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**VILLAGE OF DOWNERS GROVE  
ZONING BOARD OF APPEALS MINUTES  
MARCH 23, 2005**

**Call to Order**

Chairman White called the meeting to order at 7:31 PM.

**Roll call**

Present: Mr. Baker, Mr. Benes, Mr. Domijan, Mr. Lukas, Mr. Sleeter, Ch. White

Absent: None

A quorum was established.

**Minutes**

Mr. Sleeter moved to accept the minutes of the February 23, 2005 meeting as presented. Mr. Domijan seconded the Motion.

AYES: Mr. Sleeter, Mr. Domijan, Mr. Baker, Mr. Lukas, Ch. White

NAYS: None

ABSTAIN: Mr. Benes (due to absence)

Ch. White declared the minutes approved as presented.

**Meeting Procedures**

Chairman White explained the procedures to be followed for the meeting, reviewing the variation petitions before the Board. He said that the Board has the authority to either grant or deny the petitions and the Board's decision is final with respect to each request. Chairman White then asked anyone in the audience who intended to testify in this public hearing to rise and be sworn in.

**ZBA-03-05 A petition seeking a variation to reduce the rear yard. Property is located on the east side of Lee Avenue at the northeast terminus of Elmore and Lee Avenues, commonly known as 5405 Lee Avenue, Downers Grove, IL (PIN 09-07-306-038); William and Mary Ann Muth, Owners/Petitioners.**

**Petitioner's Presentation:**

Mr. William Muth of 5405 Lee said their request is for a variation for an addition to his home with an indoor swimming pool, bathroom and screened-in porch. The existing driveway and trees that are also in the way prompt the need for a variation. He described the topography of the lot, noting that there is a steep grade change to the north of the existing residence.

1 Mr. Sleeter noted that the petitioner seems to have an extraordinarily large yard, which would appear to  
2 allow for a number of directions in which the addition could have been designed so as not to encroach on  
3 their property line. Mr. Muth responded that the orientation of the pool could have been turned to run  
4 north and south instead of east and west, but the addition would then have to go further out from his house  
5 to the north, into the sloped area.

6  
7 Mr. Muth showed a topographical survey and noted as you move further to the north from the house, the  
8 property drops down considerably. This would also require the removal of more trees from his property.  
9 He explained there is a substantial grade differentiation from his home to the addition if they were to turn it  
10 to orient north-south. He showed on the topographical survey that there is about a six-foot drop from  
11 where the addition would connect to the house down to where it would end up on the north. By orienting  
12 the pool east and west, it substantially reduces the structure going out that way into the sloped area.

13  
14 Mr. Benes asked whether the petitioner built the house, and whether there was a reason for the existing  
15 setback so far from the street. Mr. Muth said prior to him constructing this home, there was an existing  
16 home on the property that was set basically where this house sits, and they positioned this house in the  
17 same general footprint as the previous house. If he had known this would be an issue back then, he could  
18 have moved it forward, but it fit in nicely where the other house had been located. To have moved the  
19 house forward would have meant taking down 2-4 mature trees in front of his house. He never knew he  
20 would be adding an indoor pool here twelve years later.

21  
22 Mr. Muth stated the manner in which the addition sits and the size of the pool designated the size of the  
23 room. Mr. Muth said he wants to keep the addition as small as possible ; however, he noted that with the  
24 pool and the diving board, there are certain requirements that need to be met. For a diving board, there  
25 must be at least nine feet of space behind it. The pool designated the size of the addition, and the size of  
26 the pool is designated by the diving board in terms of the pool's depth and perimeter.

27  
28 Mr. Benes asked if the size of the pool could be reduced, and Mr. Muth said that would eliminate the  
29 diving board. Using the site plan, Mr. Muth explained that moving the addition forward encroaches on the  
30 driveway and the ability to enter the garage.

31  
32 Mr. Domijan asked whether there was a reason for the east wall design, and Mr. Muth responded that it is  
33 basically an architectural feature.

34  
35 There being no further questions from the Board, Chairman White called for the Staff presentation.

36  
37 **Staff's Presentation:**

38  
39 Ms. Amanda Riordan made the presentation on behalf of Keith Sbiral who was unable to be present due  
40 to a conference commitment.

