

**MINUTES - REGULAR MEETING  
ZONING BOARD OF APPEALS  
SEPTEMBER 4, 2013 AT 7:00 P.M.  
COUNCIL CHAMBERS-RM. 201**

**Call to order and Roll Call**

PRESENT: Chair Michael Quinn and Members Adrienne Eyer, Alan Raphael, Maya Katznelson and Steve Ruszczyk

ABSENT:

ALSO PRESENT: Jacob Karaca, Counsel; Mike Bruce, Zoning Officer

QUORUM: Chair Quinn called the meeting to order at 7:00 p.m. and declared that a quorum was present.

**Public Comment**

There was no public comment.

**Introduction and Procedure Outline**

Chair Quinn explained the procedure for the applications.

**Public Hearing**

Chair Quinn opened the public hearing of Cal. No. 03-13-Z and Mr. Bruce swore in the witnesses.

Mr. Bruce summarized the application:

James W. Fahey, owner and applicant, requests that a variation be granted from Section 4.10.1 (A) of the Zoning Ordinance of the Village of Oak Park, which section relates to appurtenances permitted in front yards, to permit the construction and maintenance of a parking area in the required front yard at the property commonly known as 247 Clinton Avenue, Oak Park, Illinois.

Mr. Richard Katz, representing the applicants, went over the application. Mr. Katz said the property was one of the most unique properties in Oak Park. He said every block in Oak Park has an alley except for this one. Mr. Katz said the applicant's property does not have a driveway and this was a problem due to parking restrictions in the area. He said the applicant would install permeable paving so there would be no added burden to the sewer system.

Member Eyer asked if the driveway would have to be in the front of the yard rather than the side yard. Mr. Katz agreed, saying there was no side yard. Member Eyer pointed out that that was different than other houses on the block with driveways. Mr. Katz agreed. Member Eyer asked if it was the narrowest property on the block. Mr. Bruce agreed. Mr. Bruce explained that all the other neighbors have the ability to drive along the sides of the houses as the lots were wide enough.

Member Katznelson asked if the applicant owned 245 Clinton. Mr. Katz said previously they did own that property but it has since sold.

Member Eyer asked how the applicant has dealt with parking for the last 35 years. Mr. Katz said they've rented parking spaces. Mr. Katz said the property is a 2-Flat and they've had to cut rent for the tenant to cover parking.

Mr. Katz said it was a financial hardship and a parking spot was a necessity in this day and age. Member Eyer asked what has changed since the Fahey's purchased the property in the 1970s to the present. Mr. Katz said there are more cars now and the applicants are older and the property would be improved by having the parking solution.

Member Raphael said he needed more information regarding the reasonable return standard. Mr. Katz said providing parking for their tenants constituted a financial hardship and they must lower the

rent from comparable rents. He also referred members to the application and said the property value was diminished. Member Raphael said an improvement in the applicants' financial situation would not solely meet the reasonable return standard. Member Eyer said the same issue was present when the applicants purchased the property and she wasn't sure what had changed. Mr. Katz said if a driveway was installed there would be no harm to the neighborhood. Chair Quinn clarified that that wasn't a standard in the ordinance. Member Eyer pointed out that they must judge the application based upon the standards in the ordinance.

Chair Quinn asked what the applicant's pay for parking each month. Mr. Katz said \$180 a month. Mr. Fahey clarified that they used to own the property next door which had a parking area they could use for 247 Clinton. Once they sold that property they needed to find parking. Mr. Fahey said another issue was if they did not secure parking somewhere else for their tenants there was less interest in the apartment and they must forego income altogether. A short discussion ensued regarding tenant vacancy and duration. Mr. Fahey said there had been times where they've gone 6 months or longer without tenants in one of the units.

Member Ruszczyk asked if there had been any other attempts to secure parking other than finding spaces to rent. Mr. Katz said the only other reasonable alternative was to secure a parking pass on an adjacent street and that was not a secure or long-term solution. Member Ruszczyk asked staff if more permits were sold in that area than there were spots available to park in. Mr. Bruce said he did not know for certain, but he thought the village would sell the appropriate amount of permits. Mr. Fahey said he had health issues which prevented him from obtaining a street parking location.

Chair Quinn said he had asked staff to assemble some parking information for the area. Mr. Bruce went over village parking lots and permits in the area. Member Katznelson asked where the applicants currently park. Mr. Fahey said they currently lease a space at 344 Clinton.

