

**MINUTES FOR THE REGULAR MEETING OF THE ZONING BOARD OF APPEALS  
OF THE VILLAGE OF BOLINGBROOK, SEPTEMBER 14, 2016**

**CALL TO ORDER**

Chair Wonderlin called the meeting to order at 7:00 p.m., September 14, 2016.

**ROLL CALL**

Present: Chair Paul Wonderlin and Board Members: Mir Ali, Felix Greco, Deane Marrs, Eduardo Martinez, Steve Preze

Absent: None

Staff Present: Planning & Zoning Administrator - Matt Eastman, Deputy Village Clerk - Maggie Sadowski

Press: None

**MINUTES**

None

**MOTION TO RECONSIDER DOCKET NO. 16.04V-0713 & 16.05V-0810**

Motion Ali, second Greco to accept a motion to reconsider Dockets No. 16.04V-0713 & 16.05V-0810.

It was determined by Staff and verified by the Village Attorney after the August 10, 2016, meeting was held that neither request/resolution had been valid since there was not a quorum. Each request received a total of three (3) affirmative votes. Therefore, the requests were re-published and reconsidered at this ZBA meeting.

AYES: 6 Ali, Greco, Marrs, Martinez, Preze, Chair Wonderlin  
NAYS: 0 None  
ABSENT: 0 None

Motion carried.

**PUBLIC HEARING**

Docket No. 16.04V-0713  
812 Hartford Lane  
Sec. 3-312  
Applicant: Shanoor Ismail  
Staff: Matt Eastman

Motion Martinez, second Preze to open the public hearing.

AYES: 6 Ali, Greco, Marrs, Martinez, Preze, Chair Wonderlin  
NAYS: 0 None  
ABSENT: 0 None

Motion carried. Public Hearing opened at 7:04 p.m.

## **SUMMARY**

Administrator, Matt Eastman, delivered the summary. The applicant, Shanoor Ismail, requested to reduce the required minimum side yard setback for a walkway from three (3) feet to one and one-half (1.5) feet in order to allow an existing non-conforming walkway to remain "as is" at 812 Hartford Lane in the Barclay Estates Subdivision.

The lot was adjacent on the East, South and West sides with R-3 Single Family Residential/existing residences. The property on the North side was zoned R-3 Single Family Residential but was vacant land owned by the Park District. The subject lot comprised approximate 10,012 square feet and was improved with an approximate 2,489 square foot home "footprint" and a 186 square foot deck.

In accordance with Sections 3-312 of the Village of Bolingbrook Zoning Ordinance, all driveways, service walks, patios and other dust free surfaces shall provide a minimum setback of three feet to a property or lot line and should not be located on an easement, except on front and corner side yard easements.

In August 2014, it was brought to Staff's attention that the applicant had installed a walkway along their side (east) property line without a building permit and was given a stop work order in the midst of constructing a patio in the rear yard.

Upon inspection, Staff determined that the walkway was constructed approximately one and one-half (1.5) feet off the property line to the east, thus resulting in a side yard setback which failed to meet the minimum requirement of three (3) feet. (Photos were provided)

On August 22, 2014, the applicant applied for a Building Permit for the aforementioned walkway, which was approximately 186 square feet, as well as the patio, which was approximately 850 square feet.

On August 28, 2014, Staff contacted the homeowner to explain the permit for the walkway could not be approved without requesting a variance, as well as obtaining written approval from all utility companies, as the walkway was constructed 100% within the side yard easement and failed to meet the required side yard setback. (At the time of this report, the patio permit had been received, approved and passed inspection.)

On October 22, 2014, Staff once again contacted the homeowner to try and provide further clarification that the walkway was in violation of the Zoning Ordinance.

On May 5, 2015, the Building Division issued a citation for failure to obtain a Building Permit for a patio and sidewalk installation. They were given until June 2, 2015, to resolve this matter. On January 19, 2016, and again on June 23, 2016, the Building Division issued two (2) more citations. On June 8, 2016, the applicant applied for a variance from Section 3-312 of the Village of Bolingbrook Zoning Ordinance which required all driveways, service walks, patios and other dust free surfaces provide a minimum setback of three (3) feet to a property or lot line and shall not be located on as easement except front and corner side yard easements in a R-3 Single Family Residential Zoning District.

The photo on the report as Exhibit A had shown that the applicant had constructed an approximately 186 square foot walkway along the east property line. The walkway reduced the required side yard setback from three (3) feet to approximately one and one-half (1.5) feet.

If the proposed variance was approved, the lot coverage would remain at 31.4 percent with an open space of fifty-four (54) percent. Both met Village Code requirements.

The walkway was located within a Public Utility and Drainage Easement. Permission letters from the utilities had been obtained by the owner and provided to Staff. All other Zoning requirements had been met.

