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Prepared on behalf of:
Village of Western Springs

PIN: 18-07-413-037-0000



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KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 10/23/2018 02:51 PM PG: 1 OF 9

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COOK COUNTY, ILLINOIS
RECORDING COVER SHEET
FOR VILLAGE OF WESTERN SPRINGS

ORDINANCE NO. 2013-04

AN ORDINANCE APPROVING A PETITION REQUESTING A VARIATION FROM SETBACK REQUIREMENTS OF SUBSECTION 10-4-4 (A)(5) (GENERAL PROVISIONS; ACCESSORY BUILDINGS IN REQUIRED YARDS), SECTION 10-4-4 (ACCESSORY USES AND STRUCTURES), CHAPTER 4 (DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY) OF TITLE 10 (DEVELOPMENT CONTROL ORDINANCE), OF THE WESTERN SPRINGS MUNICIPAL CODE OF 1997, AS AMENDED, FOR THE 5328 CENTRAL AVENUE PROPERTY

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BOARD OF ZONING APPEALS
ORDINANCE NO. 2018-04

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 SETBACK
REQUIREMENTS OF SUBSECTION 10-4-4 (A)(5)
(GENERAL PROVISIONS; ACCESSORY BUILDINGS IN
REQUIRED YARDS), SECTION 10-4-4 (ACCESSORY
USES AND STRUCTURES), CHAPTER 4
(DEVELOPMENT STANDARDS OF GENERAL
APPLICABILITY) OF TITLE 10 (DEVELOPMENT
CONTROL ORDINANCE), OF THE WESTERN SPRINGS
MUNICIPAL CODE OF 1997, AS AMENDED, FOR THE
5328 CENTRAL AVENUE PROPERTY.

WHEREAS, Cindy George (the "Petitioner" and "Owner") is the owner of the 5328 Central Avenue (PIN 18-07-413-0-7-0000) (the "Subject Property"), which is located in the Village of Western Springs (the "Village"). The Subject Property is classified under the R1 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 R1 Single-Family Residence District. The Subject Property is legally described as follows:

THE SOUTH ½ OF LOT 4 IN BLOCK 14 IN FOREST HILLS COMMERCIAL AND PARK DISTRICT SUBDIVISION OF BLOCKS 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31, 32, 41, 42, 43 AND 44 IN "FOREST HILLS OF WESTERN SPRINGS" A SUBDIVISION OF THE EAST ½ OF SECTION 7, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN AND THAT PART OF BLOCKS 12, 13, 14 AND 15, IN "THE HIGHLANDS" BEING A SUBDIVISION OF THE NORTHWEST ¼ AND THE WEST 800 FEET OF THE NORTH 144 FEET OF THE SOUTHWEST ¼ OF SECTION 7, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING EAST OF A LINE 33 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF THE SAID NORTHWEST ¼ OF SAID SECTION 7 ALSO LOTS 1, 2, 3, 4 AND 5 EXCEPT THAT PART THEREOF DEDICATED FOR STREET BY PLAT DOCUMENT #209880 IN BLOCK 12, "THE HIGHLANDS" AFORESAID, AND IN COOK COUNTY, ILLINOIS, ALSO ON FAIR ELMS AVENUE (NOW VACATED) AS SHOWN ON THE PLAT OF FOREST HILLS OF WESTERN SPRINGS AFORESAID FILED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS AS DOCUMENT NO. 209880, ALL IN COOK COUNTY, ILLINOIS.

WHEREAS, on April 9, 2018, the Petitioner filed with the Village a Petition and supporting documents requesting approval of the following variation (the "Requested Zoning Relief") relative to the construction of a detached garage on the Subject Property. Petitioner requests variation from the side yard setback requirements set forth in Subsection 10-4-4(A)(5) (General Provisions; Accessory Buildings In Required Yards), Section 10-4-4 (Accessory Uses And Structures), Chapter 4 (Development Standards of General Applicability), Title 10 (Development Control Ordinance) of the Western Springs Municipal Code of 1997, as amended ("Village Code"), to construct the proposed garage within the required five (5.00) foot interior side yard setback area, which would result in a two and sixty-eight hundredths (2.68) foot setback variation from the north property line; and

WHEREAS, a copy of the Application for Variance Request dated April 9, 2018 is incorporated by reference into this Ordinance as **Group Exhibit "A"** and made a part hereof, and includes the following:

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- a. A Statement dated April 9, 2018 (entitled Application for Variance Request) prepared by the Petitioner in support of the requested zoning relief as well as a description of the need for the requested variation, the Petitioner's response to the variation standards in the Village Code (three pages);
- b. Plat of Survey dated May 9, 1998 and prepared by Nelson Land Surveying, Inc. (1 page);
- c. Undated Letter from Laura Johnson (support for Requested Zoning Relief) (1 page);
- d. Village Application Form (For Land Use and Development in the Village) (three pages);

and

WHEREAS, Subsection 10-4-4(A)(5) (General Provisions; Accessory Buildings In Required Yards), Section 10-4-4 (Accessory Uses And Structures), Chapter 4 (Development Standards of General Applicability), Title 10 (Development Control Ordinance) of the Village Code states as follows:

No accessory buildings or structures, except as otherwise provided in table 4-1 or elsewhere in this ordinance, shall be located in the required front, corner side or interior side yards. No accessory buildings on a corner lot shall project beyond the required front yard or corner side yard line of either street. In the case of reversed corner lots, no accessory building or structure located in the required rear yard shall project beyond the required front yard setback of the adjoining property. Accessory buildings shall not be closer than five feet (5') to an interior side or rear lot line;

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 Petitioner and her consultants, and the Village staff and the Village's consultants. The following Interested Party (member of the public) submitted a written statement in support of to the Petition and the Requested Zoning Relief with the Board of Zoning Appeals: Letter (undated) signed by Laura Johnson. (In addition, the Board of Zoning Appeals accepted into the record and reviewed documents submitted by the Petitioner and her 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:

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- A. The Petition filed April 9, 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 dated (incorporated by reference as 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"): Letter (undated) signed by Laura Johnson.

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

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A hardship exists as a result of the current location of the residence on the Subject Property as well as the physical and topographical surroundings. Moving the garage to the south would require the removal of a large, mature maple tree. Additionally, moving the garage to the south would negatively affect the turning radius of the existing driveway. The garage is being built to replace a garage that was destroyed in an electrical fire. The proposed garage will be built to the exact dimensions, location and design of the prior garage. The original garage was built in accordance with the zoning laws in effect at that time. However, as the Village's zoning regulations now require a five (5.00) foot side yard setback, a two and thirty-two hundredths (2.32) foot setback variation from the north property line is needed to re-build the garage.

The Board of Zoning Appeals finds that a hardship to the Petitioner exists, as distinguished from a mere inconvenience, with regard to the existing location of the residence and topographical features of the Subject Property, and the limited potential locations to place a detached garage 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 conditions upon which the application for the variation is based are 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 garage is being built to replace a garage that was destroyed in an electrical fire caused by downed power lines. The current garage is unusable and potentially dangerous. The original garage was built in accordance with the zoning laws in effect at that time. However, as the Village's zoning regulations now require a five (5.00) foot side yard setback, a two and thirty-two hundredths (2.32) foot setback variation from the north property line is needed to re-build the garage. Additionally, the size and location of the tree adjacent to the garage means that the garage cannot be moved to a different location without harming a mature maple tree.

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 requested variation is not based primarily upon a desire to increase financial gain. The purpose of the requested variation is to allow for a rehabilitation of the Subject Property by re-building the garage in its prior location that was destroyed in a fire.

- 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 Petitioner had no involvement in deciding where to place the existing residence or garage on the Subject Property with regard to the

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minimum side yard setback requirements applicable thereto. The replacement garage is to be built in the same location as the garage that was destroyed in an electrical fire. The proposed garage will be built to the exact dimensions, location and design of the prior garage. The original garage was built in accordance with the zoning laws in effect at that time, however, as the Village's zoning regulations now require a five (5.00) foot side yard setback, a two and thirty-two hundredths (2.32) foot setback variation from the north property line is needed to re-build the garage.

- 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. The proposed construction will remove and replace a severely damaged garage which will enhance the safety and aesthetics of the neighborhood.

- 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 detached garage would not alter the essential character of the neighborhood, even if a portion of the addition encroaches on the side yard setback requirements. The proposed garage will be built to the exact dimensions, location and design of the prior garage. The garage will match the aesthetics of the residence on the Subject Property and enhance the beauty and character of the neighborhood.

- 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 two and thirty-two hundredths (2.32) feet from the north property line from the interior side setback requirement, as set forth in Subsection 10-4-4(A)(5) (General Requirements; Accessory Buildings In Required Yard) of the Village Code,**

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in order to allow the Petitioner to construct the detached garage on the Subject Property, SUBJECT TO THE FOLLOWING CONDITIONS.

B. CONDITIONS:

1. The Petitioner shall construct the detached garage on the Subject Property as shown on the Plat of Survey dated May 8, 1998 and prepared by Nelson Land Surveying, Inc., 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.

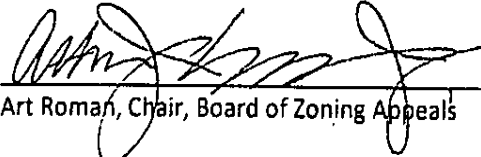
SECTION 5. SEVERABILITY. Each Section, paragraph, clause and provision of this Ordinance is separable, and if any such Section, paragraph, clause or provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, nor any portion hereof, other 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 Petitioner's sole cost, with the Cook County Recorder of Deeds Office ("CCRD"). The Village will provide the Petitioner 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 / Application for Variance Request dated April 9, 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 14, 2003, as amended
by Ordinance No. 11-2543 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)