41  
42 Ms. Riordan said the petitioners are seeking a rear setback variation to permit an addition to a single  
43 family residence with a 17 foot rear yard where 23.5 feet is required. The proposed addition is to the  
44 north and west of the existing residence and is intended to accommodate an indoor pool as described by  
45 the petitioner.

46  
47 Ms. Riordan described the rear yard requirement as defined by Code, noting that all setbacks are  
48 determined based upon the height of the structure as measured at its front elevation. The rear setback

1 requirement for principal structures in this zoning district is 20 feet plus one additional foot of setback for  
2 every one foot in height over 20 feet. As the height of the residence is 23.5 feet, the minimum rear yard  
3 requirement in this case is 23.5 feet as measured from the easterly property line.  
4

5 Ms. Riordan said the addition is proposed to be 17 feet as measured from the rear property line as  
6 opposed to the minimum requirement of 23.5 feet. This represents a variation of 6.5 feet, or 27.6% into  
7 the required rear yard.  
8

9 Ms. Riordan noted the property is adjacent to a DuPage County Forest Preserve, and that Staff received  
10 correspondence this afternoon from the Forest Preserve District of DuPage County, which has been  
11 distributed to the Board members this evening. The District has expressed concerns regarding the  
12 proximity of the proposed addition to the Forest Preserve property to the east. The District has asked that  
13 their letter be read and entered into the record, which Ms. Riordan then read (see attached copy).  
14

15 Ms. Riordan concluded by stating the Zoning Board of Appeals is authorized to consider the requested  
16 variance since it is not greater than a 50% reduction from the minimum requirement. Staff recommends if  
17 the request is granted by the Board, consideration be given to including the two standard conditions as  
18 outlined in the Staff report pertaining to any future changes to the plan and the petitioner's obligation to  
19 maintain compliance with all applicable regulations.  
20

21 Mr. Benes questioned the calculation of the height of the existing residence, and noted the height of the  
22 addition is less than the existing residence. Ms. Riordan responded that the Code Services Department  
23 had been consulted with respect to the application of the height to setback ratio in this case, and it was  
24 confirmed that the height is determined by the main portion of the structure and is applied to the rear  
25 setback of the addition, even if the addition is shorter in height.  
26

27 There were no further questions for Staff from the Board. Chairman White then called for anyone  
28 wishing to speak either in favor of or against the petition.  
29

30 Mr. William Woodward, 5409 Lee Avenue, said he has resided within the Village for 39 years and lives  
31 139 feet away from the subject property. He said he has no concerns about the plan for the pool addition.  
32 He does have concerns, however, regarding the Forest Preserve property as well as the Zoning Ordinance  
33 regulations. He said that the zoning regulations do not indicate how to measure the height of the home.  
34 Ms. Riordan clarified that the Zoning Ordinance defines height in Section 28-201, the Definitions section of  
35 the Ordinance. Mr. Woodward asked Ms. Riordan to explain this definition, and Ms. Riordan explained  
36 that height is measured at the front elevation of the structure from the average grade to the midpoint  
37 between the eave and the peak of the roof. She also showed the calculation of the front elevation of the  
38 Petitioner's residence on the overhead screen.  
39

40 Mr. Wallace Brown, 1308 Gilbert Avenue, said he is speaking tonight as a Commissioner with the Forest  
41 Preserve District and noted that one point not in the letter concerns the heavy construction equipment that  
42 will be used for the building of the addition. The closer the addition gets to the property line, the more  
43 impact it will have on the Forest Preserve District's trees and their root systems. He continued that this  
44 preserve is very old and valuable, even though it is small. The District wants to be sure that construction  
45 is being watched closely.  
46

47 Mr. Muth responded to the Forest Preserve's letter and to Mr. Brown's comments by using the  
48 topographical plan on the overhead screen to display where the pool water will be dumped back into the

1 sewer system. He said there is a wood bridge half way up the front of the yard, and construction vehicles  
2 will have to stop at that wood bridge since there is no driveway beyond that bridge. All concrete work will  
3 have to be pumped from the bridge to the side of the house.  
4

