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Prepared by:
Klein Thorpe and Jenkins, Ltd.
20 North Wacker Drive
Suite 1660
Chicago, Illinois 60606
Attorney Michael T. Jurusik

Prepared on behalf of:
Village of Western Springs

PIN: 18-18-220-036-0000



Doc# 1829616070 Fee \$54.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 10/23/2018 02:48 PM PG: 1 OF 9

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COOK COUNTY, ILLINOIS

RECORDING COVER SHEET
FOR VILLAGE OF WESTERN SPRINGS

ORDINANCE NO. 2013-06

AN ORDINANCE APPROVING A PETITION REQUESTING A VARIATION FROM MINIMUM REAR YARD REQUIREMENTS OF SUBSECTION 10-6-1(E) (MINIMUM YARD REQUIREMENTS), SECTION 10-6-1 (A SINGLE-FAMILY RESIDENCE DISTRICT), CHAPTER 6 (RESIDENTIAL DISTRICT REGULATIONS) OF TITLE 10 (DEVELOPMENT CONTROL ORDINANCE), OF THE WESTERN SPRINGS MUNICIPAL CODE OF 1997, AS AMENDED, FOR THE 901 LINDEN COURT PROPERTY

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BOARD OF ZONING APPEALS
ORDINANCE NO. 2018-06

Board Members Present: Art Roman,
Brandon Calvert, Jeffrey Fus, Mitch Johnson,
Scott Tausk, and Patrick Turner.

Board Members Absent: Michael Pabian

DATE: July 19, 2018.

AN ORDINANCE APPROVING A PETITION
REQUESTING A VARIATION FROM MINIMUM REAR
YARD REQUIREMENTS OF SUBSECTION 10-6-1(E)
(MINIMUM YARD REQUIREMENTS), SECTION 10-6-1
(A SINGLE-FAMILY RESIDENCE DISTRICT), CHAPTER 6
(RESIDENTIAL DISTRICT REGULATIONS) OF TITLE 10
(DEVELOPMENT CONTROL ORDINANCE), OF THE
WESTERN SPRINGS MUNICIPAL CODE OF 1997, AS
AMENDED, FOR THE 901 LINDEN COURT PROPERTY.

WHEREAS, Jason and Jelena Libby (the "Petitioners" and "Owners") are the owners of the 901 Linden Court property (Plat 18-18-220-036-0000) (the "Subject Property"), which is located in the Village of Western Springs (the "Village"). The Subject Property is classified under the A Single-Family Residence District, and each of the adjacent properties to the north, south, east and west of the Subject Property are also classified under the A Single-Family Residence District. The Subject Property is legally described as follows:

LOT 9 IN RIDGEWOOD UNIT NO. 12-B, BEING A SUBDIVISION IN THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

; and

WHEREAS, on March 22, 2018, the Petitioners filed with the Village a Petition and supporting documents requesting approval of the following variation (the "Requested Zoning Relief") relative to the construction of an addition (twenty-four (24.00) feet by fifteen and six-tenths (15.6) feet) for use as a family room at the rear of the existing residence on the Subject Property. The Petitioners request a seven (7.00) foot variation for the southern corner of the addition from the minimum rear yard requirement, as set forth in Subsection 10-6-1(E) (Minimum Yard Requirements), Section 10-6-1 (A Single-Family Residence District), Chapter 6 (Residential District Regulations), Title 10 (Development Control Ordinance) of the Western Springs Municipal Code of 1997, as amended (the "Village Code" or "DCO"), as part of constructing an addition to the existing residence. The current zoning regulations require the rear yard on the Subject Property to be a minimum of thirty-five (35) feet. Upon approval of the Requested Zoning Relief, the rear yard setback line will be twenty-eight (28.00) feet from the rear lot line; and

WHEREAS, a copy of the Petition dated March 22, 2018 is incorporated by reference into this Ordinance as Group Exhibit "A" and made a part hereof, and includes the following:

- a. A Statement prepared by the Petitioners in support of the requested zoning relief as well as a description of the need for the requested variation, the Petitioners' response to the variation standards in the Village Code, copies of site diagrams of the Subject Property and existing structures and improvements (Figures 1 to 11), Plat of Survey dated 7/28/09 and prepared by Allen D. Carradus (Appendix A), photographs of the as-built condition of the residence on the Subject Property (Appendix B), Site Plan

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(Appendix C) and Letters of Support from neighbors (the Keenans, the Dames, the Mathenys, the Vespas and the Brinkmeyers) (Appendix C) (27 pages);

and

WHEREAS, Subsection 10-6-1(E)(4) (Minimum Yard Requirements; Rear Yard), Section 10-6-1 (A Single-Family Residence District), Chapter 6 (Residential District Regulations), Title 10 (Development Control Ordinance) of the Village Code states as follows:

Minimum Yard Requirements:

***4. Rear yard: Thirty five feet (35')

; and

WHEREAS, Sections 11-13-4, 11-13-5 and 11-13-11 of the Illinois Municipal Code (65 ILCS 5/11-13-4, 11-13-5 and 11-13-11) and Section 10-3-11 (Variations) of the Village Code require the Board of Zoning Appeals to conduct a public hearing regarding the requested variation, to make certain Findings of Fact in accordance with the applicable standards set forth in Subsection 10-3-11(C)(4) (Criteria for Variations) of Title 10 (Development Control Ordinance) of the Village Code and to state its decision on the requested zoning relief. After prior written notice was published in a newspaper and posted on the Subject Property and mailed to adjacent owners of record and taxpayers of record as required by State law, the Board of Zoning Appeals conducted the required public hearing on July 19, 2018 (the "Public Hearing"), in accordance with the applicable provisions of State law, the DCO and the Open Meetings Act (5 ILCS 120/1, *et seq.*), as amended; and

WHEREAS, during the Public Hearing, the Board of Zoning Appeals heard statements from: the Petitioners and their consultants, certain Interested Parties (members of the public: Stan Heitman, Ridgewood resident and President of the Ridgewood Homeowners Association, who spoke in favor of the Petition and the Requested Zoning Relief on behalf of the Ridgewood HOA), and the Village staff and the Village's consultants. The following Interested Parties (members of the public) submitted written statement(s) in support of the Petition and the Requested Zoning Relief with the Board of Zoning Appeals: Letter (undated) signed by Griffin and Sarah Keenan (903 Linden Court); Letter (undated) signed by Donald and Patricia Dames (5826 Wolf Road); Letter (undated) signed by Don and Jan Matheny (902 Linden Court); Letter (dated April 5, 2018) signed by Michael and Cynthia Vespa (906 Linden Court); and Letter (undated) signed by Brian and Leah Brinkmeyer (5830 Wolf Road) (Appendix C). In addition, the Board of Zoning Appeals accepted into the record and reviewed documents submitted by the Petitioners and their consultants, certain Interested Parties, and the Village staff and the Village's consultants. Each of the documents were marked as Exhibits and accepted into the record by the Board of Zoning Appeals, and are incorporated into the court reporter's transcript of the Public Hearing proceedings transcribed by Pamela Cosentino, CSR of County Court Reporters, Inc. The transcript and Exhibits are incorporated by reference into this Ordinance as **Exhibit "F"** and made a part hereof. Copies of the transcript and Exhibits are on file with the Village's Department of Community Development, unless otherwise noted below. The following documents were entered into the record of the Public Hearing or taken notice of and relied upon by the Board of Zoning Appeals:

- A. The Petition filed March 22, 2018 with Attachments (incorporated herein by reference as **Group Exhibit "A"**).
- B. The Public Hearing Notice with Publisher's Certificate, with Affidavit of Mail / Service of Notice of Public Hearing Publisher's Certificate and Affidavit of Publication and Sign Posting for a Public Hearing prepared by Martin Scott (incorporated by reference as

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- Group Exhibit "B").
- C. Village Staff Report prepared by Martin Scott dated July 10, 2018 (incorporated herein by reference as Exhibit "C") ("Village Staff Report").
 - D. Village's Official Zoning Map and Official Land Use Plan Adopted by Ordinance No. 03-2226 dated February 24, 2003, as amended by Ordinance No. 11-2643 dated August 22, 2011 (incorporated herein by reference as Group Exhibit "D").
 - E. The Western Springs Municipal Code of 1997, as amended, including the Development Control Ordinance (incorporated herein by reference as Exhibit "E").
 - F. The Transcript of the **July 19, 2018** Public Hearing, prepared by a Court Reporter (incorporated herein by reference as Exhibit "F").
 - G. Supplemental Petition Materials (incorporated by reference as Group Exhibit "G"):
None
 - H. Materials Submitted by Interested Parties (incorporated by reference as Group Exhibit "H"):
 - a. Letter (undated) signed by Griffin and Sarah Keenan (903 Linden Court);
 - b. Letter (undated) signed by Donald and Patricia Dames (5826 Wolf Road);
 - c. Letter (undated) signed by Don and Jan Matheny (902 Linden Court);
 - d. Letter (dated April 5, 2018) signed by Michael and Cynthia Vespa (906 Linden Court); and
 - e. Letter (undated) signed by Brian and Leah Brinkmeyer (5830 Wolf Road).

