STATE OF ILLINOIS )
)SS
COUNTY OF OGLE )

In the Matter of the Petition
of
Richard J. and Janaan K. Harms, Flagg Township
Ogle County, Illinois

Testimony of Witnesses
Produced, Sworn and
Examined on this 30th day
of April A.D. 2009
before the Ogle County
Zoning Board of Appeals

Present:

Maurice Bronkema
Randall Anderson
Curtis Freeberg
Jason Sword
Bruce McKinney, Chairman

Michael Reibel, Zoning Administrator



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MR. McKINNEY: Next order of business?
MR. REIBEL: The next order of business is to consider the request filed March 26th, 2009 of Richard J. and Janaan K. Harms, 9443 Oak Ridge Drive, Rochelle, Illinois for a Variation to allow a dwelling addition to be constructed 15 feet from a side lot line in lieu of 25 feet as required pursuant to the Ogle County Amendatory Zoning Ordinance on property described as follows and owned by the Petitioners:

Lot 8 Oak Ridge Estates, part of the E1/2 of the SW1/4 Section 7 Flagg Township 40N, R1E of the 3rd P.M., Ogle County, Illinois. Property Identification Number: 24-07-378-003. Common Location: 9443 Oak Ridge Drive.

For the record a sign was posted along the frontage of the premises indicating that a zoning hearing is to be held in reference to the property. All adjoining property owners to the petition have been notified by certified mail of the hearing this evening and the specifics of the petition and a legal notice was published in the Tuesday, April 7th edition of the Rochelle News Leader, again, notifying the public of the hearing this evening and the specifics of the



petition.

Under the staff report, which is on file and the Board members have received, I will point out that the site is located at the eastern terminus of East Oak Ridge Drive, south of East Oak Ridge Drive extended. Common location is 9443 East Oak Ridge Drive. The size of the parcel is 249.96 by 264.67 feet or 1.51 acres. Existing Land Use: The site is currently used for residential purposes and contains a single-family dwelling. Surrounding Land Use and Zoning: The site is located in a predominantly residential area. Land to the north and west is in residential use zoned R-2. Land to the south and southeast is in large-lot rural residential use zoned AG-1 Agricultural District. Land to the northeast is in agricultural use zoned AG-1. Zoning History: Oak Ridge Estates was recorded on December 28th, 1979. The dwelling on Lot 8 was constructed in 1984 under Zoning Certificate No. 77-84NA. Special Information, Public Utilities: None. Transportation: Oak Ridge Drive is a seal coat surfaced road under the jurisdiction of Flagg



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Township. Physical Characteristics: The site is gently sloping, draining generally to the south. According to the County Soil Survey, soil types are: 125A - Selma loam and 361B - Kidder loam. That's all I have.

MR. McKINNEY: I'll entertain a motion to go into a public hearing.

MR. BRONKEMA: So moved.

MR. McKINNEY: Maury has moved.

MR. SWORD: I'll second.

MR. McKINNEY: Jason has seconded to go into a public hearing. All those in favor signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed say nay. Motion passes. We're back in public hearing. Will the Petitioner please come forward.

RICHARD HARMS,

being first duly sworn, testified as follows:

MR. McKINNEY: Give her your name and address.

MR. HARMS: Richard J. Harms, H-A-R-M-S, 9443 Oak Ridge Drive, Rochelle, Illinois.



MR. McKINNEY: Tell us about your petition.

MR. HARMS: Well, I was in here a year ago at this time with the same petition and -- and to be honest the builder, my brother, was involved in another project when I first got the approval and by the time he was ready to start working with me it was getting later on in the summer and if you remember, gas prices were sky high and so were material prices at the time and we started to price it out and we just decided not to do it at that time. So I'm back asking for the same approval today hoping that it will be approved this time again as well. I was not aware at the time, I should have looked closer at my material, that the variance was good for six months. I thought maybe it was good for a year and it was not, so we didn't get started -- wouldn't have been able to get started the way it turned out with the weather and stuff anyway.

MR. McKINNEY: Okay. There's nothing changed?

MR. HARMS: Nothing has changed, same print, same location, same everything.



MR. McKINNEY: Just for the record can you tell us about any unique circumstances why you have to build where you're building and why --

MR. HARMS: My lot is low in the back end -- the back side of the lot, so there is no availability to build back to the -- the east or the south. Directly kind of behind where I'm building this is where my septic system is so I can't go any further that way. So really my only option is to go -- is to go north. I've talked with Dale and Susie Finkboner (phonetic), they own the property -- there is a lot between them and my lot, but they own that lot and -- and I've talked with them and they have no intentions of building on that lot nor selling that lot, but I know that could change obviously, but that's what they told me right now and they have no problem with me building within 15 feet of that lot.

MR. McKINNEY: So right now there's a good buffer in between your lot line and where their existing house is?

MR. HARMS: Yes, sir.

MR. McKINNEY: Any questions?



MR. BRONKEMA: No, we've been through it before I guess.

MR. HARMS: Yeah, like I said, it's exactly the same.

MR. McKINNEY: Okay. Your wife still wants the stuff out of the --

MR. HARMS: She still wants to be able to park a vehicle in a garage is what her goal is.

MR. McKINNEY: Go figure. Is there anybody here that wishes to testify in favor of the petition? Anybody here that wishes to testify opposing the petition? With that, I'll entertain a motion to go back into open session.

MR. FREEBERG: So moved.

MR. ANDERSON: So moved.

MR. McKINNEY: Curtis moved, Randy has seconded to go back into open session. All those in favor signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed say nay. Motion passes. We're back into open session and we'll go through the finding of facts.

MR. REIBEL: Standard A) The particular

physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were carried out.

MR. ANDERSON: The location and configuration of the existing house is such that it is not possible for the Petitioner to construct an addition as proposed that conforms to the required side yard of 25 feet. That standard is met.

(All those simultaneously agreed.)

MR. REIBEL: B) The conditions upon which the petition for a variation are based are unique and would not be applicable generally to other property within the same zoning classification.

MR. BRONKEMA: The conditions upon which the petition for a variance are based are unique and are not applicable generally to other properties within the R-2 Single-Family Residence District due to the existing house



design and the location and then he testified with the drop-off in the back it would be pretty tough to do and the septic on the other side, so the standard is met.

(All those simultaneously agreed.)

MR. REIBEL: C) The purpose of the variation is not based exclusively upon a desire to obtain a higher financial return on the property.

MR. SWORD: Evidence indicates that the purpose of the variation is not based exclusively upon a desire to obtain a higher financial return on the property, but rather to provide additional living space for the occupants of the dwelling. I feel that standard is met.

(All those simultaneously responded.)

MR. REIBEL: D) The alleged difficulty or hardship has not been created by any person presently having an interest in the property.

MR. FREEBERG: The dwelling was designed and constructed by the Petitioners, Harms, in



1984, nearly 24 years ago. It is unlikely that said Petitioner contemplated the proposed addition at the time the dwelling was constructed. Standard is met.

(All those simultaneously agreed.)

MR. REIBEL: E) The granting of the variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

MR. ANDERSON: No evidence has been submitted that would indicate that the granting of the variation will be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. I feel that standard is met.

(All those simultaneously agreed.)

MR. REIBEL: F) The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or



increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood.

MR. SWORD: No evidence has been submitted that would indicate that the variation will impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood. I feel that standard is met.

(All those simultaneously agreed.)

MR. REIBEL: The Zoning Board of Appeals shall not vary the regulations of this Ordinance unless it shall make findings based upon the evidence presented to it in each case that: A) The plight of the owner is due to unique circumstances.

MR. BRONKEMA: The circumstances are unique due to the location and age of the existing dwelling on the site. Standard met.

(All those simultaneously

agreed.)

MR. REIBEL: B) The variation, if granted, will not alter the essential character of the locality.

MR. FREEBERG: The variation will not alter the essential character of the locality, as there is an adequate buffer between the proposed addition and the northerly adjacent dwelling. Standard is met.

(All those simultaneously agreed.)

MR. McKINNEY: I will entertain a motion.

MR. SWORD: I'll make a motion that we approve Petition No. 4-09 for a variation for Richard Harms to construct a dwelling addition 15 foot from the side lot line in lieu of 25 feet in light of all the standards have been met.

MR. ANDERSON: I'll second.

MR. McKINNEY: Jason has moved, Randy has seconded to approve the variation for No. 04-09. Roll call.

MR. REIBEL: Bronkema?

MR. BRONKEMA: Yes.



MR. REIBEL: Freeberg?

MR. FREEBERG: Yes.

MR. REIBEL: Anderson?

MR. ANDERSON: Yes.

MR. REIBEL: Sword?

MR. SWORD: Yes.

MR. REIBEL: McKinney?

MR. McKINNEY: Yes.

(By voice vote five ayes.)

MR. REIBEL: Five voted yes.

MR. McKINNEY: Motion passes.

MR. HARMS: Thank you very much.

MR. McKINNEY: Is there any other business?

MR. REIBEL: No further business.

MR. McKINNEY: I declare this meeting adjourned.

(The hearing was concluded at 7:51 p.m.)



Now on this 30th day of April, A.D. 2009, I do signify that the foregoing testimony was given before the Ogle County Zoning Board of Appeals.

Bruce McKinney, Chairman

Michael Reibel,
Zoning Administrator

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