of Appeals meeting. Motion carried 4-0.

Respectfully submitted,

Nancy J. Zastrow  
Clerk/Treasurer