

Zoning Board of Appeals
Special Meeting
June 28, 2023
6:00PM
Minutes

Quorum: Yes

Meeting called to order at 6:00 PM by Chairman Don Butler.

Members present: Donald Butler, John Stano, Ryan McIntosh, Amy Kenney.

Absent: David Ladd

Also present: Jim Millington; Code Enforcer, Danielle Queior; ZBA & Planning Board Clerk, Deborah Harmann, Tammy Hanson, Stephanie Ferguson, and Brian Moore; Planning Board members, Christine Kennedy; Chief of Police.

Report of Committees: Zoning Board approved a 3' area variance with conditions for 223 West Kirby Street for a proposed carport.

New Business: At the Village Board meeting held on Tuesday, June 20, 2023 a complaint was brought to the board's attention by Daniel Brodeur of 223 West Kirby Street, parcel 72.66-2-48. Mr. Brodeur stated that he is not able to access the west side of his property to maintain his fence line and garage. The west side of the Brodeur property butts to the Eugene McIntosh property, 231 West Kirby Street, parcel 72.66-2-49. Mr. Brodeur is asking if the Village can order that the large planter boxes which Mr. McIntosh has placed partially on the Brodeur property along with lawn mowers, and any other discarded objects that have been piled up touching his fence line be moved back off of his property. It is the goal of Mr. Brodeur to be able to access his own property for maintenance. Mayor Eves has asked the Zoning and Planning Boards along with Code Enforcement to discuss what they feel the Villages involvement should be in the matter.

Brian Moore: Minimum side yard setback for an accessory structure is 5'

Jim Millington: No permits required for a flower box, doesn't meet the definition of a structure. Feels Village has no jurisdiction, can only be settled through personal litigation.

Stephanie Ferguson: What about encroachment, taking over another person's property?

Jim Millington: Encroachment not mentioned in the zoning law. Problem between neighbors, legal issue between the two, Village did not issue a permit for the flower box.

The property maintenance issue can be solved. If residents are non-compliant codes and trustees need to go out to inspect and document the violations and take them to court, fines can be issued weekly. Judge can retroact the date for fines to the beginning of the violation.

Board: Village Board had flower boxes moved in the past. Those were flower pots that were placed in the Village right-of-way on water street.

Jim Millington: A structure comes up from the ground has a roof, four walls, and is used for living or storage.

Danielle Queior: Reads structure definition aloud; "A combination of materials assembled, constructed, or erected or attached to the ground or attached to something underground, including but not limited to underground storage tanks, except leach lines, septic tanks and systems which are not structures.

Brian Moore: Send question to Village attorney asking if there is a pathway through the definition of structure?

Jim Millington: Keep in mind how important the issue is, the implications, cost of seeking attorneys' opinion.

Brian Moore: Definition is broad. Attorney may want to change the definition. Would help with matters of this nature going forward.

Chief Kennedy: Survey done in 2008. If Mr. Brodeur wishes to have the property resurveyed the police can be present during the time the surveyor is there so there is no issues.

John Stano: Civil matter, property dispute, solve in court.

Brian Moore: Village should be mindful of getting involved with civil disputes. If we want to stay out of it, can we stay out of it? Consult attorney to run thoughts by him.

Deborah Harmann: Village has to show concern for the residents/taxpayers, and those not playing by the rules.

Motion Amy Kenney 2nd John Stano to seek guidance from the Village attorney regarding the definitions of structure and a wall and whether or not it makes the village vulnerable. Does the flower box fall under one of the two definitions?

Ayes: 4 Donald Butler, John Stano, Ryan McIntosh, Amy Kenney.

Nays: 0

Brian Moore: Village needs to in the future be able to solve these issues without getting to this point. We need to do our due diligence and be good stewards for the property owners as well as ourselves. Property owners may push the Village if nothing gets resolved. Push as to why the junkyard hasn't been taken care of and are there holes in the zoning law?

If determined a structure the flower box will need to be pushed back 5' off of the property line. Wait for response from the attorney to be reviewed at the next Village Board meeting to be held on July 18th, 2023. Will follow up with the Planning and Zoning Boards after the meeting.

The next regularly scheduled meeting will be held Monday July 31st, 2023 if business arises.

Motion John Stano 2nd Amy Kenney for adjournment.

Ayes: 4 Donald Butler, John Stano, Ryan McIntosh, Amy Kenney.

Nays: 0

Meeting adjourned at 6:55PM.

Respectfully Submitted,
Danielle Queior, ZBA Clerk