

**MINUTES  
CITY OF DARIEN  
PLANNING & ZONING COMMISSION MEETING  
December 15, 2021**

**PRESENT:** Lou Mallers – Chairperson, Bryan Gay, Hilda Gonzalez, Julie Kasprovicz, Brian Liedtke, Ralph Stompanato

**ABSENT:** Steve Hiatt, Robert Erickson, Shari Gillespie

**OTHERS:** Jordan Yanke - City Planner

Chairperson Lou Mallers called the meeting to order at 7:00 p.m. at the Darien City Hall, Council Chambers, 1702 Plainfield Road, Darien, Illinois. Chairperson Mallers declared a quorum present and swore in the audience members wishing to present public testimony.

**REGULAR MEETING/OLD BUSINESS:**

**A. Public Hearing – PZC2021-07 1414 Sequoia Lane – Variations**  
**Petitioner Anthony Maggiore seeks approval for Variations to City Code Section 5A7-2-6 (A) and Section 5A-5-9-2 (A)(2)(b)(1) of the Zoning Ordinance. The petition specifically requests to allow for an already constructed patio/terrace (i.e., platform) and hot tub to remain in their current location on the subject property. Property is located within the R-2 Single-Family Residence Zoning District and the Variation requests are to the following standards in the City of Darien Zoning Ordinance:**

**1) Section 5A-7-2-6 (A): o Variation request to reduce the required rear yard setback (patio/terrace). o Variation request to reduce the required interior side yard setback (patio/terrace).**

**2) Section 5A-5-9-2 (A)(2)(b)(1): o Variation request to reduce the accessory structure setback requirements and to permit an accessory structure within a platted easement (hot tub).**

Mr. Jordan Yanke, City Planner reported that the subject property was platted in 1956 and is part of the Brookhaven Manor Subdivision. He reported that the parcel was improved with a single-family residence, detached garage, shed, patio/terrace (i.e., platform), and hot tub. He further reported that the patio/terrace and hot tub were constructed and installed without issuance of a building permit.

Mr. Yanke reported that the petitioner/owner contacted the City and has been collaborating with staff in order to resolve the enforcement issues. He reported that the variations were noted in the staff agenda packet. He further reported that the plat of easement is a utility easement but there are no underground utilities at the location and that the agenda packet shows where each structure sits.

Mr. Yanke reported that the packet also includes a letter from the property to the east stating no issues and that staff has not received any public comment or correspondence. He reported that all properties in the area were notified of the petition.

The Petitioner, Mr. Anthony Maggiore stated that they messed up and that they were ignorant to the process. He stated that they did all the construction along with family and that although they did not follow the permit process that he asked that the PZC consider the variation requests due the uniqueness of the property with the neighbor to the North of patio's home 100 feet to the lot line and screened from view by the fence, and the neighbor to the East who has a pole barn which runs along the entire length of the patio, as well as no underground utilities in the utility easement. He further reported that the neighbor behind has not said anything.

Commissioner Kasprovicz questioned if the petitioner used a contractor and that they should have known that a permit was required.

Mr. Maggiore stated that they built everything themselves along with family but used an electrician to install the hot tub.

Chairperson Mallers questioned when the project was completed.

The petitioner stated that the project started in May and was completed in August.

Commissioner Gay questioned if there were any other similar variation requests.

Mr. Yanke reported that the database of variations shows a lot of driveways with minimal or no setbacks in the 90s along with some in 2008 with construction of a patio with "0" setback in the rear yard as well a side yard structure approved at "0" in 2021. He reported that these were not after the fact.

Commissioner Kasprovicz questioned if the construction is built to Code.

Mr. Jordan reported that he had lengthy conversation and that building code approval would not be done until the variation procedure is decided. He reported that based on what was built that the building code would not contradict after the fact.

Commissioner Liedtke questioned if the petitioner installed the 8' fence. He stated that Code is 6'.

Mr. Yanke reported that the fence was not installed and that the fence is pre-existing nonconforming and that if replaced, the Code would allow like for like.

There was some discussion regarding the utility easement. Mr. Yanke reported that the utilities are overhead and no plans in the near future to bury them.

Commissioner Kasprovicz questioned if there was any cement poured.

The petitioner stated that they did not pour cement but used cement slabs.

Commissioner Kasprovicz questioned if slabs were acceptable.

There was more discussion regarding the utilities and if the wires were over the terrace area.

The petitioner stated that the overhead utility wires ran across the center of the yard and are not over the hot tub.

Commissioner Liedtke stated that he empathized with the petitioner and that the construction looks really nice but that it sets a terrible precedent and asked what could be done.

There was much discussion on modifying the side and rear and also moving the structure to the left of the garage.

The petitioner stated that they selected an area that was the least impactful to the neighbors and that there is a tree in the area which prevented them from building to the left of the garage.

Commissioner Gonzalez questioned approving and how to deter other homeowners from building without a permit.

There was more discussion on modifying to make the structure more compliant.

Commissioner Liedtke suggested removing the structure from the utility easement.

The petitioner stated that there is not a way to meet Code unless the structure is placed in the middle of the yard. He stated that they looked at every possible option and that he understands setting a precedent is not favorable but that they luckily have a unique situation.

Commissioner Gay stated that he did not have an issue going over the easement. He stated that there are no drainage issues and if the utilities were below ground, he would be more concerned. He further stated that if the utility companies want to do something in the easement it will be at the petitioner's expense. He did state that setting a precedent was a concern and that if approved, he would like to see something in writing regarding no utilities in the easement.

Commissioner Kasprovicz stated that all the homes along that side could come and ask for the same thing.

Commissioner Gay stated that he would like to find the path of least resistance or change.

Commissioner Stompanato stated that the PZC could impose different standards in a homeowner that petitioned for approval. He stated that the location that the petitioner built on was the best location and least impactful to the neighbors.

Chairperson Mallers stated that he would like to see more information and have staff and the petitioner look at the area more closely.

Mr. Yanke reported that the petitioner has been responsive and compliant and that he and the petitioner could look at the property together.

Commissioner Kasprovicz asked if she could visit the property.

There was no one wishing to present public comment.

**Commissioner Liedtke made a motion, and it was seconded by Commissioner Gay approval of PZC2021-07 1414 Sequoia Lane based on the uniqueness of property with a distance of 100 feet from the homeowner to the North, homeowner to the east with the pole barn, and no utilities in the utility easement.**

**Upon roll call vote, THE MOTION TIED 3 -3.**

**AYES: Liedtke, Gay, Stompanato  
NAY: Gonzalez, Kasprovicz, Mallers**

**Commissioner Gay made a motion, and it was seconded by Commissioner Gonzalez to continue PZC2021-07 1414 Sequoia Lane.**

**Upon roll call vote, THE MOTION CARRIED 6-0.**

Mr. Yanke reported that this would be continued to the January meeting on Wednesday, January 5, 2022 at 7:00 p.m.

#### **STAFF UPDATES & CORRESPONDENCE**

Mr. Jordan Yanke, City Planner reported that he is putting together Code Enforcement Reports and that the PZC will be getting a copy. He reported that staff and the Economic Development Committee revisited the Key Development Areas originally designated by the Comprehensive Plan and how to use the feedback and loop in the PZC.

#### **APPROVAL OF MINUTES**

**Commissioner Liedtke made a motion, and it was seconded by Commissioner Gay to approve the December 1, 2021 Regular Meeting Minutes.**

**Upon voice vote, THE MOTION CARRIED 6-0.**

#### **NEXT MEETING**

Mr. Jordan Yanke announced that the next meeting is scheduled for Wednesday, January 5, 2022.

**PUBLIC COMMENTS (On any topic related to planning and zoning)**

There was no one in the audience wishing to present public comment.

**ADJOURNMENT**

With no further business before the Commission, Commissioner Gay made a motion, and it was seconded by Commissioner Liedtke. Upon voice vote, THE MOTION CARRIED unanimously, and the meeting adjourned at 8:19 p.m.

RESPECTFULLY SUBMITTED:

APPROVED:

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Elizabeth Lahey  
Secretary

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Lou Mallers  
Chairperson