



Village of
Glenwillow

Honoring the Past - Welcoming the Future

Planning Commission

February 21, 2024 – 5:30 pm.

Tim Hauptert called the Planning Commission meeting to order at 5:30 PM.

Present: Jeff Adie, Mayor Cegelka, Tim Hauptert, Scott McColl, Neil DeCarlo

Absent: None

Others Present: Law Director, Mark Marong, Building Official, Braden Thomas,
Engineer, Mike Henry

Appointment of Planning Commission Chair and Planning Commission Secretary

Mr. Hauptert turned the meeting over to Law Director, Mark Marong.

Mr. Marong stated that at the January Planning Commission meeting, the commission chooses a Chairperson and a Secretary for the year. Since there was no January meeting, nominations will take place at this meeting.

Mr. McColl, seconded by Mr. DeCarlo, nominated Lori Kovach as the Planning Commission secretary.

**Roll call on the motion: Yeas: Adie, Cegelka, Hauptert, McColl, DeCarlo
5 Yeas, 0 Nays
Motion carried**

Mr. Adie, seconded by Mr. McColl, nominated Mr. Hauptert as the Planning Commission chairperson.

**Roll call on the motion: Yeas: Adie, Cegelka, McColl, DeCarlo
Abstain: Hauptert
4 Yeas, 0 Nays, 1 Abstinance
Motion carried**

Mr. Marong stated that in the future, Mr. Hauptert can vote for himself.

Approval of minutes

Jeff Adie, seconded by Scott McColl, moved to approve the minutes of the November 15, 2023, Planning Commission meeting.

**Roll call on the motion: Yeas: Adie, Hauptert, McColl, DeCarlo
Abstain: Cegelka
4 Yeas, 0 Nays, 1 Abstinance
Motion carried**

Public Hearing

Andrew Gunnerson
29189 S Village Lane

Requests a variance from codified ordinance 1135.07(2) to allow multiple garden structures in the rear yard where only one structure is allowed.

Mr. Hauptert opened the public hearing at 5:32 pm.

Braden Thomas, Building Official, read an email he received from the residents at 28975 S. Village Lane. The residents live next door to Mr. Gunnerson, and they see no issues with the garden structures. The way Mr. Gunnerson is using his property has no negative impact on them as neighbors.

There were no other comments from the public.

Mr. Hauptert closed the public hearing at 5:34 pm.

Old Business

None.

New Business

Andrew Gunnerson
29189 S Village Lane

Appeal of notice of violation to remove all garden structures.

Requests a variance from codified ordinance 1135.07(2) to allow multiple garden structures in the rear yard where only one structure is allowed.

Mr. Marong asked Mr. Thomas to give a history of why we are here. There are two items on the agenda, the appeal and the variance request, that deal with the same situation.

Mr. Thomas stated that in December 2022, this property was cited due to the multiple structures in the back yard. The structures are not used for storage, they are used for gardening. The Village's code defines structures as including among other things, buildings, bandstands, bleachers, booths, swimming pools, spas and hot tubs, platforms, towers, bridges, trestles, decks, playhouses, tree houses, rubbish containment structures, sheds, bins, fences, poles, tents, tanks above or below ground, and signs. Given the location in the Village Center Home District, the building department determined that these are accessory structures. Per codified ordinance 1135.07, accessory structures are allowed in the Village Center district. The size of the structure cannot exceed eighty square feet. The structures on Mr. Gunnerson's property exceed eighty square feet and there are encroachment issues. Mr. Thomas stated that he has had multiple conversations with Mr. Gunnerson. It is the Building Department's stance that as it sits now, the structures do not comply with the Village's codified ordinances.

Mr. Marong explained that the appeal to the citation triggers the need for a variance to allow more structures. There is no HOA approval in the packet. Mr. Marong advised that board that they may have to table the submittal to get HOA approval.

Mr. Hauptert asked about the property line issues, inquiring if Mr. Gunnerson would need a second variance for the encroachment. Mr. Thomas stated that the board cannot rule on encroachment issues. Whatever determination is made, the structures will need to be moved

onto his property if the variance is approved. Mr. Thomas also stated that if HOA approval is given, design approval would be required by the Architectural Review Board as these structures fall outside of the area that the building department can approve administratively.

Mayor Cegelka stated that there has not been a functioning HOA for the Village Center District for a few years. The past president moved out and a board has not been formed since then. About a month ago, they received enough votes to establish an HOA with officers but have not had a meeting to have a quorum to vote. There is no functioning approval process. There is a lengthy document for the district as to what is allowed inside and outside of the properties that Mr. Gunnerson should review. Other HOA's have law firms to assist in determining the language of the document.

Andrew Gunnerson, 29189 S. Village Lane, addressed the commission. Mr. Gunnerson stated that he feels that he has been working with the Village on this. It is a partnership with the Village, and he wants to understand everything. He stated that he has addressed the issue of being on someone else's property.

Mr. Haupt asked how it was addressed. Mr. Gunnerson stated that they disassembled and moved the structure to his property. Mr. Haupt asked if there was a survey done to find the property lines. Mr. Gunnerson stated that they took numerous measurements, but no survey was done. His property is on a slope. He stated that he is not asking for a variance to encroach on someone else's property only to have the structures. Mr. Gunnerson stated that they added a deck to the back of the property as there was no rear egress. Before the structures were built, they had multiple ground level garden beds. He is not aware of any complaints from neighbors. Mr. Gunnerson stated that they had a plastic fence around the ground level gardens, but he knew that should be changed. He was not aware when building the structures that he was doing anything wrong. They went from ground level gardening to raised bed gardening.

Mr. Marong clarified with Mr. Gunnerson that he had multiple ground level dirt bed gardens in the rear yard prior to building the garden structures.

Mr. Gunnerson stated that in speaking with Mayor Cegelka, the Mayor advised him to speak to Braden Thomas, Building Official. Mr. Gunnerson explained that it was helpful to have Mr. Thomas come out and help work out the issue regarding the easement.

Mr. Marong stated that there is an easement on the property that Mr. Henry will address.

Mr. Gunnerson indicated that Mr. Thomas told him to collect signatures from the neighbors to help his case. Mr. Gunnerson did just that and collected signatures from many of the surrounding properties in support of keeping the gardens.

Mr. Marong stated that Mr. Gunnerson will not need the signatures but will need HOA approval and formal discussions from the Planning Commission. The Planning Commission may grant the variance request to keep all structures as is or they may grant the variance requiring modifications.

There was a review of a recent aerial shot of Mr. Gunnerson's property that shows even more "L" shaped raised garden beds closer to the house. Mr. Marong asked Mr. Gunnerson if this aerial shot was the footprint that he would like to keep or is there any part that he plans to remove.

Mr. Gunnerson responded that he wants to keep as is, he does not want to make any changes. Mr. Marong stated that there were ground dirt garden beds until 2020 when Mr. Gunnerson started to build the raised garden beds.

Mr. Henry reviewed the aerial shot and pointed out the existing storm sewer and catch basin. He stated that the property line goes north to south, and the main property line goes along the back of the property; along that line is the existing storm sewer that flows from left to right as shown on the screen. There is a fifteen-foot easement over the eight-inch PVC pipe. The fifteen feet is split to seven and a half feet on either side of the line to prohibit the installation of any structures within the area. This allows space for the Village to clean the area, maintain drainage, and clear access if repairs need to be made.

Mr. Marong asked how far Mr. Gunnerson's structure is from the eight-inch pipe now that he moved it from the area so as not to encroach. Mr. Henry stated that currently it appears to be on the property line. Per the easement agreement, he will have to move the structure to be seven and a half feet to the south. Mr. Henry stated that no official survey has been conducted but from the aerial view the structure is within a foot to a foot and a half of the easement. Mr. Marong clarified with Mr. Henry that the structure will need to be moved six to six and a half feet towards the house to be out of the easement area.

Mr. Marong stated that when there is an easement, the engineer needs full access to go and repair, clean, and fix the area and will remove any structures in the way of the easement.

Mayor Cegelka asked how close the garden bed is to the easement. Mr. Gunnerson stated that it is close to the easement. Mayor Cegelka asked if the raised garden beds are considered structures. Mr. Thomas replied that depending on the size of the bed there is an ordinance for the Village about changing the water course.

Mayor Cegelka asked if the beds can be picked up and put back if the engineer must get into the area for any repairs or cleaning out. Mr. Gunnerson replied that it is possible. Mayor Cegelka asked Mr. Gunnerson if he fully understands that if engineering needs to work in the easement area, the beds will be moved out. Mr. Gunnerson responded that he does understand this. Mr. Gunnerson asked what would happen if there were trees in the easement area and work needed to be done. Mr. Marong stated that the trees would be removed. Mr. Henry also replied, stating that the Village engineer has the right to remove something in the way of an easement or right-of-way and the engineer is not responsible for putting anything back. A big concern is that if a home sells to a new buyer, they need to be made aware of the easement and that anything removed for work by the engineer will not be restored to its original condition. The drainage also needs to be maintained with adjacent properties. Putting structures on or close to the property line reduces the capacity of the swale that runs between the homes.

Mr. Henry stated that the property to the north has put in a petition request to add an additional pipe to tie into the catch basin because their yard is wet. There is concern with the structures being there that the drainage will not be allowed into the swale. Any grading or improvements that need to be done to protect any of the residents will supersede the existing garden. Mr. Henry stated that they are trying to help Mr. Gunnerson so he would not have to remove any of the beds in the future; it would be better to act now.

Mr. Gunnerson stated that he is not aware of any drainage issues. He understands there are rules and is asking for understanding with his situation and hopes there is something that can be done to not have to make such dramatic changes. He wants to work with the Village.

Mr. Thomas discussed the options available: by code he can have an eighty square foot structure in the yard to comply; if this is not enough space, the Village does offer community garden spaces for residents to use. Mr. Gunnerson could modify the existing gardens and make them flat earth gardens. Mr. Thomas stated that there are reasonable ways for Mr. Gunnerson to come in to compliance with the code without making such a large request to keep it as it is. If modifications are made, the Planning Commission may not have to be involved at all.

Mayor Cegelka asked how many structures are on Mr. Gunnerson's property. Mr. Thomas responded that there is a combined 738 square feet of structures. The site plan submitted is fairly accurate, there are approximately nine structures, considering each raised bed as a structure.

Mr. Hauptert asked Mr. Gunnerson if at any point, as he kept adding more structures, did he think there were more than there should be.

Mr. Gunnerson stated that he did not think it was too much. He stated that when he spoke to Mr. Thomas at his property, Mr. Thomas referred to the structures as sandboxes, so Mr. Gunnerson did not feel they were an issue.

Mr. Marong pointed out that even if you took out the "sandboxes," there are still more structures that are covered. There is one in the center, two to the left, and multiple structures on the other side.

Mr. Gunnerson replied that from his understanding, the center structure is the issue, not the structures on each side; why would they be an issue if they are considered sandboxes.

Mr. Hauptert asked if anything is being grown in the sandboxes. Mr. Gunnerson responded, yes, but from his conversations with Mr. Thomas, he did not believe they were an issue.

Mr. McColl asked Mr. Gunnerson what necessitated the change from ground gardening to raised beds. Mr. Gunnerson stated that they have a lot invested in the property. They changed to make it more aesthetically pleasing and easier for his wife to maintain with the beds raised.

Mr. Hauptert asked Mr. Gunnerson if he sells any of the produce he grows. Mr. Gunnerson replied that none of it is ever sold.

Mr. Marong addressed Mr. Gunnerson stating that he will need to get HOA approval for the next meeting and Architectural Review Board approval will be required as Mr. Thomas stated.

Mr. Hauptert commended Mr. Gunnerson for his gardening efforts and stated that there are rules that need to be followed. He feels the gardens need to be tucked back in a bit. The whole backyard should not be filled with the gardens.

Mr. Adie asked if the 80 square foot requirement for a structure comes from the HOA. Mr. Thomas replied that the 80 square feet is in the Village's codified ordinances. Mr. Adie asked if the allowance is based on the size of the lot. Mr. Thomas responded that it is not; in the Village Center District, the codified ordinance states the maximum size allowed is eighty square feet.

Mr. Adie addressed Mr. Henry asking what the reasoning was for seven and a half feet on either side of the easement (total fifteen feet). He asked if any allowance for encroachment is granted, will it interfere with any remediation required? Mr. Henry responded that fifteen feet is required

to be consistent, and he would not recommend less. The equipment typically needed for repairs is about ten feet wide. Within fifteen feet, they can excavate and grade the land without disturbing adjacent properties.

Mr. Adie clarified that the Planning Commission should recommend moving the structures to comply with the easement requirement. He asked Mr. Thomas how much of a variance is being requested. Mr. Thomas stated that only eighty square feet is allowed, and the submittal has 738 square feet so it would be a 658 square foot variance being requested. Mr. Adie stated that the gardens need to be scaled back. It is reasonable to ask Mr. Gunnerson to come into compliance. There are other options available for additional gardening. Mr. Adie commented that he would not be inclined to grant the variance to leave it as it is even if the HOA gives their approval. It is too large of a variance.

Mr. DeCarlo asked if the middle structure is the main issue.

Mr. Thomas replied that everything in the backyard is an issue as all are defined as structures.

Mayor Cegelka asked Mr. Gunnerson if there is a way he can take advantage of the community gardens. Mayor Cegelka stated that he could talk to the council and ask about having a community garden on the soccer field on S. Village Lane that would be close to Mr. Gunnerson's property.

Mr. Gunnerson stated that anything the Village can do to help them keep the gardens on their property is appreciated. He was not expecting the discussion to go in this direction. He did not believe there would be an issue for him to keep the structures. It will not be easy to move the beds back or make them smaller.

Mayor Cegelka stated that Mr. Gunnerson should have gone to the building official in 2020 to find out what is allowed before starting the project.

Mr. Marong stated that the submittal needs to be tabled for HOA approval and to work with the commission to produce a compromise. Mr. Marong stated that it would be beneficial for Mr. Gunnerson to work with Mr. Thomas before the next meeting to produce changes.

Mr. Gunnerson stated that they did make changes after Mr. Thomas came out to the property last year.

Mr. Marong commented that the changes made were that they moved the structure off the neighbor's property, and they added a deck to have safe egress from the back of the house. The rest of the plan is presented to the Planning Commission; Mr. Thomas cannot speak to how the Planning Commission will vote.

Mr. Thomas stated that it has taken Mr. Gunnerson a long time to come before the Planning Commission. This started in 2022 with the citation; any suggestions given to Mr. Gunnerson to help him through the process are just suggestions. Mr. Thomas is not the ultimate decision maker. Mr. Gunnerson needs to produce a dialogue to present to the board and move forward. The board wants to see a plan that is scaled back.

Mr. Haupt suggested putting some planters on the deck. Mr. Adie offered the idea of approaching neighbors to use their properties for shared gardens. Mr. Marong pointed out an example of residents on Pinecrest who have a joint garden that crosses both parcels.

Mayor Cegelka stated that he, Mr. Thomas, and Mr. Henry had given Mr. Gunnerson suggestions to scale back the gardens. The members of the commission are from all areas of the Village with their own views of what they would like to see. They will need to hear from the HOA.

Mr. Marong clarified that the Village Center District allows an 80-foot accessory structure; in converse the Country Home District allows a structure that is 1% of the lot area not to exceed six hundred square feet. He stated that even if HOA gives approval, a variance for the size will still be required if Mr. Gunnerson does not scale back.

Mr. Haupert stated that Mr. Gunnerson should look through the HOA's rules to see what is allowed.

Mr. DeCarlo, seconded by Mr. McColl, made a motion to table the appeal and variance request for Andrew Gunnerson, 29189 S. Village Lane.

**Roll call on the motion: Yeas: Adie, Cegelka, Haupert, McColl, DeCarlo
5 Yeas, 0 Nays
Motion carried**

Mr. Marong stated that the request will be on the next Planning Commission agenda under old business.

Mayor Cegelka asked the commission if they would consider giving Mr. Gunnerson until 2025 to address moving the structures due to the gardening season coming up. The easement issue will need to be resolved soon but the board would consider giving more time on other issues.

Mr. Thomas suggested having an agenda for Planning Commission and Architectural Review Board for the March meetings. He stated that there is no further need for a public hearing notice at this point. If a variance for larger size structures is requested, a notice will be required.

Mr. Gunnerson stated that he is unsure of what the next step is for him to take. Should he meet with Mayor Cegelka and Mr. Thomas?

Mr. Marong addressed Mr. Gunnerson, stating that he should come back to the commission with revisions. The commission can then speak to Mr. Gunnerson in a group discussion to avoid confusion. If progress is shown, the board will work with Mr. Gunnerson to possibly allow more time.

Mayor Cegelka stated that when the tents are removed, they can get a better perspective of the gardens. This will help the board with discussion and decision.

Mr. Adie asked Mr. Henry if it would be more prudent to get out of the easement area this season regardless of other approvals at this time. Mr. Henry replied the sooner the better to be out of the easement. He reiterated that if work needs to be done in the area, the engineer will remove anything in the way and will not restore it to how it was. There is concern for rain events and flooding. From an engineering standpoint, getting out of the easement area sooner will be better.

Mayor Cegelka asked Mr. Henry if he could go look at the drainage and what the neighbor is doing to improve the drainage to their yard. Mr. Henry will go back to the property. He will pin between the manholes and draw a string line and paint on the ground the location within Mr. Gunnerson's property. This will clearly define the storm sewer location and the seven and a half feet on either side.

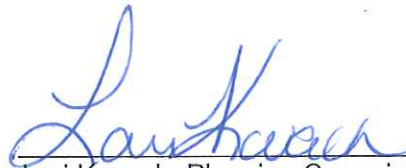
Mr. Marong stated that it will be discussion only for the March Planning Commission meeting.

Adjournment

There being no further business to come before the Planning Commission, Jeff Adie, seconded by Neil DeCarlo, moved to adjourn the February 21, 2024, Planning Commission meeting. All in favor. The meeting was adjourned at 7:15 pm.

Planning Commission

Date



Lori Kovach, Planning Commission Secretary