

**VILLAGE OF LAKE BLUFF
BOARD OF TRUSTEES
VIRTUAL MEETING
AUGUST 24, 2020**

APPROVED MINUTES

1. CALL TO ORDER AND ROLL CALL

Village President O’Hara called the meeting to order at 7:00 p.m. and Village Clerk Megan Michael called the roll.

The following were present:

Village President: Kathleen O’Hara

Trustees: Barbara Ankenman
Regis Charlot
Mark Dewart
Joy Markee
William Meyer
Aaron Towle, Village Trustee

Also Present: Megan Michael, Village Clerk
Peter Friedman, Village Attorney (VA)
Drew Irvin, Village Administrator
Bettina O’Connell, Finance Director
Jeff Hansen, Village Engineer
Mike Croak, Building Codes Supervisor (BCS)
Glen Cole, Assistant to the Village Administrator (ATVA)

President O’Hara said due to the COVID-19 emergency, this meeting will be held primarily virtually. As required by law, at least one representative from the Village will be present at Village Hall and the virtual meeting will be simulcast for members of the public who do not wish to view the virtual meeting from another location. The Board Room can accommodate 13 people, including members of the public body and Village Staff, while maintaining the six feet of social distance between individuals required by Executive Order 2020-43. Accordingly, the opportunity to view the virtual meeting at Village Hall is available on a “first come, first-served” basis. She further stated Members of the public may view and participate in the meeting via online lakebluff.org/VirtualMeeting or Dial-in: (312) 626-6799. (Enter meeting ID **884 1619 0394**) Press # when prompted for a Participant ID. Additional instructions are available in the agenda packet immediately following the agenda. Also, the meeting will be live-streamed at lakebluff.org/Channel19, broadcast live on Comcast Channel 19 and once available, a recording of the meeting will be posted on the Village website and periodically rebroadcast on Channel 19.

2. PLEDGE OF ALLEGIANCE

President O’Hara led the Pledge of Allegiance.

3. CONSIDERATION OF THE MINUTES OF THE AUGUST 10, 2020 VILLAGE BOARD MEETING

Trustee Markee moved to approve the August 10, 2020 Board of Trustees Regular Meeting Minutes as presented. Trustee Dewart seconded the motion. The motion passed on the following roll call vote:

Ayes: (6) Ankenman, Charlot, Dewart, Markee, Meyer and Towle
Nays: (0)
Absent: (0)

4. ITEM #4 – NON-AGENDA ITEMS AND VISITORS

President O’Hara stated the Village President and Board of Trustees allocate fifteen minutes for those individuals who would like the opportunity to address the Village Board on any matter not listed on the agenda. Each person addressing the Village Board of Trustees is asked to limit their comments to a maximum of five (5) minutes.

Following a request from President O’Hara, Village Administrator Drew Irvin said there are no queued requests.

5. ITEM #5 – VILLAGE BOARD SETS THE ORDER OF THE MEETING

There were no requests to change the order of the meeting.

6. ITEM #6A – WARRANT REPORT FOR AUGUST 11-24, 2020 AND JULY 2020 PAYROLL EXPENDITURES

President O’Hara reported expenditure of Village funds for payment of invoices in the amount of \$769,883.67 for August 11-24, 2020 and expenditure of Village funds for payment of payroll in the amount of \$554,801.25 for July 2020 for a total amount of \$1,324,684.92.

As there were no comments, Trustee Meyer moved to approve the Warrant Report. Trustee Towle seconded the motion. The motion passed on the following roll call vote:

Ayes: (6) Charlot, Dewart, Markee, Meyer, Towle and Ankenman
Nays: (0)
Absent: (0)

In response to a previous question from the Board, Village Administrator Drew Irvin said the payment was distributed to Nettle Creek Nursery, Inc for the Forest Cove and Moffett Ravine stabilization project.

Following a request from Village Administrator Irvin, Village Engineer Jeff Hansen provided an update on the Forest Cove and Moffett Ravine stabilization project and said the project will be completed soon. He showed photographs of the current conditions and said the plan is to use stones to prevent future erosion and reinforce the sides of the ravine, and replace the swale with native plants.

7. ITEM #6B – JULY FINANCE REPORT

At President O’Hara’s request, Finance Director Bettina O’Connell provided a summary of the July 2020 Finance Report highlighting major revenue sources and expenditures for the period.

