

Village of Elm Grove Board of Appeals Meeting Minutes

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1. Call to order and roll call.

The meeting was called to order at 4:00 p.m. by Chairman Ripp.

Present: Jess Ripp, Chairman; Aaron Duch; Douglas Jacobson; Michael Van Kleunen (via Zoom)

Absent: Richard Schaefer, Jessica Bellows, Eric Peter

Staff present: Hector de la Mora, Village Attorney; Katherine Gehl, Assistant Village Manager/Zoning & Planning Administrator; Katie Panella, Village Clerk

2. Review and act on meeting minutes dated January 31, 2024.

**MOTION BY JACOBSON, SECOND BY DUCH, TO APPROVE THE MINUTES OF JANUARY 31, 2024 AS PRESENTED.
ALL IN FAVOR. MOTION CARRIED.**

3. Consideration, hearing, and action on variance request from §335-17F(1) to allow for a sport court with a street right-of-way setback of 25' from Sunnyslope Road and a street right-of-way setback of 34' 3" from Fairfield Court for the property located at Fairfield Court.

**MOTION BY JACOBSON, SECOND BY DUCH, TO OPEN THE PUBLIC HEARING.
ALL IN FAVOR. MOTION CARRIED.**

HEARING – 13860 Fairfield Court

Applicant: Jennifer Boldt - Homeowner

The Clerk administered an oath to the following residents:

- Jennifer Boldt, 13860 Fairfield Court
- Attorney Brian Randall, Amundsen Davis Law, 330 E Kilbourn Ave #1250, Milwaukee, 53202
- Nicholas Grittner, Liban Landscape, 20090 W Lincoln Ave, New Berlin, WI 53146
- Valerie Swenson, 705 Sunnyslope Road

Village of Elm Grove Board of Appeals Meeting Minutes

DRAFT

Attorney Randall explained Ms. Boldt began finalizing her plans to install a sport court following the variance granted at the January 31, 2024 Board of Appeals meeting; however, it was discovered that there was an existing wellhead in the side yard, west of the principal structure, which would require additional spacing from the sport court. Attorney Randall explained that Ms. Boldt contacted Village staff when this was discovered and Ms. Boldt was directed to file a request for an amendment to the setback that was rendered at the January 31, 2024 due to excusable neglect on the part of the applicant for a well head that was not previously considered.

Attorney Randall explained that the applicant is asking to adjust the approved street yard setback from Sunnyslope Road from 32 feet to 25 feet; to formally document the approved street yard setback from Fairview Court of 34.25 feet; and to approve two (2) light fixtures to be no more than 18 feet tall. Attorney Randall explained the proposed location of the sport court is for the safety of Ms. Boldt's dogs, children, and guests.

Mr. Jacobson asked Ms. Boldt to clarify if the patio location was on the original plans. Ms. Boldt explained that the patio layout was included on the original plans. Mr. Ripp asked Mr. Grittner the distance from the patio to the sport court. Mr. Grittner stated the patio is 15' 3" from the sport court. Ms. Boldt explained the reason for the proposed placement of the patio is for her guests, animals, and safety of children. Ms. Boldt explained that there is an invisible fence in their yard and if the patio were to be moved closer to Sunnyslope Road and the sport court closer to the house, her dogs would not be able to come out to the patio area, as the invisible fence does not extend that far. Additionally, Ms. Boldt noted that as her children would use the sport court, they would be closer to the road. Attorney de la Mora asked Ms. Boldt to explain why it is essential for her patio to be on the east side of the sport court rather than the west side. Ms. Boldt explained that the patio area would get used more by her family and guests and if the patio were to be located on the west side of the sport court, there would be individuals located closer to the road more frequently. She also explained that her dogs would not be able to go out to the patio due to an invisible fence which does not extend that far. Ms. Boldt explained it is for safety and for the enjoyment of her yard. Attorney Randall explained the layout of the patio and sport court is a common-sense layout, as Ms. Boldt owns a corner lot and the Village refers to the sport court as a structure even though it would be at the same grade as a patio.

