

MINUTES  
VILLAGE OF ELBURN PLANNING COMMISSION/ZONING BOARD OF APPEALS  
NOVEMBER 1, 2022

Members Present: Commissioners Dave Anderson, Ryan Anderson, Chet Cybulski, Rob Houtz, Chairman Chris Mulvihill, Drew Peters, Brian Techter

Members Absent:

Staff Members Present: Building Commissioner Tom Brennan, Village Administrator John Nevenhoven, Village Attorney Bill Thomas; Asst Admin/HR Specialist Chris Ranney

Others Present: Petitioner Nikki Christenson

1. Call to Order – Chairman Mulvihill called the meeting to order at 7:00 p.m.
2. Pledge of Allegiance – Chairman Mulvihill led the assembly in the Pledge of Allegiance.
3. Roll Call – A roll call ensued.
4. Public Comment – None
5. Approve Minutes – A motion to approve the following minutes was made by Dave Anderson and seconded by Houtz.

July 6, 2022 Planning Commission  
October 4, 2022 Tree Board

The motion carried by unanimous voice vote.

Prior to opening the public hearing, Village Admin Nevenhoven clarified the address published on the agenda for the Variance is incorrect. The correct address is 412 S First St, not 510 S First St.

6. Open the Public Hearing Regarding a Variance at 412 S First Street – A motion to open the public hearing was made by Techter and seconded by Houtz. A roll call vote ensued. Ayes: Dave Anderson, Ryan Anderson, Cybulski, Houtz, Mulvihill, Peters, Techter. Nays: None. Motion carried.

Building Commissioner Brennan introduced the petitioner, Nikki Christenson. Brennan stated the subject property is currently zoned R-1, is in an older section of town and the petitioner is seeking relief from the 5' setback requirement. The petitioner would like to demolish the existing garage and rebuild at the same location. The existing home and garage precede the Zoning Ordinance and the rebuild plans do not conform to today's setbacks. The new structure will be the same distance from the lot line as the existing structure. A neighboring property went through the same procedure a few years ago. Commissioners were in consensus that this will be an improvement to the property. Commissioner Ryan Anderson suggested a plat of survey be provided in future cases showing measurements and structures. Discussion ensued if a precedent exists since a similar instance was approved fairly recently. Attorney Thomas stated the process is not broken—this is the appropriate check and balance for a variation request. It is not a continuous issue warranting revision of the Zoning Ordinance.

7. Close the Public Hearing Regarding a Variance at 412 S First St – A motion to close the public hearing was made by Cybulski and seconded by Houtz. A roll call vote ensued. Ayes: Dave Anderson, Ryan Anderson, Cybulski, Houtz, Mulvihill, Peters, Techter. Nays: None. Motion carried.

8. Discuss and Recommend a Variance at 412 S First St – A motion to approve the request, including the Variation Standards and Findings of Fact was made by Dave Anderson and seconded by Houtz. A roll call vote ensued. Ayes: Dave Anderson, Ryan Anderson, Cybulski, Houtz, Mulvihill, Peters, Techter. Nays: None. Motion carried. This will go before the Village Board on Monday, November 7, 2022.
9. Open the Public Hearing Regarding a Text Amendment to Section 3.2 Definitions – A motion was made by Houtz and seconded by Dave Anderson to open the public hearing. A roll call vote ensued. Ayes: Dave Anderson, Ryan Anderson, Cybulski, Houtz, Mulvihill, Peters, Techter. Nays: None. Motion carried.

The Village Board asked the Planning Commission to review Zoning Ordinance definitions in section 3.2 and make a recommendation concerning “Tourist Homes” and, whether to include a definition for short-term rentals (STRs). If the definition is included, appropriate zoning designations and requirements should be identified. “Tourist Homes” are currently listed as a prohibited “home occupation” use in all residential zoning districts and the term is undefined.

There is a small number of houses in Elburn listed on Airbnb as short-term rental houses. This led Village Staff to investigate and found “tourist house” as a prohibited residential use with no definition in the Village’s Zoning Ordinance. There are a few options: 1) remove tourist house as a prohibited use; 2) define tourist house; 3) if allowed, define where tourist houses will be allowed and whether they require a special use. Attorney Thomas said a lot of municipalities are struggling with the same issue due to problems created for neighbors. Airbnb is somewhat new, and we need to determine whether or not to allow them in Elburn and if so, how to regulate them. Compliance and supervision can become a daunting task and an additional headache.

Commissioner Techter has experience with short-term rentals where he previously lived and said it was a mess and disaster. He cannot see an upside to Elburn and believes they should be prohibited. Attorney Thomas stated there are municipalities who have banned them. It was stated Elburn is not a popular party/destination location and time and energy spent resolving an issue should equal the size of the problem. Enforcement will be an issue. While Elburn is not a popular party destination, it could be an attraction for a weekend in the country away from the city, or a family reunion or wedding. Advertisement for Airbnb-type rentals is very broad. There was discussion whether to eliminate tourist houses and/or to add and define short-term rentals—including timelines. Forward thinking, there could be condominiums built in the future in Elburn and it might be best to define now. We should address the worst-case scenario. Once the regulation is in place and action occurs, it will be reactionary.

Discussion ensued if we truly want to prohibit short-term rentals in Elburn—what about corporate housing and/or someone who does not wish to stay in hotels. Some Commissioners have used Airbnb personally but are not certain they would like one next door to their home. At a previous Village Board Meeting, Trustee Ken Anderson suggested the downtown area be designated for this type of use and prohibit in residential areas. Rather than leaving it restricted, there was some thought that it should be better defined. This could potentially generate revenue for the Village.

Linking Airbnb/short-term rentals with bed and breakfast in the zoning ordinance was suggested. Commissioners like the definition of short-term rental shown on page 20 of the Planning Commission’s packet (“a lodging use, that is not a hotel or motel, or bed and breakfast, in which a dwelling unit, or portion thereof, that is offered or provided to a guest by a short-term rental operator for a fee for fewer than thirty consecutive nights”) and requiring a Special Use for more control. Limiting zoning districts where short-term rentals is allowed, including PUDs, was recommended. There was agreement with Trustee Anderson’s recommendation to restrict to the downtown area and require a Special Use for other zoning districts. While Elburn is not a tourist attraction, there could be scenarios for a need of short-term rentals.

Overall, there was agreement to eliminate “tourist homes” from the Zoning Ordinance. Commissioners were generally OK with short-term rentals if immediately adjacent to B-1. Outside of adjacency, a Special Use in any other zoning district would be a reasonable solution.

10. Close the Public Hearing Regarding a Text Amendment to Section 3.2 Definitions – A motion to close the public hearing was made by Dave Anderson and seconded by Houtz. A roll call vote ensued. Ayes: Dave Anderson, Ryan Anderson, Cybulski, Houtz, Mulvihill, Peters, Techter. Nays: None. Motion carried.
11. Discuss and Recommend a Text Amendment to Section 3.2 Definitions – A motion was made by Peters to eliminate “tourist house” from the list of prohibited occupations and recommend the addition and definition of short-term rentals as a permitted use immediately adjacent to the downtown B-1 zoning district. Short-term rentals in any other zoning category will require a Special Use Permit. The motion was seconded by Ryan Anderson. A roll call vote ensued. Ayes: Dave Anderson, Ryan Anderson, Cybulski, Houtz, Mulvihill, Peters, Techter. Nays: None. Motion carried.
12. Other Business
  - a. Email Accounts – Nevenhoven said cyber security, ransomware, etc. is a big concern. Commissioners were given the choice to receive email communications via their personal or Village of Elburn accounts. If personal, Commissioners were made aware it is possible their account and/or device(s) could be subject to FOIA. All Commissioners agreed to receive email communications in their personal email accounts.
13. Adjourn – Commissioner Dave motioned to adjourn the meeting at 8:06 p.m. with Commissioner Houtz seconding the motion. The motion passed by a unanimous voice vote.

Respectfully Submitted,



Diane McQuilkin  
Village Clerk