- Revenue reporting was converted to a cash basis approach in order to recognize revenue as it is received during the fiscal year and at year-end on a one time basis accrual entries will be made for audit purposes. This provides for easier reporting of receipted monies and will deliver better year to year comparison data. The sales tax charts and graphs included in the monthly report have been converted to represent monies as they are received;
- Sales tax revenues received in FY21 May-July of \$651,041 are \$247,385 or 27.5% less than FY20 receipts;
- Building Permit revenue for FY21 May-July is \$97,325, \$6,240 greater than the same reporting period last fiscal year; and
- FY21 current expenditures are consistent with or less than budgeted, the May-July expenditures of \$2,264,073 are \$82,163 less than the expenditures for the same period in FY20.

As there were no questions from the Board, Trustee Ankenman moved to accept the Finance Report. Trustee Towle seconded the motion. The motion passed on the following roll call vote:

Ayes: (6) Dewart, Markee, Meyer, Towle, Ankenman and Charlot
Nays: (0)
Absent: (0)

8. ITEM #7 – VILLAGE ADMINISTRATOR’S REPORT: INFORMATIONAL REPORT REGARDING ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONING DISTRICTS (Current Joint Plan Commission and Zoning Board of Appeals Topic)

President O’Hara reported the 2023 Strategic Plan includes strategies for vision attainment with regards to housing including:

- Encourage diverse housing implementation for residents of all stages of life; and
- Engage the entire community in Village Leadership’s examination of what it takes to enjoy a variety of quality housing options, including condominiums and townhomes, in the context of Lake Bluff’s historic legacy and the marketplace.

President O’Hara reported during the past two regular meetings of the Joint Plan Commission and Zoning Board of Appeals (PCZBA), workshops have been held to discuss how the Village’s Comprehensive Land Use Plan addresses alternative housing policies. More specifically, the PCZBA has been discussing Accessory Dwelling Units (ADUs) which are small houses, apartments, etc. that are on the same zoning lot as a single-family residence. They are commonly called “granny flats” or “in-law suites.” President O’Hara further reported presently, the Village allows only one dwelling unit to be built on a single-family lot; accessory structures with separate living, bathing, and cooking facilities are not permitted. As some of you may recall, in 2016 the Village created a separate pathway to allow pool houses with heat, light, and bathing or shower facilities to be constructed upon receiving a special use permit.

Following a request from President O’Hara, Village Administrator Irvin said this matter is at the forefront because of an inquiring from the Trombley Family to build an ADU (granny flat), above the garage, as

part of their new single family residence located on the eastern two lots of Block Three of the Central Business District, with alley access off Evanston Avenue. He said there have also been inquiries regarding subdivision the Arden Shores property, formerly known as the Boys Home Site, to create a family compound or additional housing units. Village Administrator Irvin said the Village as an entity seeks to follow the Village 2020 Strategic Plan objection -- that the Village continues to pursue a conversation with the community and study what diverse housing should look like.

Following a request from Village Administrator Irvin, ATVA Glen Cole began the PowerPoint presentation with an overview of the Village Guidance and Housing Policies (Comprehensive Land Use Plan, Affordable Housing Plan and Strategic Plan). He said ADUs are small houses or granny flats which creates living space for older family members or occasional guests. Currently, the Village Affordable Housing Plan identified the Shore Acres Site, 800 Green Bay Road Estate, R-5 District, 10 acres east of the CLCJAWA property and the Stonebridge Development as potential sites for affordable housing developments. ATVA Cole reviewed the opportunities for implementation slide which include: Greenfield development; mixed use and downtown redevelopment; incremental infill; accessory dwellings; and universal design and visitability. ATVA Cole concluded the presentation with an overview of the PCZBA discussions regarding ADUs, draft Lake Bluff ADU regulations and a possible public hearing to consider text amendments.

President O'Hara opened the floor to questions from the Board.

Trustee Ankenman said the proposed plan reference an "in-law suite" located above the garage and she is concerned that the ADU roof height will exceed the primary residence. She asked if height requirements should be considered.

Trustee Dewart agreed that height requirements should be considered, specifically in areas of Lake Bluff that have a significant number of single family or ranch homes, because to him it would be inappropriate for the ADU roof height to exceed the primary residence.

Trustee Meyer agreed with the comments, thanked the PCZBA for their work and said he would be interest in hearing more on the matter and solicited public feedback. He said the proposed plan could allow the Village with new options particularly for aging residents that desire to remain in Lake Bluff as well as younger residents. Trustee Meyer said he is pleased to see that there are no short term rentals but he does not want this to be a path for additional impervious surfaces.

