



MINUTES - SHOREWOOD BOARD OF APPEALS
August 10, 2021

1. Call to Order

Mr. Paulson called the meeting to order at 5:31 p.m.

2. Roll Call

Members present: April Toy, Michael Paulson, Kara Espera and Wendy Smith (alternate 1) and Adam Burns, Karen Tidwall, and Jon Toutenhoofd (alternate 2) were excused. A quorum was noted present.

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

3. Statement of Public Notice

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

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

Attorney Bayer who outlined the procedures by which the Board of Appeals (BOA) must abide and the legal standards involved with the applications listed on the agenda.

5. Consideration of request for a variance of Village Code 535-19 D. (5) for the construction of an addition within the front setback at residential property 4424 N. Lake Drive.

Building Inspector Burris was sworn in to provide testimony. Inspector Burris reviewed the application, existing conditions of the property, and responded to questions from the board.

Mr. Paulsen moved, seconded by Ms. Toy, that a special exception to Village Code **535-19 D. (5)** for the construction of an addition within the front setback at residential property 4424 N. Lake Drive be granted based on the record established and prior variance set forth in the packet and the prior grant of that special exception in 2019. Motion carried by roll call vote 4-0.

6. Consideration of a request for an appeal of the interpretation and decision of the Village of Shorewood's Planning and Development Department pertaining to a Notice of Correction to amend the height of a fence at residential property 4425 N. Lake Drive.

Applicants, Mr. and Mrs. Jubelirer were sworn in to provide testimony. They had a fence for 25 years that was replaced. Before replacement they dug up to the area of the existing fence to remove vegetation and to find an unmarked irrigation and fiber optic line, removing soil and mulch before installation. The fence and height were installed at the same height of the old fence on the property, except for the area along the driveway to accommodate drainage between two driveways. The fence contractor requested to meet with building inspector on site; however, the building inspector declined to meet. The Planning & Development Department declined the property owners appeal. They question the integrity and values of the community. It was noted the neighbors complained and that the complaints were inaccurate.

Mr. Fetherston was sworn in to provide testimony. He noted ground was removed prior to installation of the fence and landscaping could not be completed the same year. Lowering the fence would cause the fence to rot.

Discussion took place regarding the timeline of events for the new fence installation, testimony of the applicants, testimony and documentation of the building inspector.

Mr. Paulson moved, seconded by Ms. Smith that the interpretation and decision of the Village of Shorewood's Planning and Development Department pertaining to a Notice of Correction to amend the

height of a fence at residential property 4425 N. Lake Drive be affirmed. Motion carried 4-0.

7. Consideration of a request for a variance of Village Code 535-19 F. (6) for the construction of a detached garage that exceeds the allowable 10% maximum lot coverage for accessory structures at residential property 4540 N. Morris Blvd.

Inspector Burris reviewed the application, existing conditions of the property, and responded to questions from the board. Applicant Danielle Ransom was sworn in to provide testimony. She agreed with Inspector Burris's description of the project. The Board discussed the request.

Mr. Paulson moved, seconded by Ms. Toy to grant the variance of Village Code 535-19 F. (6) to permit the construction of a detached garage that exceeds the allowable 10% maximum lot coverage for accessory structures of residential property 4540 N. Morris in a size not to exceed 20' x 20'. Motion carried 4-0.

8. Consideration of a request for a variance of Village Code 535-19 F. (5) (c) for the construction of a detached garage in the South side yard setback at residential property 4104-06 N. Woodburn St.

Inspector reviewed the application, existing conditions of the property and responded to questions from the board. Applicant Maureen Black was sworn in to provide testimony. She explained the space constraints of the yard/garage dimensions and desire to maintain the tree in the yard. It was noted the neighbor did receive notice of the request for a variance. The Board discussed the request.

Mr. Paulson moved, seconded by Ms. Espera that the variance of Village Code 535-19F.(5)(c) be granted for the construction of a detached garage in the south side yard setback at residential property 4104-06 N. Woodburn St. not to exceed an encroachment of one (1) foot. Motion carried 4-0.

9. Consideration of a request for an appeal of the Village Plan Commission's decision on June 1, 2021 approving a Special Exception to the Village parking requirements related to a proposed development project to be located at 2418, 2420 and 2428 E. Capitol Drive.

Mr. Paulson reviewed the documents within the meeting packet for this item. The application was previously remanded to the Plan Commission for review. Mr. Paulson outlined the procedure. Appellants will be requested to provide oral argument. No additional evidence to be entered into the record. No additional public comments are necessary given the many previous opportunities the community had to provide feedback. The matter would then be closed for discussion and consideration by the Board. It was noted that additional public comment this evening would be considered new evidence and therefore is not allowed at this time.

Atty. Cincotta submitted a memorandum earlier today the Board of Appeals. In summary, 1) the permit being sought has to fit into a conventional category of permissions contemplated by zoning statutes and ordinances, 2) lack of adequate time for the remand hearing and certain facts weren't provided to the Plan Commission, 3) whether the ordinance is applicable; they believe the character of the structure is applicable, 4) requests consideration to review these legal issues and be thorough, 5) believes the Board has the ability to allow public comment and offers that suggestion to strengthen the proceedings.

Mr. Walsh, 4024 N. Stowell Avenue, resident for 30 years. He requests the same level of rigor as an application for a side yard fence. This entire proceeding is the result of the Village fighting dozens of residents, violating the zoning code and comprehensive plan. Notice was not provided to neighbors when the request was originally approved and the Village anchored their position from the original application review. The constant questioning of equity, diversity and inclusion has not been defined. A parking credit for being near public transportation is not sufficient. The leadership is biased and pushing an agenda that is not rooted in facts. There was little debate on the initial application and Commission members bullied the Commission to make a decision. The Board of Appeals was requested to allow the public be heard and informed of how the decision is being made. Before a holiday weekend a large packet was released from the Village for the public to review. The developer provided a 2005 study on an unrelated matter of affordable housing, not design and logistics, rather whether multifamily affordable housing affects neighborhood values in Boston. He believes it's not applicable. A graphic with four properties that

identified the values are all the same and those close to the commercial property are worth a bit more; the assessor using only applying a multiplier. The developer provided a problematic traffic study. The neighbors had noticed that traffic monitoring devices were installed on a day in late April and removed between 12:30 p.m. – 4:30 p.m. the next day. The study says it covers four days of data. This did not happen as equipment was not re-installed. A traffic engineer was not present to respond to questions and the study is full of errors such as standards. There is confusion on permitting, questions from members of the Plan Commissioner were not answered, parking stalls in the development were allocated to specific units. Many items from the developer submission were not addressed. He does not believe the Plan Commission evaluated the application correctly and requested the Board of Appeals to say no.

Atty. Bayer noted his concern with access to the meeting, as power has been lost in the area, so that all of the public may listen. Power is going off and on at Village Hall and participants were dropping, leaving only two board members. Under the circumstances the members thought is most appropriate to adjourn and waited a few minutes to see if members could reconnect. Members reconnected.

10. Adjournment.

Mr. Paulson moved, seconded by Ms. Toy to adjourn at 7:41 p.m. to September 14, 2021. Deputy Clerk DeWindt-Hall stayed on the call for a bit in such case a participant logged on and could be informed that the meeting had adjourned.

Respectfully submitted,

Rebecca Ewald
Village Manager