5 Mr. Muth continued that the addition is to the side of his house and there will be virtually no construction  
6 equipment around the back of the house whatsoever. All excavation will come from the driveway on the  
7 front. He said his driveway has about a four-foot drop off from the driveway to the north where he has a  
8 retaining wall, and none of the equipment will go around the addition. The photos show he has a heavily  
9 wooded lot, and he noted the last thing he wants to do is disturb all the trees around the addition. He  
10 wants to keep disruption to a minimum. With the proposed variance, he is within 17 feet of the back  
11 property line. The majority of construction work will be done from the front. He also has a brick  
12 driveway from the bridge to his house which he wants to protect from construction equipment.  
13

14 Regarding the District's concerns regarding water runoff, Mr. Muth responded if he turned the addition to  
15 the north, he would not need a variance because there is plenty of room for him to do it, but that would not  
16 be aesthetically pleasing. The impact on the trees to the north would be much greater, and the topography  
17 of the lot would bring the foundation out of the ground even higher. He noted that the grade difference  
18 between the house at the driveway line and the north end is about a five or six foot drop-off, which he  
19 could fill in, but it would negatively impact the trees to the north. The water runoff would also be much  
20 more substantial if he were to do that.  
21

22 Chairman White asked if turning the addition sideways would bring more water runoff. Mr. Muth said  
23 that would bring the addition farther to the north of the property, its design would be affected by the  
24 topography and its footprint would be bigger.  
25

26 Chairman White then asked whether the District and Mr. Muth have discussed the concerns the District  
27 and Commissioner Brown have expressed, and Mr. Muth responded he has not. Chairman White said the  
28 Board cannot require this, but he is asked if Mr. Muth would consider continuing the meeting for one  
29 month to provide time for Mr. Muth and the Forest Preserve District to review the situation together. Mr.  
30 Muth said he was not sure the District would be willing to discuss this with him; they have voiced their  
31 concerns in the letter. He said that he does not see a problem with the proposed variation.  
32

33 Mr. Benes said turning the addition would still result in the same problem of trying to prevent equipment  
34 from harming the trees, and equipment would still have problems getting back to the house.  
35

36 Mr. Muth said that he could put in a temporary driveway but does not want to go through that expense,  
37 and he does not want to ruin his existing brick driveway. He said even if he turned the addition, he wants  
38 to preserve the trees around the addition no matter how it is configured.  
39

40 Chairman White said he suspects if Mr. Muth and the Forest Preserve District were to meet and analyze  
41 this project, they might be able to reach some resolution. Commissioner Brown said members of the  
42 District would be happy to meet with Mr. Muth to discuss this matter.  
43

44 Chairman White explained this could be continued to next month's agenda for the 4<sup>th</sup> Wednesday of April.  
45 He said Mr. Muth can ask for a vote this evening or continue it one for month too allow him to discuss the  
46 matter further with the Forest Preserve District. If the positions of each of the parties do not change, the  
47 Board will vote upon the Variation in April. Mr. Muth said he has no problem meeting with the District.  
48 None of the Board members objected to this recommendation.

1  
2 Chairman White then said with the permission of the Petitioner, he would entertain a motion to continue  
3 the request to the 4<sup>th</sup> Wednesday of April at 7:30 PM in the Council Chambers. Mr. Muth and Mr. Brown  
4 spoke for a moment regarding a potential meeting with the District and agreed that it could be beneficial.  
5

6 Chairman White said it is beneficial for the Petitioner to coordinate his efforts as much as possible with the  
7 surrounding neighbors, including the Forest Preserve District. Chairman White called for a motion.  
8

9 **Mr. Benes moved to continue File No. ZBA-03-05 to the April 27, 2005 meeting, with direction**  
10 **being given to the Petitioner that he meet with the Forest Preserve District to discuss options**  
11 **available regarding the proposed addition. Mr. Sleeter seconded the Motion. The Motion**  
12 **passed unanimously by voice vote.**  
13

14 .....  
15

16 **ZBA-04-05: A petition seeking a variation to reduce the required front yard setback for the**  
17 **construction of a porch. Property is located on the northwest corner of Grant**  
18 **Street and Douglas Road, commonly known as 516 Grant Street, Downers**  
19 **Grove, IL (PIN 09-05-407-024); Anthony and Barbara Provenzano,**  
20 **Owners/Petitioners.**

21 **Petitioner’s Presentation:**  
22

23 Mr. Anthony Provenzano, 516 Grant Street, said that he is seeking a six-foot variation on the southeast  
24 corner of their proposed addition. He said they worked with their architect to obtain an appealing design  
25 for the porch addition. He indicated they took great pains to stay within the Code but have a problem  
26 with the one corner of the porch. He showed the elevation drawing which depicts the exact location of  
27 the corner in question.  
28

