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Mr. Beymer stated that he was never aware that the home was non-conforming to the Village Code. His father had added the second curb cut when they built the detached garage in 1980 and were never told at that time that they would have to remove the curb cut along Salem Drive.

Mr. Beymer stated that this has now been going on for about three months and they currently have no front driveway or stairs nor are they able to utilize their front door. He and his wife are requesting the variation to allow the second curb cut so they can get everything back to the way it was prior to Comcast damaging the end of the driveway.

Mr. Wenger stated that the petitioner is requesting a variation from the Village Code to allow two curb cuts. The first curb cut along Salem Drive is the one that the petitioner has explained about that has been damaged by Comcast and the second is along Victoria Lane. Originally the home was constructed in 1969 and had one lower-level garage like many of the homes in the area. As stated by the petitioner, the home was enlarged in 1980, remodeled, and they added the detached garage and second curb cut along Victoria Lane. They had removed the original attached garage; however, they kept the driveway. The Village Code at that time did state that two curb cuts were not allowed. However, in 1980 the Building Division was its own department and had a policy that interpreted this code to apply only to properties with one street frontage.

Mr. Wenger stated that the Code pertaining to two curb cuts has since then been removed from the Building Code and was re-written under the Subdivision Control Ordinance. After the Building Division was absorbed by the Community Development Department the policy that allowed corner lots with two street frontages to be permitted two curb cuts went away. Thus, the petitioner's statement of being up to code and not requiring a variation in 1980 when the second curb cut was installed is correct due to the policy of the Department at the time. For the last decade the Code relating to two curb cuts has been interpreted more strictly in that even on corner lots if a second curb cut would be on a different street frontage a variation would be required.

Mr. Wenger stated that staff feels this is an appropriate request since the petitioner has done nothing wrong and there is adequate support to allow the variation. The variation should be allowed in a way that the driveway can be reconstructed to the length and width that it is now. If the petitioner would want to enlarge it in the future, it would require a change to the variation. Additionally, the driveway should not be required to be removed when the petitioner sells the house, as staff has recommended in some variations that have been granted in the past. Staff feels that it is justified to allow it to be permitted with the land and not the owner.

There being no other member of the audience wishing to speak Chairperson Utley asked for questions from the Plan Commission.

Mr. Watson asked to confirm that the contractor that had removed the driveway and steps had applied for the permit prior to doing the work they just did not receive the permit. Mr. Beymer stated that is correct and added that the contractor had permission from Mr. Laguna of EPW to go ahead and remove the portion of the driveway in between the sidewalk and the street. Mr. Beymer stated that he checked with EPW, and it was confirmed that Mr. Laguna as the project manager did have authority to approve the work in the

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parkway without obtaining a permit to make the repair. Mr. Beymer believes that the contractor misinterpreted the direction from Mr. Laguna and thought he was given permission to complete the replacement of the entire driveway. Mr. Watson asked for clarification on the status of the subject area and Mr. Beymer stated that it is all gravel and mud. Mr. Watson asked if anything was said regarding putting in a second driveway at the time when they received the permit in 1980. Mr. Beymer stated that his father was a building official elsewhere at the time and specifically asked about it and nothing was said. Additionally, a nearby neighbor on Braintree and friend of his father with a similar house on a corner was doing was also adding a second curb cut for a new detached garage. Mr. Beymer asked him if he had recalled anything being said to him at the time and he stated that nothing was said to him either.

Mr. Watson stated that this seems to be a recurring theme with the interpretation of the Code regarding corner lots and two curb cuts. He is recommending to staff to change Section 151.08 of the Village Code to be consistent with the statement in the July 30th, 2003, memorandum, specifically when it comes to curb cuts to allow for one curb cut per street frontage. This would make it clearer going forward. Mr. Beymer stated that he took a deep dive in reviewing minutes and watching how the code changed regarding two curb cuts. The big change was made in 2007 when they modified the original language from 1978 to add the word “property” to encompass everything. Mr. Beymer stated that the Village also granted a blanket variation in 2005 which allowed all residents that had existing 28-foot-wide driveways that were constructed within Code at the time to keep them. The Code now only allows driveways to be a maximum of 25-feet. Mr. Beymer feels that residents that have similar situations like his driveway that were legal at the time of construction, and are now nonconforming, should fall under that as well. Mr. Watson agreed that since the driveway was up to code at the time that the variation should be approved and would like to see the part of the Village Code pertaining to two curb cuts to be revised so the interpretation can be consistent.

