

Village of Elm Grove Board of Appeals Meeting Minutes

The meeting was called to order at 3:03PM.

ROLL CALL:

BARRY BOOK - absent

JOHN FINERTY

JOSEPH PUCHNER

DOUGLAS JACOBSON

JOHN ALLEN

GORDON GIAMPIETRO – alt

FRANK LORENZ – alt – absent

HECTOR DE LA MORA, VILLAGE ATTORNEY

TOM HARRIGAN, ZONING AND PLANNING ADMINISTRATOR

MICHELLE LUEDTKE, VILLAGE CLERK

Before the meeting could begin, a pro tem chair was selected.

MOTION BY ALLEN, SECOND BY PUCHNER, TO SELECT DOUGLAS JACOBSON AS CHAIR PRO TEM.

ALL IN FAVOR. MOTION CARRIED.

MINUTES:

MOTION BY ALLEN, SECOND BY FINERTY, TO APPROVE THE MINUTES FROM APRIL 21, 2021.

ALL IN FAVOR. MOTION CARRIED.

HEARING 1 – 12600 Elmhurst Parkway Juneau Blvd:

Applicant(s): Mike Ruland – owner

The Clerk swore in the applicant(s) and Tom Harrigan, Zoning and Planning Administrator.

The applicant did not pull a permit for building a pergola. He completed a bunch of cleaning during CoVID with the grading and yard. He and his neighbor talked about how this was the best place for it. He looked at this old stuff from 2016 for his shed had both of his neighbors sign off on it. The variance would be on the West side of the project. He assumed he did not have to pull a permit. It came into question when he pulled another permit to re-do the driveway. Tom asked what the pergola was about. He went back to his neighbors and they signed off saying they liked what they did. This is the only place in the property that would fit this type of thing.

Puchner asked if there was a variance for the shed. Harrigan indicated the shed had not been to the board of appeals. This is a new request for the pergola - the shed did not require

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a variance. A shed only needed the written approvals from the neighbors. The shed is considered a yard maintenance building. A pergola would need to comply.

Jacobson asked if this was similar to the last situation like this where the person put the item up without a permit. Harrigan confirmed.

Allen asked Harrigan about the codes treating them differently. A pergola would look better than a shed. He was puzzled on what basis they got the shed. Is there some sort of rationale for how these are treated?

Attorney De La Mora added that because there is such a widespread need for people to store gardening equipment and things of that nature, the board relaxed the rules for those and the neighbors who would be most affected. This structure will be occupied by people.

Allen further asked about the activity with this item and how it could possibly bother the other neighbors. Attorney De La Mora added that the current code would allow for the appropriate separation for these types of structures.

Allen continued asking about the activity and indicated there was a privacy wall included in this pergola. The applicant confirmed. Attorney De La Mora indicated the privacy wall is another barrier there for privacy, visual, or sound. This sort of thing has come up in other instances with the enormous playsets. We have had similar controversy and hence the set of rules that have been set for these types of things.

Allen asked if this was a playset what it would be. Attorney De La Mora indicated play sets do not have any privacy components. Attorney De La Mora would defer to Harrigan about the play structure rules. Harrigan added that the play structure is similar to a shed. They are also required to obtain that written approval. If they are not able the homeowner needs to relocate the playset or they can petition the plan commission without the neighbors. This would require a public hearing. When we start talking about privacy walls. There is a fine line between a wall and a fence. When we talk about solid walls it would be considered a solid fence.

Jacobson asked if this is considered a structure. Harrigan and Attorney De La Mora agreed.

Attorney De La Mora continued adding this would be a variance for the distance to the side yard and the height. Harrigan added that the plan commission typically limits the height on the other buildings on the lot.

Allen asked about larger pergolas and height. Harrigan stated they limit it to ten feet typically.

Finerty asked if this is a corner lot. Harrigan confirmed.

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Finerty referenced an ordinance stating corner lots are treated a little differently. Does this help this applicant? Harrigan indicated it does not.

Puchner asked about the backyard and the length. It looks like there is a lot of space back there. The applicant indicated the lot is skinny and long. To put it on the back side of the house would put it on the lot line. The lot at question would be to the west. This is the neighbor who had the idea.

Harrigan added that a letter from the neighbor Merry Casperson at 1620 Longwood was in agreement to the project.

Giampietro asked the applicant about the other part of the back of the house. The applicant indicated there is a patio there. Giampietro asked about the slope of the property. The applicant indicated the front yard is sloped downward. To play catch, they have to use the small space in the backyard.

Allen drove past the property today. He indicated there were a lot of trees there. He more so saw the shed than the pergola. Allen feels that there is another structure on the neighbor's property that is close to the lot line. He recognizes the applicant should have come to the village, however, he thinks this is a logical place to put this. The height is high, but the setback is ok in his opinion.

Jacobson asked if anyone else has any questions.

Attorney De La Mora asked about the sketch. He asked about the 42 foot from the house and the back lot line. He asked what the patio dimension are. Applicant indicated 12-15 wide and 20-25 long. Is there any reason why the applicant didn't locate the pergola over the concrete patio? The applicant indicated there is a sunroom added on to the back of the house. The sunroom goes out to the wellhead. You walk out the sunroom on to the patio. The applicant indicated his reasoning for not wanting the pergola on the back side of the house. Attorney De La Mora referenced a photo from the applicant showing the backyard. Attorney De La Mora asked if with the exception of recreational play this area would be acceptable for the pergola. The applicant stated he still didn't believe it would be.

CONVEINE INTO CLOSED SESSION

MOTION BY ALLEN, SECOND BY FINERTY, TO CONVIENE INTO CLOSED SESSION.

ROLL CALL VOTE-

YAY-JOHN ALLEN

YAY-JOHN FINERTY

YAY-JOSEPH PUCHNER

YAY-DOUGLAS JACOBSON

YAY-GORDON GIAMPIETRO - alt

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MOTION CARRIED.

RECONVIENED INTO OPEN SESSION

MOTION BY ALLEN, SECOND BY FINERTY, TO CONVIENE INTO OPEN SESSION.

ALL IN FAVOR. MOTION CARRIED.

The findings of fact were as follows:

- A. The applicant failed to demonstrate hardship.

MOTION BY GIAMPIETRO, SECOND BY ALLEN, TO DENY THE VARIANCE FOR THE PERGOLA. THE APPLICANT HAS 30 DAYS TO REMOVE THE STRUCTURE. THE APPLICANT CAN CONTACT THE VILLAGE STAFF TO UNDERSTAND WHAT IS PERMISSIBLE.

**ROLL CALL VOTE-
YAY-JOHN ALLEN
YAY-JOHN FINERTY
YAY-JOSEPH PUCHNER
YAY-DOUGLAS JACOBSON
YAY-GORDON GIAMPIETRO - alt**

ADJOURNMENT

There was no further business.

MOTION BY ALLEN, SECOND BY FINERTY, TO ADJOURN THE MEETING.

ALL WERE IN FAVOR. MOTION CARRIED. MEETING ADJOURNED AT 4:06PM.

Minutes transcribed by: Michelle Luedtke

Minutes Approved on: June 23, 2021