Chair Quinn asked if the applicants had applied for a variance before. Mr. Fahey agreed. Member Eyer asked what had changed in the application since the prior attempt. Mr. Fahey said they had acquired legal counsel to help them with the presentation. Member Eyer asked for a comparison of how the parking expense had changed over the course of owning the building. Mrs. Fahey replied it was difficult to calculate as they previously owned 245 and were able to use the driveway there. Member Eyer clarified that many of the hardships were created after selling 245 Clinton. Mrs. Fahey agreed. Chair Quinn said the ordinance states that the applicant didn't do anything to create the hardship, but with selling the building, they in fact did create the hardship. Mrs. Fahey disagreed saying it was a hardship that tenants have more cars now and they are unable to provide them with close, convenient parking. Mr. Katz said the applicants did not create any physical changes to the property to create the hardship, the property remained the same and the parking situation in Oak Park continues to get more congested.

Mr. Katz said on the issue of convenience versus necessity, having a car and being able to park it was considered a necessity. He said they had no alley and no driveway while all the other neighbors did. He said cars were a necessity. Member Eyer agreed, but said she had a hard time reconciling that when the property was purchased cars were also considered a necessity. Mr. Katz said it had been a problem since the time the property was purchased. Member Ruszczyk asked if the applicants were having a hardship paying for the current parking situation. Mrs. Fahey said as they were not working and parking rates go up and it was a hardship for them. Member Eyer asked the applicants to describe the walk from their parking space to their property. Mr. Fahey said they walk from the alley around to Randolph over to Clinton, which in inclement weather can be very challenging.

Chair Quinn asked if the applicant had any closing statements. Mr. Katz said due to the fact that there were parking restrictions and no alley, the property was worthy of a consideration for a

variance. Mr. Katz said the property was unique to Oak Park and that created a hardship for the applicants.

Chair Quinn read the resolution from June 2011 denying the applicants' previous variance application. Chair Quinn asked the applicants what had changed. Mr. Katz said the applicants no longer owned a building which gave them some parking relief. Mr. Katz said the current parking spots that are leased are available now but it would not be a permanent solution. Mr. Katz said the property had not changed and the issue remains and a permanent solution was available. Member Rusczyk asked if there has been a concrete loss in rental payments or was the appropriate price being offered for the rental unit's amenities. Mrs. Fahey replied that taxes continue to increase and rental income was fairly fixed and they were retired. She said in their previous application they did not present the situation as clearly as they could.

Chair Quinn closes the public hearing and the members begin deliberations. Member Raphael said he didn't believe the applicants satisfied the standard that stated the property is unable to make a reasonable return. He said the variance was convenient and financially beneficial but it wouldn't satisfy the standards. He was concerned about the precedent being sought as parking in the front of homes was inconsistent with the Zoning Ordinance. He said there were parking alternatives available and it didn't seem to meet the standards. Member Katznelson agreed that the first standard was not met and with parking alternatives available it was not a hardship. Member Rusczyk said he wasn't worried about setting a precedent with parking in the front as it was such an unusual street and that a case could be made for the hardship standard, but he did struggle with the reasonable rate of return standard. He didn't see the absence of rental income in connection with having a lack of a parking space as a loss. Member Eyer agreed, saying with each point there was a logical counterstatement to the standards presented.

Chair Quinn said he didn't think they met three of the seven standards. The first, reasonable return, was not met as the property continued to be rented and they were not losing money on the property. Second, on unusual hardship- there was access to parking that was right across the street. Third, the hardship was created by the applicant; he believed it was in some respect self-created by the applicants. Chair Quinn said the property might be unique to the block or area but it was not unique to Oak Park; there were many buildings without parking. He said there wasn't anything significant to this application to change the decision from the prior application in 2011.

Member Raphael motioned to direct counsel to prepare a resolution denying the variation sought. Member Katznelson seconded. A roll call vote was taken:

Eyer- yes  
Raphael- yes  
Katznelson- yes  
Quinn- yes  
Rusczyk- yes

The motion was approved 5-0.

### **Approval of Minutes**

Member Katznelson suggested an edit to the second page of the minutes from June 5, 2013. Member Raphael motioned to approve the minutes as amended. Member Katznelson motioned to approve the minutes from June 19, 2013 as submitted. Member Rusczyk seconded. Members approved the minutes with a verbal vote with Member Eyer abstaining.

**Other Business**

Chair Quinn said a new member will likely be confirmed by the Village Board of Trustees on September 16, 2013 and there were two other residents who have shown an interest in joining the ZBA.

**Adjournment**

Member Raphael moved to adjourn the meeting. A voice vote was taken and the motion was approved. The meeting adjourned at 8:38 P.M.

Angela Schell,

Recording Secretary