Trustee Towle said he thinks this could create an opportunity for family to keep elderly parents in their house, especially considering nursery home facilities current state of the COVID-19 pandemic. However, he does not want it to become an opportunity to increase short term rentals. Trustee Towle said he likes the proposed plan submitted to date and he thinks is could be beneficial to the Village to allow ADUs.

Trustee Charlot said he likes the idea that ADUs can be used for students or parents. He said the bulk ordinance should be used to regulate requests such as Airbnb or any type of established opened to renters. Trustee Charlot expressed his concern regarding impervious surface and asked that unmarried individuals which are not related to the family be explored.

Trustee Markee said the comments made this evening makes sense. She expressed her concern regarding ADU structures built as-of-right and said she thinks the Board may want to oversee these through an SUP. Trustee Markee said she loves that the ADU concept in general as it is consistent with the Strategic Plan;

she went on to say that this could help residents and allow other opportunity dwelling within the community.

Trustee Dewart said he thinks ADUs will provide seniors an alternative housing opportunity. He said the goal is to find ways for seniors to remain in the community, and for the Village to put together the right unregulated structure to ensure these opportunity are available. He said this could be a real plus for Lake Bluff as well as sets up positive standards amongst communities. Trustee Dewart said additional discussions are needed because execution is crucial so as not to create any stormwater issues or smaller issues. He said the example showed an ADU on a single story ranch home and to him it looks like an addition which could add additional bulk. Trustee Dewart said he would be willing to support broader discussions on this matter at a joint advisory board meeting to ensure everyone is on the same page.

Trustee Ankenman expressed her preference to discuss incentives, when the ADU is submitted, regarding accessibility issues such as future ADA ramps.

President O'Hara agreed that additional robust discussions are needed and directed Staff to schedule a future joint advisory board meeting to ensure the proceedings are accurate and that all stake holders are involved.

In response to a question from Trustee Meyer, Village Administrator Irvin said Staff will provide additional information for consideration at the joint meeting.

Village Administrator Irvin continued his report by providing background information on the new Administrative Intern Allison Caskey. Following Village Administrator Irvin comments, AI Caskey introduced herself to the Board noting that she is a resident senior at Lake Forest College and said she is pleased to have been selected for the position and is looking forward to experience local government in this way.

President O'Hara welcomed AI Caskey and said she thinks she will be a great addition to the team.

9. ITEM #8 – VILLAGE ATTORNEY'S REPORT

Village Attorney Peter Friedman said the hearings for the Stonebridge motions to dismiss is scheduled for September 8 in the Lake County Circuit Court and he will advise the Board of the outcome.

10. ITEM #9A – VILLAGE PRESIDENT'S REPORT: MOTION TO EXTEND THE VILLAGE PRESIDENT'S DECLARATION OF CIVIL EMERGENCY

President O'Hara reported on March 18, 2020 President O'Hara issued a Declaration of Emergency for the Village of Lake Bluff (Declaration) related to the COVID-19 emergency. The Declaration, among other things, provided that: (1) physical fitness facilities and membership sports and recreational clubs must close; (ii) the Village may enter into contracts for the emergency purchase of goods and services; (3) the Village Administrator may implement emergency staffing protocols pursuant to the Village's respective collective bargaining agreements; and (4) directed Village officials and employees to cooperate with other government agencies. Subsequently, the Village President issued an April 23 supplemental order requiring the use of face coverings in the Village; a similar requirement was imposed statewide on May 1 by order of the Governor. The Village President has the authority to issue the Declaration and any supplemental orders pursuant to the enabling provision set forth in the Lake Bluff Municipal Code.

President O’Hara reported in accordance with Illinois statutes, the Village President’s Declaration lasted only for a period of seven days, unless it was extended by action of the Village Board. At its March 18, April 13, April 27, May 11, May 27, June 8, June 22, July 13, July 27 and August 10, 2020 meetings, the Village Board extended the Declaration until the next subsequent Village Board meeting. Because the Village Board will meet on Monday, the Declaration will expire at the end of that Board meeting unless the Board extends the duration of the Declaration.

Trustee Dewart made a motion to extend the Declaration until the adjournment of the next regular (September 14) or emergency Village Board meeting. Trustee Charlot seconded the motion. The motion passed on the following roll call vote:

Ayes: (6) Markee, Meyer, Towle, Ankenman, Charlot and Dewart
Nays: (0)
Absent: (0)

11. ITEM #10 – ACCEPTANCE OF THE CORRESPONDENCE

President O’Hara introduced the correspondence from the Informational Reports on August 7 and 14, 2020.

Trustee Ankenman made a motion to accept the correspondence as submitted. Trustee Markee seconded the motion. The motion passed on the following roll call vote:

Ayes: (6) Meyer, Towle, Ankenman, Charlot, Dewart and Markee
Nays: (0)
Absent: (0)

12. ITEM #11 – A RESOLUTION AUTHORIZING THE EXECUTION OF A CONSTRUCTION CONTRACT WITH ALPHA PAINTWORKS, INC OF CHICAGO, ILLINOIS AND WAIVER OF COMPETITIVE BIDS FOR THE VILLAGE OF LAKE BLUFF 2020 FIRE HYDRANT PAINTING PROJECT

President O’Hara reported the Village of Lake Bluff has approximately 500 fire hydrants in the water system, the majority of which have paint that is in poor condition. To rectify this issue, the FY2021 budget allocates \$50,000 to sandblast and re-paint nearly all of the fire hydrants in the Village. It is estimated that 475 hydrants in the Village will need to be re-painted. On April 5, 2019 The Illinois Municipal Partnering Initiative (MPI) opened bids for hydrant painting work for the communities of Glencoe, Glenview, Highland Park, Lake Forest, Mount Prospect, Niles, Northbrook, Rolling Meadows, Wheeling, Wilmette, and Winnetka. President O’Hara further reported the bids included pricing for the 2019, 2020, and 2021 construction seasons. The low bidder of the MPI joint bid was Alpha Paintworks of Chicago, Illinois. It is believed that the bid from Alpha Paintworks (\$91 per hydrant) through the MPI is lower than what the Village would be able to obtain bidding the project alone. Section 7 of the Village’s Purchasing Policies & Procedures Manual provides the Village the ability to enter into construction contracts using cooperative purchasing arrangements such as MPI. Due to the Village not being a participant in the original MPI bid, the Village Attorney recommends formally waiving competitive bidding for the project. In addition, President O’Hara reported the Village Engineer is recommending that the Village Board waive competitive bidding and award a construction contract to Alpha Paintworks to re-paint 475 hydrants for a contract amount of \$43,225.

As there were no comments from the Board, Trustee Towle moved to adopt the resolution. Trustee Markee seconded the motion. The motion passed on the following roll call vote:

Ayes: (6) Towle, Ankenman, Charlot, Dewart, Markee and Meyer
Nays: (0)
Absent: (0)

13. ITEM #12 – AN ORDINANCE AMENDING THE LAKE BLUFF ZONING REGULATIONS RELATING TO SUBTERRANEAN GARAGES

President O’Hara reported on July 17, 2020, the Village of Lake Bluff received a zoning relief application from Ronald McCormack on behalf of Jamie Sickles (Petitioner) for a special use permit to construct a subterranean garage at 541 East Prospect Avenue. The original zoning relief application did not satisfy one of the four conditions applicable to subterranean garages in the Zoning Regulations:

- (1) Garage Doors: The vehicle access doors on the subterranean garage shall not be visible from the front or corner side lot line.

President O’Hara reported accordingly, granting the Applicant’s requested special use permit requires either a text amendment or a variation. At the close of the public hearing on August 19, 2020, the PCZBA voted 5-1 to recommend that the Village Board approve a text amendment deleting this requirement entirely, as the PCZBA must necessarily review the design of a proposed subterranean garage in order for it to receive a special use permit. President O’Hara further reported after the hearing, in preparing the Ordinance, Staff and the Village Attorney recommend the Village Board enact an additional minor modification to this Section to clarify that subterranean garages are also a special use in the Village’s business and industrial districts (in addition to its residential districts). This relief requires two ordinances, one to amend the text of the zoning regulations and one to grant the special use permit. This item is the first step, amending the text of the zoning regulations.

Following comments from Village Administrator Irvin, ATVA Cole said there was no public testimony specifically to the proposed text amendment at the public hearing. He said a general comment was made regarding how drainage and underground garages regulations interacted but he is not sure if the comment addressed the text amendment or the property.

Trustee Charlot said he has mixed feeling in regards to sidewalk cross slope/drainage provision. He shared a personal experience of how the 100 year storm impacted two houses with this type of configuration, one with a subterranean garage, on the east side of Lake Bluff. Trustee Charlot said he is not sure if the stormwater on Prospect Avenue is terrible but he is concerned about allowing this type of garage on the block knowing that the Village have stormwater issues.