It was noted by Eastman, that the Village Engineering Department did not feel that the walkway would negatively affect drainage.

Based upon the governing hardship standards, there was no viable hardship that would warrant the proposed variance requests. Staff felt that the proposed walkway would not have an adverse effect on the neighboring properties, including drainage at this particular location.

**DISCUSSION**

Preze asked why there was such a delay in applying for the variance. Eastman answered that letters sent to the owner were not answered and citations were then issued. That was when the resident came in to apply for the variance.

Preze also asked if there had been a neighbor (John Clausen, 808 Hartford Lane) that had written a letter and given testimony at the last meeting against approval of this variance. Eastman replied that there was.

**TESTIMONY**

Mohammed Ismail, applicant and owner of the property, 812 Hartford Lane, told the Board that he did not know he needed a permit. He had since applied for the necessary permits and would correct any mistakes that the Village needed. He had put the walkway in himself so there was no contractor. He explained that during the time he was given notices from the Village, his son was fighting Leukemia and was in and out of the hospital.

Preze asked if he had used a licensed contractor. Ismail replied that he and a friend had done the work.

Preze asked why he put the sidewalk in between the houses. Ismail replied that he had a walk-out basement door on the side of the house where the sidewalk was located.

Motion Preze, second Martinez to close the public hearing.

AYES:	6	Ali, Greco, Marrs, Martinez, Preze, Chair Wonderlin
NAYS:	0	None
ABSENT:	0	None

Motion carried. Public Hearing closed at 7:15 p.m.

The Board completed the Findings of Fact Worksheet.

Motion Marrs, second Preze to grant a variance per Docket No. 16.04V-0713 on the property located at 812 Hartford Lane to reduce the required side yard setback for a walkway from three (3) feet to one and one-half (1.5) feet to allow for an existing non-conforming walkway to remain "as is" with the condition that it meets all applicable Building Codes.

AYES: 5 Ali, Greco, Martinez, Preze, Chair Wonderlin  
NAYS: 1 Marrs  
ABSENT: 0 None

Motion carried. Variance granted.

**PUBLIC HEARING**

Docket No. 16.04V-0810  
283 Old Elm Drive  
Sec. 5(E)  
Applicant: George Warren, Jr.  
Staff: Matt Eastman

Motion Greco, second Martinez to open the public hearing.

AYES: 6 Ali, Greco, Marrs, Martinez, Preze, Chair Wonderlin  
NAYS: 0 None  
ABSENT: 0 None

Motion carried. Public Hearing opened at 7:23 p.m.

**SUMMARY**

Administrator, Matt Eastman, delivered the summary. The applicant, George Warren, Jr., sought a variance from Section 5-105(E) of the Zoning Ordinance to reduce the required minimum rear and corner side yard setback for a deck from five (5) and twenty (20) feet, respectively, to zero (0) feet on both the rear and corner side yards in order to allow an existing non-conforming deck to remain "as is".

Properties on all four sides of the lot are zoned R-5 Single Family Residential Attached with existing residences. The lot comprised approximately 2,419 square feet and was improved with an approximate 966 square foot home "footprint" and a 132 square foot deck.

In accordance with Section 5-105(E) of the Village of Bolingbrook Zoning Ordinance, all decks were required to maintain a five (5) foot setback from any rear property line and a twenty (20) foot setback from any corner side property line in a R-5 Single Family Zoning District.

In May 2016, it was brought to Staff's attention that the applicant had constructed an expansion to the already existing deck in the rear (west) yard, which also happened to be a corner lot, without obtaining a Building Permit.

Upon inspection, Staff determined that the deck was constructed approximately zero (0) feet off both the property line to the west, as well as the north. This resulted in a side and corner side yard setback which failed to meet the minimum requirement of five (5) and twenty (20) feet respectively.

On April 26, 2016, the applicant applied for a Building Permit for the aforementioned deck expansion, which was approximately 269 square feet.

On May 3, 2016, Building Inspector, Jonathan Hall, could not complete his structural review due to incomplete plans which were submitted by the applicant. Not only were details missing from the plans, but there were numerous items which failed to meet code.

On May 23, 2016, Staff contacted the homeowner in order to explain the permit could not be approved without requesting a variance, as it failed to meet the required rear and corner side yard setback(s). At that time, the applicant was give thirty (30) days to bring the deck into compliance.

On June 2, 2016, Staff received a letter from the applicant in an attempt to address the comments stemming from the review conducted by the Building Department along with a request for Staff to consider supporting a variance for the deck expansion.

On June 30, 2016, the applicant applied for a variance from Section 5-105(E) of the Village of Bolingbrook Zoning Ordinance which required all decks to maintain a five (5) foot setback from any rear property line and a twenty (20) foot setback from any corner side property line in a R-5 Single Family Zoning District.