Attorney Randall provided a picture of the proposed light posts (Exhibit A) and a to-scale photometric plan showing the proposed location of the light posts (Exhibit B) showing the luminaries around the property line. Ms. Boldt stated she is planning to order green or bronze lights and it will be a very slim light pole. Ms. Boldt explained the lighting will be shielded from Sunnyslope Road and they will be faced inward toward the courts. Attorney Randall explained the lighting on the court met Village Ordinances and is reflected in Exhibit B. Attorney de la Mora asked Ms. Boldt if the light fixtures installed would be permanent. Ms. Boldt explained

Village of Elm Grove Board of Appeals Meeting Minutes

DRAFT

they would be permanent and that they would not be able to be adjusted or aimed a different direction. Attorney Randall explained the light fixtures are not intended to swing around and they will not be adjusted by the homeowners.

Mr. Jacobson asked if there would be a possibility to move the patio closer to the principal structure and maintain the original location of the sport court. Mr. Randall explained that there is a significant grade change from the principal structure to the proposed patio area and the distance from the principal structure allows for a gradual slope.

The following Elm Grove resident spoke in favor of Ms. Boldt’s request:

- *Valerie Swenson, 705 Sunnyslope Road*

**MOTION BY JACOBSON, SECOND BY DUCH, TO CLOSE THE PUBLIC HEARING.
ALL IN FAVOR. MOTION CARRIED.**

4. Convene into Closed Session to deliberate the above Board of Appeal item.

MOTION BY JACOBSON, SECOND BY DUCH, TO CONVENE INTO CLOSED SESSION.

ROLL CALL VOTE:

AYE-JESS RIPP

AYE-AARON DUCH

AYE-MICHAEL VAN KLEUNEN

AYE-DOUGLAS JACOBSON

ALL IN FAVOR. MOTION CARRIED.

Closed Session began at 4:41 p.m.

Village of Elm Grove Board of Appeals Meeting Minutes

DRAFT

5. Reconvene into Open Session and possibly take action regarding the above Board of Appeal Item.

MOTION BY JACOBSON, SECOND BY DUCH, TO RECONVENE INTO OPEN SESSION.

ROLL CALL VOTE:

AYE-JESS RIPP

AYE-AARON DUCH

AYE-MICHAEL VAN KLEUNEN

AYE-DOUGLAS JACOBSON

ALL IN FAVOR. MOTION CARRIED.

Return into Open Session at 5:06 p.m.

MOTION BY DUCH, SECOND BY JACOBSON, TO APPROVE THE CONDITIONS ADOPTED ON JANUARY 31, 2024 WITH THE FOLLOWING AMENDMENTS:

1. The site plan must be drawn to scale noting the location of the pickleball court and distances of the court to all lot lines and structures;
2. Lighting must be shown on the site plan as reflected in the application materials and the two light fixtures must be unadjustable after installation in conformity with the photometric evaluation submitted into evidence and not be taller than 18 feet and shielded;
3. The site plan excludes a retaining wall, as it is not part of the structure, and is not approved as part of this variance;
4. The site plan must include a landscaping plan that includes no less than 13 Arborvitae as reflected in the application materials and as described by Ms. Boldt;
5. Permanent installation of pickleball fixtures such as nets and posts is permitted and must be shown on the site plan as reflected in the application materials;
6. The western-most edge of the sport court cannot under any circumstance be closer than 25 feet from the property line which abuts Sunnyslope Road and the southern-most edge of the sport court cannot under any circumstance be closer than 34.25 feet from the property line which abuts Fairfield Court;
7. This variance must be recorded at the Waukesha County Register of Deeds at the expense of the applicant with proof of same being delivered to the Village Zoning

Village of Elm Grove Board of Appeals Meeting Minutes

DRAFT

and Planning Administrator as a precondition for the issuance of any building permit

ALL IN FAVOR. MOTION CARRIED.

6. Adjourn.

There was no further business.

**MOTION BY JACOBSON, SECOND BY DUCH, TO ADJOURN THE MEETING.
ALL IN FAVOR. MOTION CARRIED.**

Meeting adjourned at 5:10 p.m.

Minutes transcribed by: Katie Panella

Minutes Approved on: