



**BOARD OF APPEALS DRAFT MINUTES**  
**August 28, 2025\* 4:30 PM \*Court Room**

13600 Juneau Boulevard  
Elm Grove, WI 53122

8/28/2025 - Minutes

**1. Call to Order**

*Chairman Ripp called the Board of Appeals meeting to order at 4.32pm*

**2. Roll Call**

*Present (5): Jess Ripp, Douglas Jacobson, Jessica Bellows, Eric Peter, and Michal Van Kleunen (alt)*

*Absent (2): Aaron Duch and Dick Schaefer (alt)*

*Also Present: Village Manager Harrigan, Attorney de la Mora, and Village Clerk Turner*

**A. Board of Appeals Memo**

**3. Pledge of Allegiance**

**4. Approval of Agenda**

**Motion by Jacobson, seconded by Peter, to approve the agenda as presented.**

Aye (5): Jess Ripp, Douglas Jacobson, Jessica Bellows, Eric Peter, and Michal Van Kleunen (alt)

**Motion Passed.**

**5. Approval of Minutes**

**A. Review and act on the May 16, 2024, Board of Appeals Draft Minutes**

**Motion by Jacobson, seconded by Bellows to approve the minutes of May 16<sup>th</sup> 2024 as presented.**

Aye (5): Jess Ripp, Douglas Jacobson, Jessica Bellows, Eric Peter, and Michal Van Kleunen (alt)

**Motion Passed.**

**6. Confirmation of Compliance with Open Meetings Law and Public Notices Requirements****A. 560 Rosedale Drive****B. 1610 Fairhaven Blvd****7. Public Hearing****A. Public Hearing #1: 560 Rosedale Dr**

**Motion by Peters, seconded by Jacobson to open the public hearing.**

Aye (5): Jess Ripp, Douglas Jacobson, Jessica Bellows, Eric Peter, and Michal Van Kleunen (alt)

**Motion Passed.**

*The Board of appeals heard the sworn testimony of:*

*Aaron Skirrow, Skirrow Design Build, 245 N Columbia Blvd, Brookfield*

***Skirrow** recapped the plans and design of the property and the request of the client to have a mid-century modern home. The hardship is the overhang that is already into the set back to Bluemound Road.*

***Chairman Ripp** asked for clarification of the location on the property of the engawa.*

***Skirrow** confirmed it is just the edge that is listed as the proposed engawa. The edge of this is at the setback of 46.93'*

***Peter** asked if there was a railing to the engawa. **Skirrow** confirmed there is no railing.*

***Chairman Ripp** asked if the set-back is measured to the base of the house or edge of over-hang.*

***Skirrow** confirmed it is to the edge of engawa. Overhang projects further out.*

***Peter** said he had no issues with the request.*

***Jacobson** asked when the house was built. **Skirrow** confirmed it was built in 1955.*

***Jacobson** asked if there had been any issues with the building permit previously with the fact the overhang was encroaching of the set back. **Skirrow** and **Village Manager Harrigan** stated there was no information on this.*

**Van Klunen** asked if Bluemound Road set back was noted 10-15 years ago.

**Village Manager Harrigan** stated for the last 30-40 years the setback has been 50'

**Attorney de la Mora** asked if there was another purpose for the engawa besides matching the style of home.

**Skirrow** said it is access for the front of the house and flow around the property. The layout is strange with the front facing Bluemound.

**Bellows** asked if the path is the only access around the house.

**Van Klunen** asked if it provides any other functional purpose.

**Skirrow** said there was not a functional purpose but will take care to pitch away from the foundation.

**Chairman Ripp** asked if the material was wooden slats. **Skirrow** confirmed it is joists and 2x6 western red cedar.

**Jacobson** asked if the permit was denied by the Building Board based on set back.

**Village Manager Harrigan** stated it was approved at Building Board based on the approval of Board of Appeals and the September 3<sup>rd</sup> Plan Commission.

**Village Manager Harrigan** read the zoning administrators memo into record.

**Chairman Ripp** noted that it was non-conforming property.

**Village Manager Harrigan** stated that the side and front are non-conforming. The Plan Commission will be considering the non-conforming special exception.

**Jacobson** asked if the proposed pergola was part of the discussion.

**Motion by Jacobson, Seconded by Van Klunen to close the public hearing.**

*Aye (5): Jess Ripp, Douglas Jacobson, Jessica Bellows, Eric Peter, and Michal Van Kleunen (alt)*

**Motion Passed.**

**B. Discussion and possible action on a variance request from §335-19F(1) to allow for an engawa with a street right-of-way setback of 46.93 feet from Bluemound Road for the property located at 560 Rosedale Drive**

**Bellows** and **Peter** stated the hardship is walking through the lawn and not on a path. Architecturally this unifies the whole property.