As was shown on an exhibit to the variance request, the applicant constructed an approximately 269 square foot expansion to his existing deck which abuts both his rear and corner side yard property line. The variance, if approved, would allow the elevated deck constructed with a zero (0) foot rear and corner side yard setback to remain as is.

The proposed deck expansion was not located within a Public Utility and Drainage Easement and would meet all other Zoning requirements.

Based upon the governing hardship standards, there was no viable hardship that would warrant the proposed variance requests. Staff felt that the proposed deck expansion would not have an adverse effect on the neighboring properties, subject to the applicant complying with any and all outstanding comments from the Building Division.

### **DISCUSSION**

Greco asked if the original deck had a zero (0) foot setback. Eastman replied that the original deck had a zero (0) foot setback on the west side and only went to the tree in the back of the property.

### **TESTIMONY**

George Warren, Jr., owner and applicant, 283 Old Elm Drive in the Indian Oaks Townhomes, Unit 1, moved into the townhome in 2004. The smaller existing deck was irregularly shaped so he took most of it down. He was under the impression that the Homeowners Association would not permit permanent structures to be built on the property which is why he put posts on blocks in the ground to make it a "floating deck". He hoped he would not have to tear down a lot of the deck to comply with regulations, but he would do whatever he needed.

Greco asked if the neighbors had complained about the reconstructed deck. Warren replied that they all loved it. Several other questions were asked about measurements and the ownership of the land since it was a townhome.

Chair Wonderlin noted that the different height levels made the deck unsightly in his opinion.

Preze asked if Warren would repair the back fence within the next year. Warren said that he would.

Eastman wanted to clarify that the railing on top of the fence was not allowed and exceeded the six (6) foot maximum height of a fence.

Ali said, looking at the pictures, the deck seemed extremely dangerous for kids. That there was a concerning safety issue. Warren told him he would bring the whole thing up to code.

Martinez asked Eastman what choices there were to the Board concerning the deck. Eastman replied that:

1. Pass the variance to leave the deck as-is.
2. Fix the whole thing up to code and specify passage per inspection
3. Noted that the owner had agreed to all of the changes talked about with Staff

Debra Warren, 283 Old Elm Drive, expounded that nothing grown in the back yard and it is ugly. The deck covered up the problem. She understands the points brought up by the Board and Staff and hoped they could keep all of the deck and just bring everything up to code.

Motion Greco, second Marris to close the public hearing.

AYES:	6	Ali, Greco, Marris, Martinez, Preze, Chair Wonderlin
NAYS:	0	None
ABSENT:	0	None

Motion carried. Public Hearing closed at 7:58 p.m.

The Board completed the Findings of Fact Worksheet.

Motion Marris, second Greco to grant a variation per Docket No. 16.05V-0810 on the property located at 283 Old Elm Drive, Indian Oaks Townhomes, Unit 1, to reduce the required minimum rear and corner side yard setback for a deck from five (5) and twenty (20) feet, respectively, to zero (0) feet on both the rear and corner side yards, in order to allow an existing non-conforming deck with the condition that the deck not be higher than the six (6) foot fence. Eastman clarified that nothing in the Code prohibited the deck from being above the fence. The stipulation that the deck not exceed the height of the fence stood along with the condition that all other Village Codes be met.

AYES:	4	Ali, Greco, Marris, Preze
NAYS:	2	Martinez, Chair Wonderlin
ABSENT:	0	None

Motion carried. Variance granted.

**PUBLIC HEARING**

Docket No. 16.06V-0914  
211 Brookwood Lane East  
Sec. 3-312  
Applicant: John Lewand  
Staff: Matt Eastman

Motion Greco, second Martinez to open the public hearing.

AYES: 6 Ali, Greco, Marrs, Martinez, Preze, Chair Wonderlin  
NAYS: 0 None  
ABSENT: 0 None

Motion carried. Public Hearing opened at 8:07 p.m.

**SUMMARY**

Administrator, Matt Eastman, delivered the summary. The applicant, John Lewand, requested to reduce the required minimum side yard setback for a driveway extension in order to allow for the construction of a driveway extension with a two (2) foot setback at 211 Brookwood Lane East.

The lot was adjacent on the North, South East and West sides with R-3 Single Family Residential/existing residences. The subject lot was approximately 8,775 square feet and was improved with an approximate 1,377 square foot home "footprint", a 228 square foot shed and 225 square foot patio.

On July 22, 2016, the applicant applied for a Building Permit to construct a ten (10) foot wide driveway expansion along the east side of the home. He also applied for a variance from Section 3-312 of the Village of Bolingbrook Zoning Ordinance.

In accordance with Sections 3-312 of the Village of Bolingbrook Zoning Ordinance, all driveways, service walks, patios and other dust free surfaces shall provide a minimum setback of three feet to a property or lot line and should not be located on an easement, except on front and corner side yard easements.

While reviewing the application, Staff informed the applicant that the proposed driveway was encroaching upon a five (5) foot Public Utility & Drainage Easement and that written approval from the utilities must be obtained prior to proceeding with the variance request.

The applicant proposed constructing an approximate 200 square foot driveway extension, which was ten (10) feet wide, with a two (2) foot side yard setback along the east side of the home.

If the proposed driveway extension was approved, the lot would have a lot coverage of 21% and an open space of 62%.

The driveway expansion was located within a Public Utility & Drainage Easement, so, permission letters had been obtained and provided to Staff. All other Zoning requirements would be met.

Based upon the governing hardship standards, there was no viable hardship that would warrant the proposed variance requests. Staff felt that the proposed driveway expansion would not have an adverse effect on the neighboring properties, including drainage at this particular location.

**DISCUSSION**

None

**TESTIMONY**

John Lewand, owner of 211 Brookwood Lane East, explained why he requested the variance.

Marrs asked if any of the neighbors had complained about the variance request.

Lewand replied that no one had complained.

Motion Greco, second Preze to close the public hearing.

AYES:	6	Ali, Greco, Marrs, Martinez, Preze, Chair Wonderlin
NAYS:	0	None
ABSENT:	0	None

Motion carried. Public Hearing closed at 8: 12 p.m.

The Board completed the Findings of Fact Worksheet.

Motion Martinez, second Greco to grant a variance per Docket No. 16.06V-0914 on the property located at 211 Brookwood Lane East to reduce the required side yard setback for driveway extension in order to allow a driveway extension with a two (2) foot setback with the condition that all applicable Building Codes would be met.

AYES:	6	Ali, Greco, Marrs, Martinez, Preze, Chair Wonderlin
NAYS:	0	None
ABSENT:	0	None

Motion carried. Variance granted.

**RESOLUTION 690\***

Motion Greco, second Marrs to adopt Resolution 690 (Docket No. 16.04V-0713) that allowed Shanor Ismail a variance to allow for the construction of an approximately 186 square foot walkway constructed with the side yard to remain "as-is" reducing the side yard setback to approximately one and one-half (1.5) feet with conditions on the property commonly known as 812 Harford Lane, Bolingbrook, Illinois.

AYES:	6	Ali, Greco, Marrs, Martinez, Preze, Chair Wonderlin
NAYS:	0	None
ABSENT:	0	None

Motion carried. Resolution passed.



**RESOLUTION 691\***

Motion Greco, second Marrs to adopt Resolution 691 (Docket No. 16.05V-0810) that granted George Warren, Jr., a variance to allow for the deck constructed within both the side yard and corner side yard to remain "as-is" reducing the rear and corner side yard setbacks to approximately zero (0) feet with conditions on the property commonly known as 283 Old Elm Drive, Bolingbrook, Illinois.

AYES: 6 Ali, Greco, Marrs, Martinez, Preze, Chair Wonderlin  
NAYS: 0 None  
ABSENT: 0 None

Motion carried. Resolution passed.

**RESOLUTION 692**

Motion Martinez, second Preze to adopt Resolution 691 (Docket No. 16.06V-0914) that granted John Lewand a variance to allow the proposed driveway extension, which would reduce the minimum side yard setback to two (2) feet at its closest point, with conditions on the property commonly known as 211 Brookwood Lane East, Bolingbrook, Illinois.

AYES: 6 Ali, Greco, Marrs, Martinez, Preze, Chair Wonderlin  
NAYS: 0 None  
ABSENT: 0 None

Motion carried. Resolution passed.

**OLD BUSINESS**

Chair Wonderlin explained why the first two (2) hearings, previously heard at the August 23rd meeting, had to be reconsidered\*

**NEW BUSINESS**

Chair Wonderlin mentioned that he would like to set up a workshop for the Board

**CHAIRMAN'S REPORT**

None

**BOARD MEMBERS' REPORTS**

None

**STAFF COMMENTS**

None

**CITIZENS TO BE HEARD**


None

**ADJOURNMENT**

Motion Marrs second Martinez to adjourn the meeting.

Voice vote. Motion carried.

Chair Wonderlin adjourned the meeting at 8:25 p.m.

  
Chairman

June 13, 2018  
Approved

  
Secretary

**\*NOTE:** It was determined by Staff and verified by the Village Attorney after the meeting was held that neither request/resolution was valid since there was not a quorum. Each request received a total of three (3) affirmative votes. Therefore, the requests had to be re-published and reconsidered at the next ZBA meeting on September 14, 2016.