

Village of Wapella
Zoning Board of Appeals Meeting Minutes

Wednesday, May 4th, 2022

Village Hall – 7:00 pm

Meeting called to order by Zoning Officer Mark Miller.

Pledge of Allegiance

Roll Call

Present:

Mark Miller

John Goergen

Carl Spath

Andrew Johnson

Ed Fleck

Robin Morrow – Clerk

Absent

Lester Kaufman

Steven Mahrt – not in attendance

Brandon Karr has declined his nomination as of 4/17/2022

Organization:

A. Term of Office – State Law requires staggered terms. At end of these terms, you will be re-appointed for 5 years.

- 1-year (1) Lester Kaufman
- 2-year (1) Ed Fleck
- 3-year (1) Andrew Johnson
- 4-year (1) Carl Spath
- 5-year (3) John Goergen

B. Nominate and Elect Chairman

- As Zoning Officer, Mark cannot lead the meeting but will assist until board is established. Zoning Board is independent of the Village. Mayor Dennis Klatt suggested John Goergen be appointed since he is a 5-year term and Board agreed
- Discussed salaries and permit fees
 - Fosters paid \$35 for tonight's fee. Ordinance had not been updated. Usually, a \$300 fee to request a hearing with the Zoning Board of Appeals and must be paid before process can be started. That fee was to help offset the salaries of the Zoning Board members. Zoning Board members are paid \$125 per meeting.

C. Procedure (Zoning Section 1K)

- During hearing there will be no public comments. Only those that have been sworn in are allowed to speak.

- Mark distributed copies of the documents filed by the homeowner, zoning map, etc. to the board explaining reason for tonight's hearing for variance requested which is for a non-conforming structure at 103 S Locust – Fosters
 - Mark reviewed in detail with the board and explained setbacks according to the ordinances that they were all given copies of
- D. Planning Commission – Discussion of the case and timeline of events that had taken place leading up to the request for a hearing with the Zoning Board.
- Originally owner was supposed to use all existing studs and a wall and was not planning to rebuild the entire structure. In addition, they added on to the structure creating the variances. There was a verbal agreement made that was not kept and no communication from homeowner to the Mayor or Zoning officer that anything had changed from the original agreement with the building of this new garage. Upon inspection, what was believed to be seen was that the whole structure was new and did not follow ordinance.
 - Ed Fleck stated that homeowner should have contacted someone if there was a change with the construction before proceeding. Board agreed.
 - Mark pointed out that according to the ordinance there is a fine up to \$200 for violating the permit that was issued or up to 6 months in jail. Ed agrees that there should be some punitive action taken to set precedence for these types of violations or people will just do whatever they want.
 - Attorney sent a letter about the violation and Mark mentioned that at the time the request for hearing is filed all work should have stopped. At the time of this hearing, all work had been completed.
 - Mark explained that during the course of the hearing, the board can recommend a course of action, but it is dependent on the final decision of the board.

Did not take a recess. Therefore, Roll Call was not necessary.

Hearing started @7:35pm

Purpose of Hearing – John Goergen stated that the purpose of the hearing is to consider a variance for Wes and Jill Foster at 103 S Locust in Wapella for garage extension and to not meet the set-back requirements as stated in the Ordinance.

Hear Sworn Testimony of interested Parties – Les Foster was sworn in by Zoning Officer Mark Miller.

Discussion and Vote on Request for Variances – Mark asked Wes to explain the situation and the sequence of events. He started by apologizing to the board for the violation. He further explained that it was his original intention to use as much of the existing lumber and structure that he could due to the current costs of lumber. When contractor began work a major termite infestation was discovered and more wood rot than originally thought, therefore, he was not able to save as much as they wanted. He also asked that why if he was in violation why didn't anyone from the board or village stop and state that fact for him to stop construction.

Mark commented and explained his point of view. Wes didn't understand why he got the letter after the work was already completed. Mark explained that is why this hearing is taking place to address the variance at this point since there was no stop work order in the letter.

Ed asked Wes why when he knew that he was not going to live up to the original agreement that he didn't give Mark or Dennis a call before continuing. Wes agreed he should have but he just didn't think about it especially due to the damage from termites and rot.

Andrew asked about the neighbors' comments or if they were any complaints from them. Wes stated that neighbor was actually very happy to see the garage go up and has no complaints regarding any variances or property line issues.

Carl asked questions about the walls and what was originally supposed to be kept and Wes answered. Carl also asked Wes how long this project had been planned and Wes responded about six months.

John commented that the neighbors not having any issue with this new structure is actually a good thing since not all neighbors would be.

Mark asked if there were any other comments or questions.

John stated that now that we have a board that they are just trying to set a precedence and move forward. What we have is a homeowner trying to improve his property value.

Ed commented that it's been years since there was a board and that the board's responsibility is to set a precedence and that a token of a fine would not be out of order. Wes Foster asks what kind of a fine it would be.

Motion made by Ed Fleck to recommend that the request for variance be approved for the Foster's with the understanding that there would be a \$25 fine to be paid. This being contingent on approval from the Village Board. Motion Second by John Goergen. All voting yes. Motion to be presented to Village Board for final decision/approval.

Mark went through the checklist of questions that the Zoning Board needed to complete before submitting to the Village Board.

Motion to adjourn made by John Goergen. Second by Carl Spath.

Meeting adjourned: 8:15pm

Respectfully submitted by Robin Morrow, Village Clerk