Trustee Ankenman expressed her concern regarding drainage. She asked, if the project is permitted, what type of language could be included to ensure the Village would not be held liable. She said it seems that the current property owners may think this is a good solution, but may not have the foresight to see that stormwater issues could make this decision significant to future homeowners, that will ultimately inquire why the Village ever approved such a project.

Trustee Meyer said in addition to the stormwater issues he is also concerned about potential life safety issues. The proposed three car configuration will consist of a tandem or nose-to-tail setup for two of the

cars, and a third vehicle with a large gas tank parked in a corner of the basement. Trustee Meyer expressed his concern regarding Fire Department access if a fire should occur in relationship to the third vehicle. He said during his conversation with Staff he was told that the Village Codes requires a heat detector in garage areas. However, he is concerned about allowing a vehicle to park in a tight underground space which could be potentially block by two other vehicles and he asked will there be sprinkler systems installed above this space.

Trustee Dewart commented on how previous weather conditions have impacted drainage and expressed his belief that covered or occluded drainage could create potential drainage issues. He said he would be particularly concerned about the ability of stormwater system capability to remove all the rain water. Also there seems to be some valuable features planned for the lower level and he would hate to see the Village facilitate anything that would be a potential heartache. Trustee Dewart said he is concerned that a vehicle parked in a confined space, away from the garage doors or ventilation systems, could potentially create fumes to build up and asked if it would be prudent in this particular circumstance.

Trustee Towle said from a firefighter/fire safety standpoint, it makes sense for a living space located above a garage, to have both a ventilation and sprinkler system. He said he hopes the architect and homeowner have discussed potential risks or drainage issues and that if the homeowner decides to move forward they are able to live with the risks. However, he thinks the Village definitely need to limit liability in the event there is flooding or life safety issues as potential risks have been outline to the homeowners. Trustee Towle said as a volunteer firefighter he is concerned about fire safety as well as flooding especially if there are plans for any living or activity arrangements for the basement area. He also said that homeowners rights should be considered in this case because they are aware of the risks, Village's limited liability and he thinks this should be allowed.

In response to comments from the Board, BCS Mike Croak said the Village Code requires carbon monoxide detectors be installed inside bedrooms and hallways outside the bedrooms, to alert occupant of fumes inside the house.

Trustee Markee commented on her homes configuration noting there are carbon monoxide detector in both the home and garage areas. She said her garage is at grade so there a step in the floor of the garage to help keep fumes from flowing into the house at floor level. Trustee Markee expressed her concerns regarding flooding, safety issues and aesthetics. She said if the homeowner decides to move forward with the design, a landscape plan should be submitted depicting the streetscape view and plan to soften the retaining walls around the driveway. Trustee Markee expressed her preference to have the garage located around the side of the house but said she understands the space in their lot line will not allowed this.

Village Administrator Irvin introduced the queued caller to response to questions from the Board.

Ronald McCormack the architect for the project spoken on behalf of the owner (Jamie Sickles), who unfortunately was not able to attend tonight meeting. He said his client is certainly eyes wide open about all of the concerns that have been expressed tonight and those brought up at the PCZBA meeting, particularly drainage. He said the applicant's civil engineer Mike Bleck of Bleck Engineering is also on the call to address questioned as well. Mr. McCormack said one thing not mentioned or understood is that we will be doing a snowmelt system on the driveway which will keep it thawed out, not slippery, no ice accumulations during the winter so there should not be any disturbance to the bottom. He said a tandem garage is really not an unusual thing it is very commonly done, perhaps under a subterranean situation is a little different, but one car behind another is a very common thing. Mr. McCormack said the Village's

Building Code certainly addresses the protections required for doing a garage under a house, be it below grade or first floor level. He said living space above a garage is very common and are certainly required to have a one hour fire separation, fire door, and what we call a gas curb step down from the house or floor level to the garage floor level, to protect is from any fuel spillage or fumes. Also the various detection systems are all required and certainly will be done. Mr. McCormack said the property owner is very understanding of the safety concerns but the multi-car garage is very important to her and she is willing to invest in this property to try to accomplish that is she is allowed to. He said the drawing were not updated since it was presented to the PCZBA but we intend to do a guard rail at the top of the retaining walls on either side to avoid the potential of someone inadvertently walking over the edge of the retaining wall. He said the guardrail will setback approximately 2.5 feet from the retaining wall so landscaping can be done between that guardrail and the retaining wall, with some nice planting and perhaps vines that would go down over the wall. The construction of the wall would be a concrete retaining wall which is needed structurally but we would do a natural stone veneer on it so it looks very nice. He said we are not just talking raw concrete but could be an attractive natural stone texture. Mr. McCormack said they are certainly working with landscape professionals to do some major landscaping of the whole property both rear end and front yard.

