

APPROVED

**VILLAGE OF DOWNERS GROVE
ZONING BOARD OF APPEALS MINUTES
January 26, 2022**

CALL TO ORDER:

Chairperson (Ch.) Peter Foernssler called the meeting to order at 7:00 PM.

ROLL CALL:

AYE: Ms. Eberhardt, Mr. Frost, Mr. Maier, Mr. Schwartzers, Ch. Foernssler
A quorum was established.

Staff: Jason Zawila, Planning Manager
Gabriella Baldassari, Development Planner

Also Present: Jason Lindahl, 3810 Candlewood Drive, Downers Grove
Samantha Cozzo, 3810 Candlewood Drive, Downers Grove
Connor Cavanaugh, 1091 Black Oak Drive, Downers Grove
Kris Bochat, 1161 Candlewood Drive, Downers Grove
Keith Chada, 1100 Black Oak Drive, Downers Grove

MEETING PROCEDURES:

Ch. Foernssler asked those in attendance to silence their phones for the duration of the meeting. He reviewed the procedures to be followed during the public hearing.

APPROVAL OF MINUTES – August 25, 2021

A Motion was made by Mr. Maier, seconded by Ms. Eberhardt to accept the minutes as presented.

Ch. Foernssler called for a Voice Vote. The Motion carried 5:0.

A request to grant a variation for 22-ZBA-0001, an after-the-fact variation to permit a sports court to remain in the street yard, where they are not permitted, per Section 28.14.100.B of the Municipal Code. The property is located on the west side of Candlewood Drive approximately 250 feet south of the intersection of Candlewood Drive and Black Oak Drive, Commonly known as 3810 Candlewood Drive (PIN 06-32-304-022). Jason Lindahl and Samantha Cozzo, Owners. Jason Lindahl, petitioner.

APPROVED

Staff Presentation:

Gabriella Baldassari, Development Planner, stated that this request was for a sports court variation for 3810 Candlewood, 22-ZBA-0001, identified the location of the property on the screen, and said that after the fact variation means the ice rink is already there. She shared the plat of survey and showed the location of the sports court in both street yards. An excerpt from *Inside DG* was shared to illustrate the consistent implementation of the determination that ice rinks are considered sports courts and are not allowed in street yards. The existing ice rink is located within two street yards. Ms. Baldassari shared pictures of the existing ice rink, and detailed the timeline of enforcement activities that had been taken against the property owner regarding this ice rink. Code enforcement has been working to get the ice rink removed since November 16, 2021. She shared the standards of approval that would need to be met for a variation to be supported, and stated that they were not met, citing potential safety, neighborhood character, property values, and the possibility of setting a precedent. She added that neighborhood comment since the staff report was published was mixed, and the new comments were provided on the dioses. Based on the standards, staff did not support approval of the petition.

Mr. Maier asked for a review of the difference between exceptions and variations. Jason Zawila, Planning Manager, said that the set of standards of approval is different for exceptions and variations.

Ch. Foernssler asked what the flyer shown was from. Ms. Baldassari stated it is an *Inside DG* article from 2019. This is a quarterly publication issued to all residents.

Petitioner's Statement:

Jason Lindahl, petitioner, said his family with five kids always wanted an ice rink. He asked for permission to keep the ice rink in its current location this year because of a significant slope in the backyard and to keep their kids active during Covid. In the future, he would move the rink to a different location slightly to the west. Mr. Lindahl said that the storage pod and heater mentioned in the neighborhood comment section of the staff report was no longer there. The hardship is covid, and he didn't want to disappoint his kids, so he left the rink up. The corner lot is different from others because of the impossibly sloped back yard. The kids do not play while pedestrians walk by. It is important to have something to do outside. This is a unique situation because of the impossible slope in the backyard, and variations could be issued only in cases of impossible slopes. The rink couldn't go where the trampoline is. The yard isn't somewhat sloped but impossibly sloped. This will not impair air. The sidewalk will stay clear of ice and it is no different from someone else's snowy sidewalk. This is only necessary when slopes are impossible. Mr. Lindahl detailed numerous messages of support from neighbors.

Ch. Foernssler called for any comments from the public.

Connor Cavanaugh, 1901 Black Oak Drive, stated that the neighborhood is a proud one and the petitioner hadn't been there long enough to know the rules. He said that the property is unique, and that the ZBA should look inward to permit this. It is outlandish to state the ice rink is unsafe, and parents not paying attention to their kids might result in kids falling on the ice. He added that this is

APPROVED

the character of the neighborhood and that the Granato family would have supported this. This will only be eye sores here and there and look into the faces of your own children.

