

Village of Wind Point
Board of Zoning Appeals Meeting Minutes
Thursday, September 25, 2014 – 5:30 p.m.

The meeting at Village Hall, 4725 Lighthouse Drive, was called to order at 5:30 p.m. by Chairperson Bensman. Also present were Board of Appeals members: Mike Pirkl, Mary Chovan, Lincoln Murphy and Casey Jones (alternate). Board of Appeals member Linda Schubring was absent (excused). Also present: Jon Schattner, Zoning Administrator; Michael Hawes, Village Administrator/Clerk-Treasurer.

Approve meeting minutes of September 18, 2012

Jones/Chovan motion to approve. Unanimously carried.

Review of hearing process and responsibilities

Chairperson Bensman presented the hearing process and responsibilities.

Variance presentation: 5201 Hunt Club Road, zoned R-3; Dana Ray, Owner

Chairperson Bensman confirmed the hearing was properly published and noticed.

Zoning Administrator Schattner introduced the variance application submitted by Dana Ray (5201 Hunt Club Rd.) who is also represented by Attorney Elaine Ekes.

Dana Ray, 5201 Hunt Club Rd., Wind Point, stated she is appealing the denial of the outdoor storage permit on the basis that she is not able to store her boat in the backyard as provided in Sec. 3.05.020(d)(1) of the Village Code. Ms. Ray described that her backyard slopes into a ravine and there is no suitable area for storing a boat. She said there is foliage near the driveway that would help screen the boat from public sight if she could store it in the driveway and she would be willing to take other measures to provide further screening.

Elaine Ekes, of Pruitt, Ekes & Geary, S.C., 610 Main St., Ste. 100, Racine, also addressed the Board on behalf of the property owner to present the application. Attorney Ekes further described Ms. Ray's property and stated that storing a boat in the backyard would not be possible. Ms. Ekes said the applicant is seeking relief by both appealing the zoning administrator's interpretation of the ordinances and requesting an area variance. She presented why she believed the zoning administrator made an error interpreting Sec. 3.05.020(d)(4), stating that his interpretation was too narrow and that Ms. Ray should be allowed to store a boat in her driveway with screening, and that such storage would be done in a manner consistent with the intent and spirit of the zoning code. Attorney Ekes also presented the applicant's request for an area variance, stating that the applicant meets the three criteria showing unnecessary hardship, unique property limitations and no harm to public interest. Ms. Ekes described how the variance request meets the variance requirements in Sec. 7.04.070 of the Village Code.

Chairperson Bensman asked if any Board members have questions of the applicant. Mr. Murphy asked how the boat is stored in the winter months. Ms. Ray said in the winter it is put in heated storage near Delavan. Mr. Murphy asked how often the boat is used. Ms. Ray said about one or two times per month. Zoning Administrator Schattner asked when the applicant moved to Wind Point. Ms. Ray said she moved into her home in March of this year. Chairperson Bensman asked where they do their boating. Ms. Ray said places like Lake Michigan, Delavan, Lake Winnebago. Mr. Murphy asked when the boat was acquired. Ms. Ray said it was acquired in July of 2011. Ms. Chovan asked if she looked into storage during the summer. Ms. Ray said she did not investigate it yet. Mr. Murphy asked how much the applicant pays for winter storage. Ms. Ray said about \$100 per month. Mr. Murphy asked how big the boat is. Ms. Ray said about 20 feet long and 8 feet wide. Chairperson Bensman asked if the boat fits in the garage. Ms. Ray said it does not. Zoning Administrator Schattner asked if the applicant checked the Village's ordinances prior to purchasing her home. Ms. Ray said she did not.

Zoning Administrator Schattner provided a staff report on the application, stating he spoke with Village Attorney Ed Bruner who agreed with Mr. Schattner's interpretation of the ordinances in denying the outdoor storage permit application.

Public Hearing

Chairperson Bensman asked if anyone from the public wished to speak in favor of the application. Hearing none, Mr. Bensman asked if anyone from the public wished to speak in opposition of the application.

David Durment, 4350 Lighthouse Dr., Wind Point, spoke in opposition of the application. He said that, similar to the applicant's property, there is an environmental corridor behind his home and he is unable to store his boat on the property. He said he stores the boat off-site and he does not believe there is a hardship. He commented that the intent of the ordinance is to make sure recreational vehicles are not visible from the street. Mr. Durment said the applicant could find off-site storage or build a larger garage stall.

Karen Van Lone, 4915 Beacon Ln., Wind Point, spoke in opposition, stating that the applicant knew about the condition of the property before she bought it. She said many people in the Village have boats and their properties do not have room for storage. She suggested it is not a hardship and it is just part of owning a boat. Ms. Van Lone commented that the Village has been very concerned with aesthetics, property values and property maintenance, and this variance would undermine those efforts.

Peter Christensen, 107 White Sand Ln., Wind Point, spoke in opposition of the application, stating that as a member of the Village Board he chaired an ad-hoc committee that reviewed the zoning ordinances. He said the committee specifically discussed whether to allow the option of screening as an alternative to storage. The committee ultimately decided not to allow screening because they felt it was not in the interest of the Village to introduce screening as a landscaping feature. Mr. Christensen said he believes the variance application is not consistent with the intent of the ordinance as it was prepared and exists in its present form. He said from listening to other residents there are many people who are opposed to the idea of easing the storage of boats and campers. He said as a resident he is also opposed.

Chair Bensman acknowledged two letters submitted by residents. He said a letter was submitted by Robert Quam, Jr., 5138 Starlight Dr., expressing opposition for the application. A letter was submitted by Robert and Jill Jelinek, 5224 Hunt Club Rd., expressing support for the application.

Chair Bensman asked if the applicant had a response to the comments from the public. Attorney Ekes commented that questions relating to the cost of storage were not relevant to the application. Ms. Ekes also commented that although the ordinance does not provide for screening the Board has the ability to grant a variance allowing for screening. Ms. Ray commented that although she was not aware of the ordinances when she purchased the house, it was indicated to her by the police officer that an outdoor storage permit was \$40.00, which led her to believe she was eligible for the permit.

Review of Deliberation and Decision Process and Responsibilities

Chair Bensman asked if any Board members had comments at this time. Mr. Murphy asked if Mr. Schattner is familiar with any other boats or recreational vehicles being stored on properties at this time. Mr. Schattner commented that the Village has taken an aggressive stance on enforcing the ordinances pertaining to boat and recreational vehicle storage. He explained enforcement procedures. He commented that permits were issued for a utility trailer and for a camper for a limited period. Mr. Pirkl commented that the applicant's proposed storage location on the driveway is well within 15 feet of the side lot line. Chair Bensman commented that the intent of the ordinance was to provide residents the opportunity to store recreational vehicles in the rear of the property during summer months and not within plain sight.

Findings of Fact

Chair Bensman said for an area variance the applicant needed to show that they met three criteria—(1) unnecessary hardship, (2) unique property characteristics and (3) no harm to public interests. Board members agreed that the applicant proved unique property characteristics, but they did not believe the applicant met the unnecessary hardship or no harm to public interests requirements. Mr. Jones said he did not believe the denial of the outdoor storage permit was evidence of hardship. He said public interest is impacted because the public is interested in having an orderly Village without recreation vehicles visible from the front of the property. Mr. Murphy said he did not believe there was an unnecessary hardship because the applicant could have the boat

stored off-site and would only need to pick it up for the one or two times a month to use it. He said there would be a short and long term effect because it would be detrimental to the spirit of the zoning ordinance and would not be good for the neighborhood. Mr. Murphy said it impacts public interest in that it affects the aesthetics of the Village. Mr. Pirkl agreed with Mr. Murphy's comments, stating he did not believe there was unnecessary hardship because the applicant could make other efforts to store the boat off-site. He said there is clearly an impact on public interest because it conflicts with the ordinance and people have come forward in opposition to that. Ms. Chovan said from her own experience it was not an unnecessary hardship to store her RV off-site. She said it would conflict with public interest because the Village is a beautiful area and people do not want recreational vehicles sitting out. She commented that screening is not desirable.

Chair Bensman said in regard to the applicant's appeal to the zoning administrator's interpretation, he believed the ordinance was interpreted exactly as it was intended. The other Board members agreed with this statement.

Conclusions of Law and Order of Determination

Bensman/Jones motion to deny the appeal of the zoning administrator's interpretation of the ordinance on the basis that the interpretation was correct and not in excess of his authority. Unanimously carried.

Jones/Pirkl motion to deny the application for a variance. Unanimously carried.

Adjournment. Murphy/Jones motion to adjourn at 7:06 p.m. Unanimously carried.