; and

WHEREAS, the Petition has been reviewed by the Village staff and the Village consultants pursuant to the applicable requirements of the Village Code and they have filed a *favorable* recommendation regarding the approval of the Petition subject to conditions, if any, set forth in the Village Staff Report (Exhibit "C") and the decision of the Board of Zoning Appeals and any conditions required by the Board of Zoning Appeals; and

WHEREAS, in accordance with the authority granted by the applicable provisions of the Illinois Municipal Code and the Village Code, and based upon the Petition and other supplemental submittals, and the testimony and evidence presented at the Public Hearing, the Board of Zoning Appeals makes the below Findings of Fact and decision on the Petition in regard to the Requested Zoning Relief.

BE IT ORDAINED BY THE BOARD OF ZONING APPEALS OF THE VILLAGE OF WESTERN SPRINGS, COOK COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1. INCORPORATION. The above Whereas paragraphs are incorporated by reference into Section 1 of this Ordinance as material terms and provisions.

SECTION 2. FINDINGS OF FACT. Based upon the Petition and the testimony and evidence presented at the Public Hearing, the Board of Zoning Appeals considered the seven (7) criteria for approving a variation contained in Subsection 10-3-11(C)(4) (Criteria for Variations) of the DCO, and made the following Findings of Fact in regard to the requested variation for the Subject Property:

- a. **Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as**

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distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.

A hardship exists as a result of the unusual, irregular shape of the Subject Property due to its location on a cul-de-sac. The Plat of Survey demonstrates how the Subject Property is sectioned off in a "pie-shape" to accommodate the cul-de-sac. The unique, irregular lot shape makes the front of the property much narrower than its rear and in order to fit properly on the narrower, front portion of the lot, the property sits at a one hundred and ten (110) degree angle to the rear lot's southern boundary line. This unique, irregular shape prevents even modest development to the Subject Property. The Village's side yard setback requirements prevent the Petitioners from using the side yards or the front of the Subject Property for any meaningful additions to the residence. The rear yard is the only remaining yard area with sufficient space for an addition to the residence.

The Board of Zoning Appeals finds that a hardship to the Petitioners exists, as distinguished from a mere inconvenience, with regard to the unique, irregular shape and small size of the Subject Property, and the limited potential locations to place an addition to the residence on the Subject Property if the strict letter of the regulations were to be applied.

- b. The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not applicable, generally, to other property within the same zoning classification.**

The Board of Zoning Appeals finds that the conditions upon which the application for the variation are based is unique to the Subject Property for which the variation is sought, and are not applicable, generally, to other property within the same zoning classification. The Petitioners have a narrow, triangular shaped lot with a majority of its yard space concentrated at the sides of its rear yard. The shape of the lot is unique relative to the vast majority of existing lots in the neighborhood, which are typically rectangular. Due to the irregular shape of the Subject Property, only the southern corner of the addition to the family room area of the residence will encroach into the required rear yard by seven (7.00) feet. The unique, irregular shaped lot, the small size of the Subject Property, the narrow width of the lot and the original placement of the existing home precludes the Petitioners from other remedies.

These conditions are all unique circumstances that are not generally applicable to other properties in the same zoning classification as the Subject Property.

- c. The purpose of the variation is not based primarily upon a desire to increase financial gain.**

The Board of Zoning Appeals finds that the purpose of the variation is not based primarily upon a desire to increase financial gain. The purpose of the variation is to allow for a reasonable expansion and rehabilitation of existing residence on the Subject Property by constructing the addition to the family room area.

- d. The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.**

The Board of Zoning Appeals finds that the alleged difficulty or hardship was not caused by any person presently having an interest in the Subject Property. The Petitioners had no involvement in the platting of the small, irregular shaped lot or deciding where to place the existing residence on the Subject Property with regard to the minimum rear yard requirements applicable thereto.

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- e. **The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.**

The Board of Zoning Appeals finds that the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the Subject Property is located. During construction, the Petitioners intend to address water drainage issues experienced by adjacent property owners by redirecting water from the Subject Property to the street to allow for proper drainage.

- f. **The granting of the variation will not alter the essential character of the neighborhood.**

The Board of Zoning Appeals finds that the granting of the variation will not alter the essential character of the neighborhood. With the requested variation, the Subject Property will be enhanced, and the addition of a family room area to the residence would not alter the essential character of the neighborhood, even if a portion of the addition encroaches on the minimum rear yard requirements. The Petitioners intend to remain in the Subject Property for many years and request this variation to accommodate their growing family. The remaining rear yard will continue to function as a place for the Petitioner and their children as well as the neighboring families to gather. Further, the addition to the residence of the Subject Property will rehabilitate the exterior of the residence and increase the Subject Property's visual appeal.

- g. **The proposed variation will not impair an adequate supply of light or air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.**

The Board of Zoning Appeals finds that the proposed variation will not impair an adequate supply of light or air to adjacent properties or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood around the Subject Property.

SECTION 3. DECISION. In accordance with the authority granted by the applicable provisions of the Illinois Municipal Code and the Village Code, and based upon the written statements and other content in the Petition, the testimony and evidence presented at the Public Hearing and the above Findings of Fact, the Board of Zoning Appeals approves the Petition and grants the following zoning relief:

- A. A variation in the amount of seven (7.00) feet from the minimum thirty-five (35.00) foot rear yard requirement, as set forth in Subsection 10-6-1(E) (Minimum Yard Requirements) of the Village Code, in order to allow the Petitioners to construct the addition to the family area of the residence on the Subject Property, **SUBJECT TO THE FOLLOWING CONDITIONS.**

B. CONDITIONS:

1. The Petitioners shall construct the addition to the residence on the Subject Property as

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shown on the Site Plan prepared by Keith R. Larson (Architect) (Appendix C) (Page 21), which is part of Group Exhibit "A", subject to compliance with the Village-approved development plans, as amended after the Village Plan Review process to include the Plan Review comments and requirements of the Village Engineer and Village Code Officer(s), including all stormwater drainage improvements and any other "best management practices" site development improvements required by the Village Engineer.

SECTION 4. CONFLICTS. Any Ordinance, or portion thereof, in conflict with this Ordinance is repealed to the extent of such conflict.


SECTION 5. SEVERABILITY. Each Section, paragraph, clause and provision of this Ordinance is separable, and if any such Section, paragraph, clause or provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, nor any portion hereof, other than that part affected by such decision.

SECTION 6. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by State law.

SECTION 7. RECORDATION. If the Petition is approved by the Board of Zoning Appeals, a certified copy of this Ordinance shall be recorded against title to the Subject Property by the Village, at the Petitioners' sole cost, with the Cook County Recorder of Deeds Office ("CCRD"). The Village will provide the Petitioners with a copy of the Ordinance after it is filed with the CCRD.

MOTION TO APPROVE THE PETITION, (motion made by Patrick Turner and seconded by Scott Tausk), WAS PASSED by the Board of Zoning Appeals of the Village of Western Springs, Cook County, Illinois, at a Regular Meeting thereof, held on the 19th day of July, 2018 by a roll call vote as follows: voting yes: Art Roman, Brandon Calvert, Jeffrey Fus, Mitch Johnson, Scott Tausk, and Patrick Turner; voting no: None; and abstention from voting: Michael Pabian.

This Ordinance has been signed by the Chair and the Secretary on the 19th day of July, 2018.


 Art Roman, Chair, Board of Zoning Appeals

ATTEST:


 Secretary

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Group Exhibit "A"

Petition filed March 22, 2018, with Attachments

Exhibit "B"

The Public Hearing Notice, with Publisher's Certificate

Exhibit "C"

Village Staff Report Prepared by Martin Scott
dated July 10, 2018

Group Exhibit "D"

Village of Western Springs Official Zoning Map
and
Village of Western Springs Official Land Use Plan
Adopted by Ordinance No. 03-2226
dated February 24, 2003, as amended
by Ordinance No. 11-2643 dated August 22, 2011

Exhibit "E"

The Western Springs Municipal Code of 1997, as amended,
including the Development Control Ordinance

Exhibit "F"

The Transcript of the July 19, 2018 Public Hearing,
Prepared by a Court Reporter

Group Exhibit "G"

Supplemental Petition Materials

Group Exhibit "H"

Materials Submitted by Interested Parties

(Incorporated herein by reference
and on file in the Community Development Department)