Kris Bochat, 1161 Candlewood Drive, said he lives in the neighborhood and is a dog walker. This is a well-built structure and other neighbors have water flowing toward the front yard which is against ordinance. Some sidewalks in the area have not been repaired. He is not concerned about the ice rink. There is a lot to pick on in the neighborhood. Many kids in the neighborhood are excited about this and it is closer than Doerhoefer Park. Doerhoefer Park is red tagged often. There are extenuating circumstances here, it is expensive to mitigate extreme slopes. The street yard is a questionable location but it is the only possible spot and it is a benefit to the neighborhood.

Keith Chada, 1101 Black Oak Drive, said he is proud of the petitioner for making a professional rink and he likes to see the kids outside playing, which nobody sees anymore. It is clean, and it is a blessing, and would be temporary.

Mr. Lindahl said he understands rules are necessary and he is only asking for the change in the case of his impossible slope. This is important in the Covid era.

Mr. Frost asked if there was a smaller ice rink that could be installed in the back yard. Mr. Lindahl said it was impossible to put it in the backyard.

Mr. Maier asked how many degrees the slope is. Mr. Lindahl said he did not know but that it is significant. Mr. Maier further inquired what due diligence they did when they bought the house, given that they wanted to build the ice rink. Mr. Lindahl said he wasn't sure if he would install one at the time. Lastly, Mr. Maier inquired if he did any investigation into this. Mr. Lindahl said he heard he didn't need a permit so he didn't explore it further.

Ms. Eberhardt asked why he didn't explore it further, did he call the Village at all? Mr. Lindahl said no. Ms. Eberhardt clarified that he did not call the Village but invested how much? Mr. Lindahl said it was up to \$2500 to \$3000 without the water bill.

Mr. Zawila clarified that there are requirements even if a permit is not required. The purpose of providing the newsletter was to show that there is consistency in this interpretation, not to say that the owner would have received this notice. He also added that residents have installed ice rinks in the street yard in past years, and have removed them upon learning that this was not allowed.

Mr. Lindahl said he was not asking for all corner street yards to have ice rinks, and a vote against this means no ice rink for his family.

Mr. Schwartzers asked if a variation could be applied just to one season. Mr. Zawila said that if the motion was to approve this, staff would recommend it would just be for the current year.

Mr. Schwartzers asked what other types of sports courts there were. Mr. Zawila said staff had seen basketball, tennis, and pickleball courts and that these required permits because they were permanent. Mr. Schwartzers asked if there were any clarifications to define the intensity of slopes. Mr. Zawila said no.

APPROVED

There being no further comments, Ch. Foernssler closed the public portion of the meeting to Board deliberations on a voice vote.

Deliberation:

Ms. Eberhardt said she loved the professional rink and understood the homeowner spent a lot of money on it, and that kids are enjoying it, but it is not the place of the board to look at these issues, but rather the standards of approval. She elaborated that a corner yard and a sloped yard are not unique situations.

Mr. Maier said it was clear there were emotions on both sides, but that is why there are zoning codes.

Ms. Eberhardt said she is surprised by this request as it shows a disregard for the rules. It is in noncompliance. This could set a precedent for others to ignore the rules, then call for a hearing to get special permission.

Mr. Frost added that they had the rink up in November, they could have tried to move it or comply earlier.

Mr. Schwartzers asked if the board should take into consideration hardships of kids since Covid is going on. Mr. Zawila said that a hardship is defined by the nine standards listed in the staff report, and confirmed this checklist was made prior to Covid.

Ms. Eberhardt said the hardship was brought on by the homeowner. This could have been prevented.

Mr. Frost said there were emotions on both sides. This is not the only outdoor activity available to kids.

Ch. Foernssler said he felt that yes, this is considered a sports court, so they wouldn't be allowed. He understands everybody's feelings, but we have zoning ordinances and are trying to create consistency. Approving this could set a precedent.

There being no further deliberation, Ch. Foernssler called for a motion.

A Motion was made by Mr. Maier seconded by Ms. Eberhardt that based on the petitioner's submittal and analysis presented by staff, the Zoning Board of Appeals approves staff's recommendation to deny the variance request.

AYE: Mr. Maier, Ms. Eberhardt, Mr. Frost, Mr. Schwartzers, Ch. Foernssler
NAYS: None

The Motion to approve carried unanimously, 5:0:0.

.....

Mr. Zawila stated there was a meeting scheduled for next month.

APPROVED

Adjournment

Ch. Foernssler adjourned the meeting by voice vote at 7:57 PM.

Respectfully submitted,
Community Development Staff
(Transcribed from mp3 recording)