Mike Bleck the civil engineer for the project said naturally we were concerned about drainage to the garage door, so the first thing we did was limit the area that is tributary to it by establishing a sidewalk elevation that will prohibit the water coming down Prospect Avenue from going down the driveway. He said we have narrowed the area down to just what is falling out of the sky above the driveway. Also, we were concerned about connected into the city storm sewer by a gravity sewer. If the city sewers surcharge we did not want that to be a low point on the system; we could back up to the garage, so we have isolated it by going with a pump. Mr. Bleck said what we have recommended to the owners, and she is onboard, going with a duplex pump system. There will be two pumps so that the pumps can alternate, one pump as a time. If you lose a pump, you still have a backup. We have also discussed with the homeowner that the primary power source would be ComEd, but you know that is not always reliable, so she is agreeable to putting in a natural gas generator. Mr. Bleck said there will be a small security area to the garage door, we have built in redundancy on the pumps and the power, so in terms of belt and suspenders he thinks we are doing everything that we can to reduce the risk of water in her garage.

In response to a questions from the Board regarding a change in water flow, Mr. Bleck said the driveway is no different than it was basically it is pitching down towards the garage door, rather than pitching out towards Prospect Avenue, so in terms of impervious surface it is not really changing anything. Mr. Bleck said there is a 15" inch storm sewer in the north parkway of Prospect Avenue so we would be connecting to that, currently what happens now is the driveway drains out onto Prospect Avenue to get to the storm sewers, and what we would be doing is connecting right up to it.

Trustee Charlot commented on his aforementioned personal experience and said he is very sensitive to property rights but he is very concerned about the proposed design. Mr. Bleck said he understand but he does not know how those systems were designed to accomplish. He said we have set the sidewalk up a foot above Prospect Avenue and will be sizing the pumps to handle the 100 year storm. He said it all depends on how the systems are designed and what you are design to do.

Following a request from Village Administrator Irvin, Village Engineer Hansen said Staff has not received detailed calculations or final design drawing and he thinks the homeowners are waiting on the outcome of the Board proceeding before moving forward.

Village Engineer Hansen added that this property will benefit from the Union Church completed projects such included regraded the western common lot line to retain water on its property, a new drainage system with a retention pipe and these improvements should limits the odds of stormwater overflowing onto the subject property.

In responses to questions from Trustee Dewart, Village Administrator Irvin confirmed that Agenda Item #12 is limited to addressing the visibility of the doors and is a clean-up item to ensure the matter is consistent with the table in the Village Code. He said the most important initiative here is to recognize that this particular text amendment deals with eliminating that requirement that the vehicle access doors on garages shall not be visible from the front or corner side lot line. The PCZBA thought by eliminate the language it would allow a project that is tethered to this with the next SUP consideration to move forward at the same time and could review the visual aesthetics associated with SUP permit applications, not to have the code requirements there to dictate that outcome. Village Administrator Irvin said this particular action is to consider a SUP for 541 East Prospect Avenue.

As there were no further comments from the Board, Trustee Ankenman moved to approve first reading of the ordinance. Trustee Towle seconded the motion. The motion passed on the following roll call vote:

Ayes: (5) Ankenman, Dewart, Markee, Meyer and Towle
Nays: (1) Charlot
Absent: (0)

14. ITEM #13 – AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR THE PROPERTY LOCATED AT 541 EAST PROSPECT AVENUE TO PERMIT THE CONSTRUCTION OF A SUBTERRANEAN GARAGE

President O’Hara reported on July 17, 2020, the Village of Lake Bluff received a zoning relief application from Ronald McCormack on behalf of Jamie Sickles (Petitioner) for a special use permit to construct a subterranean garage at 541 E. Prospect Avenue. At the close of the public hearing on August 19, 2020, and following considerable debate, the PCZBA voted 4-2 to recommend that the Village Board approve the special use permit. The dissenting members expressed concern that, aesthetically, the special use permit would have an undue adverse effect upon the character of the area. President O’Hara further reported the PCZBA recommended that, as a condition of the special use permit, that the Applicant:

1. At Applicant’s sole expense, provide no greater than a 4% slope along the public sidewalk adjacent to the subterranean garage driveway, subject to the approval of the Village Engineer.
2. Provide the public sidewalk with a 2% cross slope to drain to the street through the width of the driveway.
3. At Applicant’s sole expense, regrade the parkway in the vicinity of the improvements to provide positive drainage from the sidewalk to the street, subject to the approval of the Village Engineer.
4. Relocate a proposed emergency generator from the side yard to the rear yard and provide soundproofing measures.
5. Promptly restore property affected by the construction activities required above. Specifically, the Village Attorney recommends that, “in the event that the construction related to the Subterranean Garage disturbs any adjacent or nearby property, the Applicant shall restore such property within 30 days to the satisfaction of the Village Building Commissioner. Such deadline may be extended by the by the Building Commissioner, in his sole discretion, in the event that weather delays or hinders such restoration.”

President O'Hara opened the floor for comments.

In response to a question from Trustee Meyer, Mr. Bleck said there would definitely be a one hour fire rating horizontally and vertically to completely isolated that garage from the residential portions of the house as this is a code requirement.

In response to a comment from Trustee Markee, Village Engineer Hansen confirmed that Staff has not seen the final engineering drawing.

Following a comment from Village Administrator Irvin, Mr. Bleck said he would design to the newest stormwater standards. He said he was going to work with his sump pump on sizing out the lift station, so he does not know if this could be done and back within two weeks. Mr. Bleck said certainly we can move forward with the sidewalks and parkway, if there are no issues, but he do not know if he can get the final drawings back within two weeks.

Following a question from Village Administrator Irvin, Trustee Markee said it would be nice to see the final drawings because she thinks the Board have concerns about the possible stormwater issues. She thinks if we are going to approve the ordinance, even at second reading, it would be nice to have the final plans.

Trustee Dewart said he thinks the final drawings are imperative and he would be reluctant to vote in favor without having the final engineering plans. Trustee Dewart said it is important to balance the homeowner's rights to be able to build what she wants, but at the same time, he thinks it is important that the Village ensure nothing is built that could be detrimental to the community, and he would want to see all of the variables narrowed down.

Mr. Bleck said although it seems to be headed in the right direction, he thinks given the sensitivity of the Board's discussion, he is particularly sensitive to the issues identified by the Board. A discussion followed.

In response to a question from Trustee Markee, Mr. McCormack said he thinks the final landscape plan will be available for second reading of the ordinance.

In response to a question from Trustee Towle, Mr. McCormack said we are completely agreeable with Staff's recommended conditions to the special use permit.

Village Administrator Irvin said there are two additional issues that may need to be considered (1) a license agreement because it is likely the landscaping will protrude into the extremely large right-of-way in close proximity to East Prospect Avenue; and (2) how the Village might mitigate any future issues or criticisms for allowing such a project to take place or move forward.

In response to a question from Village Administrator Irvin, Village Attorney Friedman said obviously the unconditional agreement of consent runs between the Village and the Applicant, but it does indemnify the Village. Also the Village has immunity from lawsuit or liability with regard to permits issues, so the Village not only have the statutory immunity but also the unconditional agreement and consent. He said there is no guarantee that somebody may not threaten the Village or commence litigation but the Village have a lot of protection against actual liability.

In response to a question and concerns from President O'Hara, Village Attorney Friedman said the unconditional agreement and consent is with the applicant, it does not run with the property. He said it would be difficult to make that run with the property because obviously a future owner is not the one who applied for and received the special use. He said regardless of whether the applicant sells the property the indemnification to the Village remains, regardless of whether the applicant owns the property.

In response to questions from Trustee Dewart, Village Attorney Friedman said the SUP runs with the property because that is a structure that has been built on the property, so that obviously once we give zoning relief that allows a structure to be built, then the right to maintain that structure pursuant to the relief goes from property owner to property owner. Village Attorney Friedman said everything about the SUP runs with the land and the actual unconditional agreement and consent is an exhibit between the Village and the applicant.

Trustee Dewart asked if there is any want to tie that indemnification to the property as opposed to the individual. This would perpetuate itself if the owner sells the property and the indemnification to the Village would follow the new owner as opposed to leaving the Village sitting flat. Village Attorney Friedman said he thinks there is an issue there because we would not have anything in writing between the Village and the new owner, we have something in writing between the Village and the applicant in regard to the indemnification. The Village will never be flat because we always retain our immunity from liability but he would have to think some more about whether or not the Village could make an indemnification run with the property.