**Chairman Ripp** stated the decisions must be made on what was presented in the application. He said he did not see any harm to public interest issues. Currently the property is non-conforming on the other side and not increasing the set back now.

**Jacobson** said the non-conforming issues are already there and this is not any worse.

**Motion by Jacobson, seconded by Peter to grant the variance request due to following reasons:**

1. **The structure is currently non-conforming as built before the Village was a Village, therefore, not necessarily a self-induced hardship**
2. **The request is not any worse of a setback than the current overhang of the roof.**
3. **The request enhances access to the property.**

*Discussion:*

**Peter** asked if the over-hang is within the set back.

**Village Manager Harrigan** stated Village ordinance allows for architectural features to encroach into the set back by up to 2' but the set-back for the 50' is measured to the foundation of the property.

**Chairman Ripp** said that it was indicated the current roof overhang is extending anywhere from 3' to 5'

**Van Klunen** asked if the engawa enhanced the access to the property.

*Aye (5): Jess Ripp, Douglas Jacobson, Jessica Bellows, Eric Peter, and Michal Van Kleunen (alt)*

**Motion Passed.**

### **C. Public Hearing #2: 1610 Fairhaven Blvd**

**Motion by Jacobson, seconded by Van Klunen to open the public hearing.**

*Aye (5): Jess Ripp, Douglas Jacobson, Jessica Bellows, Eric Peter, and Michal Van Kleunen (alt)*

**Motion Passed.**

*The Board of Appeals heard sworn testimony from:*

*Russell Lafrombois, 229 E Wisconsin Ave, Milwaukee*

**Lafrombois** summarized the application to add a sunroom in place of the patio. Currently 713 sq ft over on impervious surface area.

**Chairman Ripp** asked if the request was to build on the impervious surface area already in place.

**Lafrombois** stated yes, the amount is the same. To connect the areas over the different grades the walkways are needed. Relatives needed assistance to get around the property.

**Chairman Ripp** asked when the walkways were installed. The homeowner confirmed these were installed in 2004.

**Village Manager Harrigan** said there was no variance granted in 1996 for the pool install and no impervious surface calculations then either. He does not have dates or permits for the installation of the sidewalks.

**Chairman Ripp** asked Attorney de la Mora when the MMSD impervious surface requirements were put in place.

**Attorney de la Mora** stated it was approx. 2002.

**Jacobson** asked when did the village put in the limitations on impervious surfaces.

**Attorney de la Mora** stated he was not sure of the date but there was a major lawsuit MMSD brought against local municipalities that contributed the sewer. The result included the Village of Elm Grove. Local Municipalities had to enforce various restrictions on impervious surface area. The village paid a substantial amount to settle the case and has followed through in enforcing the restrictions.

**Jacobson** asked for the approx. date for the concrete parking slab. The homeowner confirmed this was 2004.

**Van Klunen** asked if the requested porch is screened. **Lafrombois** confirmed it is.

**Van Klunen** asked when did the property exceed the impervious surface area. **Lafrombois** said the top sidewalk and sidewalk to the bottom from the front door to back have been in place since 2004.

**Chairman Ripp** asked when was shed put in. **Lafrombois** confirmed that has been in place since they brought the property.

**Van Klunen** asked if the homeowners need the parking area or the shed. Homeowners stated they do not but that would not reduce the amount enough.

**Van Klunen** asked what they perceive their hardship to be. **Lafrombois** stated it is not being able to circumvent the site correctly.

**Village Manager Harrigan** noted this has not come before building board yet based on the non-conforming property.

**Van Klunen** stated this appears as a 20 year after the fact variance request.

**Village Manager Harrigan** stated the provision in the ordinance 335-12 (C)(1) allows an extra 3% of permeable surface area.

**Lafrombois** said he looked at updating the impervious surface with permeable materials. In the winter the permeable pavers and permeable asphalt is a problem as these are meant to be safe passageways and those materials do not allow for that.

**Bellows** asked if there are steps across the multiple grades. **Lafrombois** said there are slopes on the north side and stairs on the south side steps.

**Attorney de la Mora** asked for the function of the irregular shaped slab next to the area being proposed and how the porch will be accessed. **Lafrombois** stated is accessed from the glass doors of the living room and side walk. The irregular shape is retaining walls due to topography.

**Village Manager Harrigan** asked if it has been verified there are frost footings under the patio. **Lafrombois** confirmed it has been.