Mr. Utley stated that at the last Village Board meeting, the Village Board approved a case regarding allowing a variation to allow two curb cuts that the Plan Commission recommended approval on. Thus, it is now the Village Board’s position that two curb cuts on two different streets is allowable.

Mr. Litney had no further questions.

Ms. Errera apologized to the petitioner that has taken so much time to go through the process and get the stairs and driveway replaced.

Mr. Gerber had no further questions.

Mr. Valenziano stated that he didn’t know how the Commission could deny this case since it has been happening so many other places throughout the village. He asked staff if the Commission would continue to see requests for a variation to the Code regarding two curb cuts. Mr. Wenger stated that the way the current Village Code reads that any resident requesting two curb cuts on corner lots would require a variation, and that each would continue to be reviewed on an individual case by case basis. There was a discussion that recent requests are setting a precedent for staff and Village Board to review the Code pertaining to these situations.

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Mr. Bhagwakar had no further questions.

Mr. Robles had no further questions.

Mr. Caporale referred to staff's report and the examples of similar requests that have been approved. He feels that this variation should be approved.

Chairperson Utley stated that the Village Board approved the last similar variation without conditions. He asked if staff could review the Village Code so residents with similar situations do not have to be inconvenienced in the future like tonight's petitioner has.

PUBLIC HEARING CLOSED

Mr. Gerber made a motion, seconded by Mr. Caporale to close the hearing.

MOTION CARRIED: Vote 9-0 with no members absent.

A poll was taken:

- Mr. Chuck Valenziano -Yes
- Ms. Patricia Errera -Yes
- Mr. Richard Gerber -Yes
- Mr. Don Watson -Yes
- Mr. Dhitu Bhagwakar -Yes
- Mr. Daley Litney -Yes
- Mr. Steve Robles - Yes
- Mr. John Caporale -Yes
- Mr. David Utley -Yes

A motion was made by Mr. Gerber to concur with staff, seconded by Mr. Watson to approve a Variation to Allow 2 Curb Cuts for the property located at 215 S. Salem Drive, Case No P2109-02, subject to the following conditions:

1. The driveways are approved to be replaced in their current locations/widths. Future expansion of either driveway requires approval of a new variation.
2. A building permit, in accordance with the current regulations and requirements of the Village of Schaumburg, must be issued within one (1) year from the date of adoption of the enabling ordinance by the Village Board which authorized the development proposal. The development approvals granted herein, without need for further action by any Village Board, commission or official shall become null and void if no building permit is issued within the one (1) year requirement. The Village Board may, by motion and majority vote, extend the development approvals granted herein for periods of up to one (1) year upon the written request of the owner of the subject property or his authorized agent.
3. Natural drainage shall not be blocked or directed onto neighboring properties.

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4. The following plans shall be adopted as part of the governing ordinance:
 - a. Plat of Survey, received by the Community Development Department on September 14, 2021.

MOTION CARRIED: Vote 9-0 with no members absent.

A poll was taken:

- Mr. Chuck Valenziano - Yes
- Ms. Patricia Errera - Yes
- Mr. Richard Gerber - Yes
- Mr. Don Watson - Yes
- Mr. Dhitu Bhagwakar - Yes
- Mr. Daley Litney - Yes
- Mr. Steve Robles - Yes
- Mr. John Caporale - Yes
- Mr. David Utley - Yes

The petitioner was advised that this recommendation will be forwarded to the Village Board for consideration at their meeting on Tuesday, November 9, 2021.

Mr. Beymer stated that all the Village staff that he has worked with including Mr. Wenger in Planning, Mr. Flannigan in the Building Division and Mr. Laguna at EPW have all been great to work with. He just wishes the process could have moved a little quicker.

The meeting was adjourned at 7:34 p.m.

Todd Wenger, PLA, Landscape & Design Planner
I have reviewed the minutes, and they accurately represent the actions taken by the Plan Commission

Tricia Morandi, Secretary
Plan Commission