29 Mr. Baker asked whether Mr. Provenzano discussed this with his neighbors. Mr. Provenzano responded  
30 that every neighbor with whom he spoke gave a positive response, and there are some present at the  
31 meeting tonight. He indicated he and his wife are from Downers Grove, and that they worked very hard  
32 to present a design that was aesthetically pleasing.  
33

34 **Staff's presentation:**  
35

36 Ms. Riordan reviewed the petitioner’s proposed Variation, stating it is a request for a front setback for a  
37 proposed porch which is to be constructed as part of a larger addition to the residence. Although the other  
38 aspects of the addition have been designed to meet applicable setback requirements, the porch is proposed  
39 to be located 20 feet as measured from the Douglas Avenue front property line in lieu of the minimum  
40 requirement of 25 feet.  
41

42 Ms. Riordan explained in detail that the existing setback of the residence is currently lawfully non-  
43 conforming as measured from the Douglas Avenue front property line. Ms. Riordan noted the second  
44 story portion of the addition is permitted to be constructed so long as its height does not exceed 20 feet as  
45 defined in the Zoning Ordinance. She noted, however, that the proposed porch will extend the length of  
46 the wall which is currently nonconforming, and it is that extension that requires the Variation. Ms. Riordan  
47 illustrated the area of concern on the overhead screen noting that the southwest corner of the porch is the  
48 subject of the Variation request.

1  
2 Ms. Riordan concluded by stating the Zoning Board of Appeals is authorized to consider the requested  
3 variance since it is not greater than a 50% reduction from the minimum requirement. Staff recommends if  
4 the request is granted by the Board, consideration be given to including the two standard conditions as  
5 outlined in the Staff report pertaining to any future changes to the plan and the petitioner's obligation to  
6 maintain compliance with all applicable regulations.  
7

8 There being no questions from the Board for Staff at this time, Chairman White called for anyone who  
9 wished to speak either in favor of or in opposition to the petition.  
10

11 Mr. Benes asked for clarification regarding the corner of the porch in question, and Ms. Riordan said it  
12 concerns only the single-story porch portion of the addition. Mr. Provenzano said the porch roof will fit  
13 over that portion of the addition, noting they have no front porch at all right now.  
14

15 As no further questions or comments were raised from the audience or the Board, Chairman White closed  
16 the public participation portion of the hearing.  
17

18 Mr. Baker said the Petitioner is not increasing the existing front yard setback, and he does not see this as  
19 worsening the situation. He believes not allowing the porch would be more harmful.  
20

21 Mr. Domijan agreed they are basically simply squaring off the space.  
22

23 Mr. Sleeter concurred saying it is a straightforward and reasonable request.  
24

25 **Mr. Domijan moved that in Case ZBA-04-05 that the Zoning Board of Appeals grant the**  
26 **requested Variation for the property at 516 Grant Street as presented by the Petitioner, subject**  
27 **to the following conditions:**  
28

- 29 **1. Any changes to the conditions represented by the Petitioner as the basis for this petition,**  
30 **whether those changes occur prior to or after Village approval, shall be promptly reported**  
31 **to the Village;**  
32  
33 **2. This recommendation is further conditioned that it is the Petitioner's obligation to maintain**  
34 **compliance with all applicable Federal, State, and Village laws, ordinances, regulations, and**  
35 **policies.**  
36

37 **Mr. Benes seconded the Motion.**  
38

39 **AYE: Mr. Domijan, Mr. Benes, Mr. Sleeter, Mr. Baker, Mr. Lukas, Ch. White**

40  
41 **NAY: None**  
42

43 **The motion passed unanimously.**  
44

45  
46 **ZBA-05-05: A petition seeking a variation to reduce the required front yard setback for the**  
47 **construction of a porch. Property is located on the north side of Davis Street,**  
48 **approximately 155 feet west of Fairview Avenue, commonly known as 414 Davis**

1 **Street, Downers Grove, IL (PIN-09-05-417-022); Tim Radigan,**  
2 **Owner/Petitioner.**  
3

