



**VILLAGE OF SHOREWOOD  
BOARD OF APPEALS MINUTES**

May 11, 2021

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**1. Call to Order**

Ms. Tidwall called the meeting to order at 5:30 p.m.

**2. Roll Call**

Members present: Adam Burns (5:34 p.m.) Michael Paulson, Karen Tidwall, Jon Toutenhoofd (5:34 p.m.), April Toy. A quorum was noted present.

Others present: Village Attorney Nathan Bayer, Building Inspector Justin Burris

**3. Statement of Public Notice**

Deputy Clerk Hall stated that the meeting had been posted and noticed according to law.

**4. Approval of January 12, 2021 meeting minutes**

Mr. Paulson moved, seconded by Ms. Toy to approve the January 12, 2021 meeting minutes with the recommended change to correct the date on the minutes to January 12, 2021. Motion carried 3 – 0.

**5. Attorney to Review Standards by which the Board of Appeals must abide.**

Ms. Tidwall outlined procedures for the meeting and introduced Attorney Bayer who outlined the procedures by which the Board of Appeals (BOA) must abide and the legal standards involved.

Attorney Bayer explained the power of the Board of Appeals to grant variances is granted under §535-55 of the Village of Shorewood Municipal Code. The Board of Appeals can hear and grant variances that are not contrary to the public interest whereby owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purpose of the building code shall be observed and the public safety, welfare and justice secured. Some specific findings must be reflected in the minutes before a request for a variance can be granted. If you decide to grant a variance, you must find the following “(a) Exceptional circumstances. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot, parcel or structure that does not apply generally to other properties in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed. (b) Absence of detriment. The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and the spirit of this chapter or the public interest.”

**6. Consideration of request for a variance of Village Code 225-7 F. (4) for the placement of an A/C condenser in the front yard of the home at residential property 1921 E. Elmdale Court.**

Ms. Tidwall opened the public hearing at 5:38 p.m. There was no correspondence to be read nor public desiring to speak. Ms. Tidwall closed the public hearing at 5:38 p.m.

Justin Burris, Village of Shorewood Building Inspector was sworn in. Mr. Burris reviewed the packet materials noting that the property owners request for a variance to replace the A/C condenser located in the front yard of the property. The proposed location violates both the Building Chapter and Zoning Chapter of the Village ordinances; specifically, **225-7 F. (4)**. He noted that of the six (6) areas, the property is only conforming in two (2), the rear setback and east side yard setback; the other four (4) areas are zoned as legal non-conforming. The code has changed since the current A/C condenser was permitted and installed in the front yard in 1990. If a variance were granted, staff would recommend to grant the variance to install the A/C condenser in the north side yard as that location is less pronounced than placing it in the front yard.

Mr. Paulson asked for clarification of staff's recommendation. Mr. Burris confirmed that staff recommends the east side yard, not the north side yard. It was also confirmed that placement of the A/C condenser in the east side yard would be less in the way than placing it in the west side yard which would cause it to extend onto the neighboring property. Mr. Paulson noted that the west side, although tight, is an unused area and enough clearance that it would be less obtrusive. Mr. Burris noted that it would cross the property line if placed on the west side. The language restriction location in the rear, front and side setbacks was added in 2008 with the understanding that prohibiting in the front yard was solely aesthetic.

Sean Sobolewski, HVAC Contractor, Midwest Heating & Cooling was sworn in. Mr. Sobolewski the front half of the house has a full basement; the rear half of the house is built on grade without any basement access. Because of this, trying to get the copper condenser lines from the condenser unit to the furnace would mean running lines around the majority of the outside of the house. Mr. Burris' proposal for placing the A/C is reasonable—will keep the line length down and running over any tripways. The homeowners are okay with the placement. It was also noted that placing the A/C condenser on the east side of the property would still require a variance because there still is not 3' between the property line and the unit; there is only 25" incurring an 11" encroachment.

Mr. Toutenhoofd asked if the neighbors to the east were contacted. Mr. Sobolewski did not contact the neighbors.

Nicole Pattullo was sworn in. She clarified that there is an air conditioning next to the grill in the east neighbors front yard. The neighbors to the east were not directly contacted by Mr. Pattullo. However, notices were sent by the Village and no calls or concerns were received. Ms. Tidwall confirmed that if the variance was approved for installation on the east side, there is no concern from the neighbor. Mr. Burris confirmed that is correct.

Mr. Paulson moved, seconded by Ms. Toy that a variance be granted to Village Code 225-7 F.(4) for the placement of an A/C condenser to the east of the premises at residential property 1921 E Elmdale Court.

Mr. Paulson requested to rephrase the motion to say in the "east side setback" rather than the "east setback." Mr. Bayer noted that Mr. Paulson could just ask to amend the underlying motion with unanimous consent of the group and if there are no objections it would be changed. Unanimous consent to the amendment, the original motion has been amended.

Ms. Toy summarized that there are exceptional circumstances with respect to this lot because of its configuration. It already has several legal non-conforming setbacks; the only places he unit could go would be the front, east side and rear yard. The rear yard doesn't work because of the deck and pit makes the rear yard unworkable. Therefore, the only options are the front or east side yard. In attempting to work within the spirit of the code, the best solution is the recommended east side yard. It is a workable solution for the homeowner and the installer as well and there are no objections from the neighbor.

Motion as amended passed by roll call vote, 5 – 0.

Ms. Toy moved, seconded by Toutenhoofd, to adjourn the meeting at 6:09 p.m.

Respectfully submitted,

Diane De Wind-Hall, Deputy Clerk