

Village of Aurora Zoning Board of Appeals
July 12, 2017 Work Session
Held in the Firehouse Meeting Room
Draft

Present: Karen Hindenlang, Chair: Ann Tobey, Jeri Vargo, Laura Holland and Alexis Boyce

Also present: Village resident David Brooks, and Deborah Brooks, Deputy Village Clerk

Chairperson Hindenlang opened the work session at 7:00 PM by noting that the Minutes for the last regular meeting would be reviewed for approval at their August 9th monthly meeting. Ms. Vargo noted that she will not be able to attend that meeting.

The Chair shared information she received from Village Attorney Thomas Blair on June 23, 2017 by telephone regarding the following items:

1] Discussed the recent application which was to come before them which was asking for a sizable area variance (151% more than the amount allowed by code). She informed the Board that the Attorney is not able to make any decisions for them, but he is able to help guide them through the composing of the properly worded resolutions they might need to formulate their ruling. He noted to her that they should be concerned by the risk this request posed because the application was asking for a very large “undeniable precedential” variance. He further noted that they would be starting on a “slippery slope” if future applications came before them with similar requests. (Note by Chair – this application has been removed and a new plan is expected soon)

2] The Attorney commended the Board for their need to research prior applications within the adjacent neighborhood to compare past variances, grandfathered structures, proportional comparisons such as the anomalies of the Furness project done 25 years ago or the Murphy projects which had no variance. Finding and establishing the percentage of development ratio to the lot size is very important to make a proper determination. Example she used was the having 2 out of 200 village properties does not constitute a trend within the community.

An important factor that needs to be remembered is that a Public Hearing is a time for them to hear all the concerns of those who wish to comment. They should not assume that someone present, offering an opinion, has the correct information. The Attorney noted that public comment is not expert testimony and that they need to know the difference. (Example given was when Dan DiSanto’s claim of 40% is now standard for accessory structure.) If they need to have further findings, they need to seek and hire professional consultants.

The Chair noted to her Board that for future research she would be asking for all of them to contribute information as she is not able to do all the work without help.

3] Can the ZBA offer “half a loaf” or compromise to reduce the size of the variance asked for? NO
The Board cannot prejudge an unseen plan, but they can show that they are open to revised plans.

4] Can the ZBA consider that our flawed code will or should be revised? NO
The Board can’t base their decisions on speculation on a future code. The Board’s ruling has to be based on the current zoning law they have in front of them.

5] Decisions run with the land, so it is important to have all the facts/references to the law written into their determination. Attorney Blair felt that it was to their advantage that they have draft resolutions

written prior to meeting and circulate this draft confidentially to only Board members so all can understand what they need to review or rewrite before the actual decision is rendered. They can have one resolution in favor and one against listing all the reasons for either. This way the Board has a fresh perspective at the meeting on what might need to be changed instead of trying to compose the decision at the meeting. NO return comment to each other via email!!

The Board discussed the need to have all the “findings of fact” and figures written into any resolution regardless of which way the vote might go. They also noted how hard it is to get all the correct legal terms in place at an open meeting thus a draft would be helpful to them so that finalizing would be simplified. Ms. Vargo asked if Code Officer Doyle could be of help on gathering the “findings” needed. The Chair noted she has asked for help from him in the past and found that he would come to a hearing without information prepared. Ms. Tobey thought this might not be part of his job.

6] Ms. Holland asked if “grandfathered” structures mattered in their decisions? YES, the Chair noted as they are part of the community character and still have to abide by the current zoning law.

Also discussed:

Ms. Vargo asked where the current revisions of the zoning law are with the Village Board? Ms. Brooks replied that the Village Board had requested that the revisions go to Thoma Development Consultants some time ago for a rewrite into a simpler format for the Planning Board to review. That hasn’t happened yet.

Ms. Holland suggested that the ZBA write to the Village Board requesting them to get moving on the zoning law revisions so as to help the ZBA and other Boards to facilitate their rulings in more accurate fashion. The rest of the board agreed.

Ms. Tobey noted she did not have the current revision of section 1103.b #3 in her zoning law and asked if the others did. She was concern that the Boards were not using up-to-date information when preparing their rulings. Need copies of this zoning law change from Clerk to board members so they can update their copies of the zoning law.

The Board discussed who would draft the letter to the Village Board – Ms. Boyce volunteered.

Work session adjourned at 7:45 PM.

Respectively submitted,

Deborah M. Brooks
Deputy Village Clerk