4 **Petitioner's Presentation:**  
5

6 Mr. Tim Radigan, Petitioner, said he resides at 414 Davis Street and is requesting a variance to the front  
7 yard setback to accommodate the replacement and enhancement of an existing front porch. The porch  
8 has been on the house a long time, and the wood has become warped and dried out. They want to replace  
9 the porch and improve its functionality.  
10

11 Mr. Radigan said it will be a covered porch, and they will be adding an additional exit and entry to the  
12 house. The request is for a variation from the 25 foot setback requirement, to a setback ranging from 20.2  
13 feet to 21.1 feet. The range is caused by the fact that the footprint is not perfectly square from the west  
14 side lot line. He said their new porch will stay within the existing porch setback but will be bigger in area.  
15 He noted the home is 100 years old. There will be no further encroachment with the addition.  
16

17 Mr. Radigan said the variation, if granted, will not alter the character of the structure, and it will enhance  
18 the home. He showed a photograph of how the home looks now. Mr. Benes asked whether the steps  
19 were concrete or wood, and Mr. Radigan said they are wood. The sidewalk to the front porch is brick,  
20 and it most likely will be replaced with a simple concrete. Mr. Benes said the depth of the porch is shown  
21 as eight feet and asked if they considered something less than eight feet without a variance. Mr. Radigan  
22 said they did consider that; however, using the porch daily they need that amount of space, since the room  
23 is also needed for the door entryway. They want to utilize the porch and, therefore, require the additional  
24 depth.  
25

26 **Staff's Presentation:**  
27

28 Ms. Riordan explained the proposed porch addition is proposed to be 20.2 feet from the front property line.  
29 She utilized the overhead screen to illustrate that the house does not currently sit parallel with the front  
30 property line, and that the setback of the porch would range from 20.2 feet to 21.8 feet as measured from  
31 the front property line. The proposal represents a Variation ranging between 19% to 12.8% from the  
32 minimum requirement of 25 feet.  
33

34 Ms. Riordan said the Board is authorized to consider this Variation as it is less than a 50% reduction. If  
35 the request is granted by the Board, she recommended consideration be given to including the two  
36 standard conditions as outlined in the Staff report pertaining to any future changes to the plan and the  
37 petitioner's obligation to maintain compliance with all applicable regulations.  
38

39 Mr. Benes noted an older home across the street which is closer to the sidewalk, as are other homes in  
40 the area. He asked if all of these were variations. Ms. Riordan said she was not aware if any other  
41 setback variations had been granted in the neighborhood, but given the age of the homes in the  
42 neighborhood, she suspected their setbacks were probably lawfully nonconforming in that they pre-dated  
43 the adoption of the Zoning Ordinance.  
44

45 Mr. Baker asked if the Petitioner wishes to replace the same porch, why they have to request the  
46 variation. Ms. Riordan responded the provisions of the Ordinance regarding nonconformities will allow the  
47 replacement of nonconforming structures kind for kind with the same dimensions. Because the petitioner  
48 is expanding the size and also covering the porch, the Variation is required to be requested. .

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There being no further questions from the Board, Chairman White called upon anyone wishing to speak either in favor of or in opposition to the petition. There being none, Chairman White closed the public participation portion of the hearing.

**Board’s Deliberation:**

Mr. Benes said that looking at the elevation drawings; this will be quite a nice addition to the aesthetics of the community. The property is very well maintained at this point, but this becomes a positive addition to the structure, and he would be in favor of granting the variation.

There being no contrary thoughts expressed, Chairman White called for a Motion.

**Mr. Lukas moved in Case ZBA-05-05 that the Zoning Board of Appeals grant the requested Variation for the property at 414 Davis Street as presented by the Petitioner, subject to the following conditions:**

- 1. Any changes to the conditions represented by the Petitioner as the basis for this petition, whether those changes occur prior to or after Village approval, shall be promptly reported to the Village;**
- 2. This recommendation is further conditioned that it is the Petitioner’s obligation to maintain compliance with all applicable Federal, State, and Village laws, ordinances, regulations, and policies.**

**Mr. Baker seconded the Motion.**

**AYE: Mr. Lukas, Mr. Baker, Mr. Domijan, Mr. Benes, Mr. Sleeter, Ch. White**

**NAY: None**

**The motion passed unanimously.**

.....

There being no further comments or matters before the Board, Chairman White adjourned the meeting at 8:40 PM.

Respectfully submitted,

Tonie Harrington  
Recording Secretary