Trustee Meyer shared another observation regarding indemnity from his legal point of view. The indemnity only has the value of the credit worthiness of the person who gives it and this is another important thing to consider. He said that he does understand about sovereign immunity because it can be defeated. He is not crazy about this thing but he would like to see the final plans because he has concern with the drainage issues and life safety issues. Trustee Meyer said he certainly want people to have their property rights to be able to execute on their houses as they would really like to, but balanced that against issues important to the community such as life safety and the drainage.

President O'Hara expressed her concern regarding the ongoing discussions associated with a previously approved Boardman Court project which has caused drainage issues for that area. As a result the Village and current homeowners are possibly looking at significant cost to rectify the issue. President O'Hara said she would like to have the Village liability and indemnity as limited as possible prior to granted these type of SUPs. A discussion followed.

In response to a question from Trustee Markee, Mr. McCormack said his client is very committed to this plan and she knows what she wants. He have tried to sell her or a few other ideas such as a lift within the garage downing to the basement level and not dig out the driveway, but she just does not want to do that. She loves the look of this design and is completely invested in it and she cannot be dissuaded.

In response to a question from Trustee Meyer, Mr. McCormack said it is not impossible to have a tandem garage at grade level but it would require using a lot of space. The house currently has a screen porch and garage at that main level that she wanted to turn into an office and have living space above the garage.

Mr. Bleck said it would be helpful to know the mood of the Board at this point rather than just postponing, especially if the Board is really against it, as opposed to spending additional time to do more work that

still may not get first reading approval. He said it seems more of the concerns are technical questions that certainly will be satisfied from his view, it is really a matter of the Board philosophy of should this project happen.

Following an intensive discussion, the previously motion was amended by Trustee Dewart to defer first reading of the ordinance until the September 28 regular meeting. Trustee Meyer seconded the motion. A discussion ensued.

Trustee Towle asked if there is a drawback to vote on first reading knowing there is more information forthcoming.

Trustee Dewart said he feels the concerns that have been identified are very serious and significant to the Village. He was initially prepared to vote in the affirmative on first reading but he thinks that by deferring the matter until September 28, that both the architecture and engineering will be prepared to provide the Village with complete information. Also this action will send a strong signal to the client the Board takes these proposed changes and concerns very seriously here in the Village, and gives a strong signal to the community that the Board choose to protect the community of Lake Bluff.

Trustee Meyer said he has the strong impression that this design is at least somewhat, if not in large part, against the recommendation of the architect whom has suggested other alternatives. He said consideration it for a three car subterranean garage, when the architect has admitted that there is a solution that is at level, and will avoid all of these problems that were raised in the discussion. But the reason for the subterranean garage solution is to preserve an office space. Trustee Meyer said that admission is really raising a lot of questions, on his part whether this really is something that we ought to support at all, given the life safety and the drainage questions that have been raised. He said there is an alternative at grade that is viable but the factor here is an office. If the discussions are in about the necessity of the subterranean garage, so there is space to accommodate and office on the first floor, he is wondering whether this should be considerate based of all the concerns expressed by the Board.

As there were no further comments from the Board, the motion passed on the following roll call vote:

Ayes: (6) Ankenman, Charlot, Dewart, Markee, Meyer and Towle
Nays: (0)
Absent: (0)

Village Administrator Irvin asked if there were any comments from the public, there were no raised hands.

In response to a question from Village Attorney Friedman, President O'Hara said her thinks the sentiment from the Boards is to consider Agenda Items #12 and #13 at the September 28 Board meeting. There was no objections from the Board.

15. ITEM #14 – TRUSTEE’S REPORT

There was no Trustee’s report.

16. ITEM #15 – EXECUTIVE SESSION

At 8:46 p.m. Trustee Meyer moved to enter into Executive Session for the purpose of discussing Threatened Litigation (5 ILCS 120/2(c)(11)) and Security Procedures (5 ILCS 120/2(c)(5)). Trustee Charlot seconded the motion. The motion passed on the following roll call vote:

Ayes: (6) Charlot, Dewart, Markee, Meyer, Towle and Ankenman
Nays: (0)
Absent: (0)

There being no further business to discuss, Trustee Meyer moved to adjourn out of executive session. Trustee Dewart seconded the motion and the motion passed on a unanimous voice vote at 9:35 p.m.

17. ITEM #16 – ADJOURNMENT

Trustee Markee moved to adjourn the regular meeting. Trustee Ankenman seconded the motion and the motion passed on a unanimous voice vote at 9:35 p.m.

Respectfully Submitted,

R. Drew Irvin
Village Administrator

Megan Michael
Village Clerk