**Peter** asked when pathways went in is there a record. **Village Manager Harrigan** said in 2003 and 2004 building permits were not required for the pathways as hardscapes.

**Van Klunen** asked if they are wanting to build on the 713 sq ft.

**Village Manager Harrigan** said the patio is 200 sq ft that would be improved. By approving this they would still be over the allowance.

**Motion by Bellows, seconded by Jacobson, to close the public hearing.**

Aye (5): Jess Ripp, Douglas Jacobson, Jessica Bellows, Eric Peter, and Michal Van Kleunen (alt)

**Motion Passed.**

**D. Discussion and possible action on a variance request from §335-19H to allow for the property located at 1610 Fairhaven Blvd to exceed the maximum impervious surfacing percentage allowed within the Rs-3 Single-Family Residential District**

**Chairman Ripp** stated a lot of the variance requests that come before the Board of Appeals relate to a pre-existing non-conforming property, were in place before MMSD regulations were in place, or are due to Statutory language. The issue here is that the property is non-conforming and by approving the request this would be retroactively approving the previous changes to the impervious surface area.

**Jacobson** said the homeowners are experiencing a hardship that they cannot increase the value of the property. They are not making the non-conforming status worse. The Village is a little fuzzy on enforcement in 2004.

**Chairman Ripp** stated that if they were adding a new area, it would be an issue but at this point, they would still have this impervious surface area if this request was denied.

**Van Klunen** said he is not concerned that the property is non-compliant but requesting to obtaining the Villages approval to be in excess of the threshold is not a necessity and is not unique to the property. There are areas that could be changed on the property to reduce impervious surface area. There are no hardships demonstrated by the owner.

**Chairman Ripp** said if the Board enables this, then are they encouraging bad behavior.

**Van Klunen** said the intent is to help MMSD and not in favor of granting the request. To help make this work can the homeowner remove some areas and come up with permeable ideas.

**Bellows and Chairman Ripp** asked what would make the math work on removal or replacing the some of the impervious surface area.

**Village Manager Harrigan** said the property is over by 713 sq ft. The shed is 116 sq ft, parking area is 270 sq ft and requested addition is 199 sq ft.

**Van Klunen** noted some removal of areas would make the property less non-compliant.

**Attorney de la Mora** stated that changes in standards are common occurrences. This touches on public safety and the recent storms have shown issues where MMSD have struggled with surface and waste water. The matter does impact the community. Example would be ADA regulations do change laws overtime that require modification of a property.

**Jacobson** asked if in 2004 a permit was required by the Village to put in ground level sidewalks, patio and pool decks.

**Village Manager Harrigan** said yes for pool decks and doesn't believe the deck mirrors the application. For other hardscape installations he does not believe there was a requirement for a permit. Impervious surface area is not reflected on the permit applications.

**Jacobson** stated a lot was done in 2004 and as it seems it was not a requirement to calculate the impervious surface area.

**Chairman Ripp** reiterated that approving this variance the board is approving the full 700 sq ft allowance with this vote.

**Jacobson** said if the homeowners were asking for additional square feet, then it would be worse.

**Bellows** said she would like to get the property to conform but this already exists and doesn't believe it harms the public.

**Jacobson** recalled a previous request of a homeowner who installed a driveway that exceeded the impervious surface area which was requesting approval after the fact. However, in that case the exceeding of the threshold was an intentional act.

**Motion by Jacobson, seconded by Bellows, to grant the variance due to the following reasons:**

1. ***There was no evidence of self-induced hardship***
2. ***The property is non-conforming***
3. ***The homeowners did not intentionally exceed the impervious surface area.***

*Discussion:*

**Van Klunen** asked if the board would be open to an option to remove or reduce the impervious area and by the addition size.

**Peter** stated that to put in conditions is not under the prevue of the board.

**Village Manager Harrigan** said that it does fall under the Board of Appeals to grant a variance with conditions if necessary.

**Jacobson** stated the impervious surface area was exceeded over 20 years ago and was not a requirement at that time. Based on this he did not wish to change the motion.

**Chairman Ripp** said this was a requirement but permits were on the honor system.

*Aye: (3) Doug Jacobson, Jessica Bellows, and Eric Peter*

*Nay: (2) Jess Ripp and Michael Van Klunen (alt)*

**Motion Passed.**

## **8. Adjourn**

**Motion by Jacobson, seconded by Bellows, to adjourn the Board of Appeals meeting at 5.34pm**

*Aye (5): Jess Ripp, Douglas Jacobson, Jessica Bellows, Eric Peter, and Michal Van Kleunen (alt)*

**Motion Passed.**

Minutes respectfully submitted by: Crystal Turner, Village Clerk

Approved on: