



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

Present: Jeff Adie, Mayor Cegelka, Tim Hauptert, Scott McColl  
 Absent: Neil DeCarlo  
 Others Present: Law Director, Mark Marong, Building Official, Braden Thomas,  
 Engineer, Mike Henry

**Approval of minutes**

Jeff Adie, seconded by Scott McColl, moved to approve the minutes of the February 21, 2024, Planning Commission meeting.

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

**PUBLIC COMMENTSON AGENDA ITEMSONLY**

None.

**Old 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. Hauptert turned the meeting over to Mr. Marong, Law Director. Mr. Marong stated that from the last meeting, Mr. Gunnerson was to reach out to Mr. Thomas, Building Official, with a revised plan. Mr. Thomas stated that he has not heard from Mr. Gunnerson since the last Planning Commission meeting.

Mr. Marong gave an overview of research that he conducted. Back in 2001-2002, the Village put in place certain design standards for the subdivision. The standards are actually deed restrictions for each person's parcel. These standards state that the rear yard shall not cover more than fifty percent with decks, gardens, gazebos, ponds and other accessory uses. Mr. Gunnerson's rear yard is 1,860 square feet, which leaves 930 square feet in the rear for his deck and vegetable garden. The design guidelines further talk about useable rear yard. The useable rear yard comes off the easement and the setback. The guidelines were set at and in place at the time the homes were built. Any owner from the original build or sale of the home would have received these guidelines with their title work. In addition to the useable rear yard, there is a specific section in the guidelines on gardens. Vegetable gardens can be in the rear yard and the entire footprint may not occupy more than forty percent of the yard, including all

paths. With Mr. Gunnerson's rear property being 1,860 square feet, that leaves 756 square feet as the maximum area for a garden in the rear of the property, provided the total square footage of accessory uses does not exceed 930 square feet. Article Nine of the HOA's covenant and restrictions on each parcel states that the HOA shall be the primary responsible party for enforcement of the covenants and restrictions; however, the Village shall be a third-party beneficiary of the covenants and shall have full rights and authority to enforce them. Mr. Gunnerson should have gone to his HOA or the Village before he started building the structures, but he did not. Based on the calculations using GIS mapping, there are at least 1,100 square feet in size of structures.

Mr. Thomas stated that the Building Department is looking for a decision from the Planning Commission board. Mr. Gunnerson needs to complete the process and get HOA approval. Based on the outcome of the meeting, Mr. Thomas will draft a notice giving the homeowner a couple of options as to where he can fit the size allowed into the yard.

Mr. Marong stated that originally some of the structures were encroaching on the neighbor's property. Mr. Gunnerson stated at the last meeting that those structures were moved and are on his property.

Mr. Thomas stated that the setbacks must be addressed as well. There is a substantial amount of relocation that will need to happen. The setbacks are five feet on the sides and seven and a half feet in the back for the easement.

Mr. Hauptert clarified that Mr. Gunnerson is 350 square feet over allowance, not considering the setback issues and encroachment into the front yard. There is a greenhouse in the garage. The structures are completely out of control.

Mr. McColl asked if the five-foot setback is in addition to the seven-and-a-half-foot setback from the easement. Mr. Marong stated, no, they run concurrently as some properties would not have an easement.

Mr. Adie asked about the five-foot setbacks; are neighbors allowed to waive the setback requirement? Mr. Thomas responded that even if the HOA waived the setback, the Village would supersede the HOA to enforce the setback.

Mr. Marong stated that the owner would have to request a variance for the setback.

Mr. Henry stated that there is a fifteen-foot easement in the back. Mr. Gunnerson would have to stay seven and a half feet off the property line to stay out of the easement area.

Mr. Hauptert asked what the total amount of square footage that Mr. Gunnerson can have that would be gardens.

Mr. Marong stated that Mr. Gunnerson can only have 930 square feet of accessory uses in the rear yard. There is a deck and if there are other items in the rear yard, these items go into the calculation. The deck and anything else that is not grass or a tree would go into the calculation.

Mr. Hauptert stated that the board will need to produce a hard number for how much can be gardens. Mr. Marong stated that it will be difficult to produce an exact number, but the board should indicate that any accessory structures cannot exceed 930 square feet in total. Mr. Gunnerson will need to come into compliance with these guidelines. Mr. Hauptert asked what

the next step for the board would be to enforce this as Mr. Gunnerson did not seem to want to change anything from the discussion at the last meeting.

Mr. Marong stated that the board will motion what the board wants to see, give a timeline for compliance, and Mr. Thomas will send a copy of the Planning Commission motion via written decision. If Mr. Gunnerson does not come into compliance by the date given, he will be cited.

Mr. Thomas stated that the structures become more tent like in the off-gardening season. He would like the board to address the structures/tenting, greenhouse, in the motion.

Mr. McColl asked if the covers can be there since they are temporary, comparing them to owners covering bushes in the winter. Mr. Thomas is okay with this, but he would just like it in writing as part of the motion. Mr. McColl also asked about the square footage of an accessory structure and raised beds that may not be considered structures, as Mr. Gunnerson showed the Commission at the last meeting; table type items that can be moved easily. Mr. Thomas replied that if he went into a yard with a small wood framed structure, he would not think much of it.

Mr. Hauptert stated that the current gardens look like they are anchored in the ground. The existing items in Mr. Gunnerson's yard are considered structures. The Planning Commission can allow these or give the building department authority upon inspection to allow items that are not considered structures that can be easily moved.

Mr. Adie asked Mr. Thomas how much there is in square footage as far as structures in Mr. Gunnerson's yard. Mr. Thomas stated that according to the drawings that Mr. Gunnerson provided, there are 738 square feet of structures. This does not include the deck. These 738 square feet do not take into consideration the entirety of the garden as required by the HOA. It is over one thousand square feet with paths and such. Mr. Adie clarified that Mr. Gunnerson is only permitted an eighty square foot structure according to the Village's ordinance. Mr. Adie stated if Mr. Gunnerson were to border the garden with railroad ties, it would not be considered a structure, but if he adds fencing to the framing, then it is considered a structure.

Mr. Thomas clarified that the Village ordinance allows for an eighty square foot structure such as a shed. The design guidelines for the HOA have specific guidelines for the gardens. Due to the scale of what Mr. Gunnerson has done, the board can adjust what they allow. The board can specify how much can be a "structure" and how much can be gardens.

Mr. Adie addressed Mr. Marong asking if the board granted a variance for the center structure size, could the variance be rescinded if a new neighbor moves in and does not like it.

Mr. Marong replied no, a variance runs with the land. Mr. Marong stated that as the request sits today, there is no request for a variance for a structure greater than eighty square feet. If Mr. Gunnerson puts in a variance request for a structure size, and the request is granted, it runs with the land, it cannot be rescinded. If Mr. Gunnerson comes back and asks for a variance for the center structure, notices would go out to neighbors and Mr. Gunnerson would come back before the board.

Mayor Cegelka reiterated that the Planning Commission gave him time to address the issues after this planting season. He would like the board to give the chief building official directive to have him adhere to the guidelines. It is necessary for Mr. Gunnerson to come back with a plan for building, law director and engineer to review for adherence to the guidelines.

Mr. Hauptert stated that Mr. Gunnerson chose not to come back with a plan tonight. Mr. Hauptert would not approve anything other than what is approved by the guidelines.

Mr. Thomas asked Mr. Marong if this would be a motion to deny the request and require the applicant to submit a plan in compliance with HOA guidelines, HOA approval, Planning Commission approval and adhere to the Village's code and Architectural Review Board approval.

Mr. Thomas restated the motion: deny the appeal, require the applicant to submit a plan in accordance with the HOA design standards, the plan is within the setbacks of side and rear yards, along with compliance of the easement requirements, Planning Commission, Architectural Review Board, and HOA approvals. The time frame for compliance will be established in Mr. Thomas' notice to Mr. Gunnerson.

Mr. Adie, seconded by Mr. McColl, made a motion to deny the request by Mr. Gunnerson appealing the notice of violation to remove all garden structures and the variance request from codified ordinance 1135.07(2) to allow multiple garden structures in the rear yard where only one structure is allowed. The applicant must submit a plan in accordance with the HOA design standards, the plan must be within the setbacks for the side and rear, along with compliance of the easement requirements, the plan requires Planning Commission, Architectural Review Boards and HOA approvals.

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

### **New Business**

Scott Saporito – Custom Products Corporation  
7100 Cochran Road

Requests site approval of a fence in the General Industrial District.

Mr. Thomas introduced the application. Mr. Saporito is requesting site approval to install a fence at the northeast corner of 7100 Cochran Road. The property is in the General Industrial District. Our code requires site plan approval for any alteration to a commercial property. The packets show the location of the fence. Mr. Thomas had a discussion with the Village engineer regarding a utility easement that runs along Cochran. It is important that the fence is located a safe distance from the easement. The existing landscaping will stay in place, the fence layout will work around all the existing shrubbery. They have no intention of having any signage posted on the fence. The intent of the fence is safety; they are proposing an aesthetically pleasing type of fence. There is concern for those walking along the sidewalk, that they may fall into the parking lot. It is a four-foot-high fence.

Mr. Hauptert, seconded by Mr. Adie, made a motion to approve the site plan for a fence at 7100 Cochran Road.

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

**Adjournment**

There being no further business to come before the Planning Commission, Mr. Adie, seconded by Mr. McColl, moved to adjourn the March 20, 2024, Planning Commission meeting. All in favor. The meeting was adjourned at 6:07 pm.

Jeffrey J. Adie      4/17/2024      Lori Kovach  
Planning Commission      Date      Lori Kovach, Planning Commission Secretary