

**MINUTES OF A PUBLIC MEETING
OF THE CITY OF BUNKER HILL VILLAGE
ZONING BOARD OF ADJUSTMENT
WEDNESDAY, JUNE 16, 2021 AT 5:00 P.M.**

I. CALL TO ORDER

Chairman Jennifer Rigamonti called the Zoning Board of Adjustment Meeting to order at 5:07 p.m. Those present at the beginning of the meeting, including alternates, constituted a quorum.

Regular Members Present:

Jennifer Rigamonti
Michelle Belco
David Light
David Marshall
Patricia Shuford

Also in Attendance:

Karen Glynn, City Administrator/Acting City Secretary
Steve Smith, Dir of Public Works/Bldg Official
David Olson, City Attorney
Robert Lord, Mayor (via Zoom)
Jennifer Namie, Assistant to the City Secretary (via Zoom)

**II. DISCUSSION AND POSSIBLE ACTION REGARDING APPROVAL OF THE
APRIL 28, 2021 MINUTES FOR THE BOARD OF ADJUSTMENT**

A motion was made by David Light and seconded by Patricia Shuford to approve the minutes of April 28, 2021 as corrected.

The motion carried 5-0.

**III. A PUBLIC HEARING WILL BE HELD REGARDING A REQUEST FROM
STEPHEN M. PEARLMAN REQUESTING AN INTERPRETATION OF
STRUCTURE IN SECTION 2.01 AS APPLIED TO SECTION 5.08 C,
ACCESSORY USE REGULATIONS, RESTRICTIONS ON LOCATION, AND
SECTION 5.03 C, HEIGHT, ACCESSORY BUILDING OR STRUCTURE, OF
APPENDIX A, ZONING REGULATIONS, FOR NEW HOME CONSTRUCTION
LOCATED AT 512 KNIPP ROAD - LOCATION OF AIR CONDITIONING
CONDENSER AND ACCESSORY BUILDING**

OPEN PUBLIC HEARING

- PRESENTATION BY APPLICANT
- PRESENTATION BY CITY
- PRESENTATION BY PROPERTY OWNER

*ALL INTERESTED PARTIES SHALL HAVE THE RIGHT AND OPPORTUNITY TO
APPEAR AND BE HEARD ON THE ITEM LISTED ABOVE*

Chairperson Rigamonti opened the Public Hearing at 5:10 p.m.

Karen Glynn and Steve Smith introduced the request from Mr. Stephen M. Pearlman requesting an interpretation of the zoning laws pertaining to the location of two air condition condenser units and the height of an accessory building. These items are pertaining to a new home under construction at 512 Knipp Road, next door to Mr. Pearlman's home. In addition, Mr. Pearlman requested confirmation that the "guard house" on the property will be removed.

1. AIR CONDITION CONDENSER

Mr. Pearlman is questioning the current location of the new air condition condenser. Mr. Pearlman is requesting an interpretation for the "air condition condenser" to be considered as an "Accessory Building or Accessory Use" which would impact the required setback for the condenser.

2. DETACHED GARAGE

Mr. Pearlman has indicated that the detached garage exceeds the maximum height of 18-feet and the maximum wall height of 10-feet.

3. GUARD SHACK

Mr. Pearlman has assumed the "Guard Shack" structure will be removed.

PRESENTATION BY APPLICANT

Mr. Pearlman requested an interpretation for the "air condition condenser." Mr. Pearlman feels that it should be considered as an "Accessory Building or Accessory Use" which would impact the required setback for the condenser.

Mr. Pearlman believes the accessory building and its exterior walls exceed the City's height maximum. He believes the Building Official did not interpret the City's Code correctly. Mr. Pearlman stated that the second floor of the structure is considered an apartment because the structure has a full bath which would define the structure as sleeping quarters.

Mr. Pearlman acknowledged that he spoke with the Building Official and was assured that the "guard shack" will be removed before a Certificate of Occupancy is granted.

Mr. Pearlman expressed concern over the fact that the property owner is a member of the Zoning Board of Adjustment and that might present a conflict of interest.

PRESENTATION BY CITY

Mr. Steve Smith, Building Official, presented his interpretation of the request and referenced the City's Code of Ordinances as well as the International Building Code as pertinent for each of the three (3) points noted.

The home in question is located in District A as defined by the City's Zoning Ordinance. The City has also adopted the International Residential Code 2018 for the Building Code.

AIR CONDITION CONDENSER

The “Air Condition Condenser” was not considered as an “Accessory Building or Accessory Use.” The “Air Condition Condenser” was treated as an appliance per the International Residential Code and consistent with new construction throughout the City.

The City’s Code of Ordinances does not define or address placement of appliances; however, the City referenced the International Building Code and utilized this for the installation of such:

International Residential Code 2018

Appliance: A device or apparatus that is manufactured and designed to utilize energy and for which this code provides specific requirements.

Chapter 14 – Heating and Cooling Equipment and Appliances

M1401.1 Installation

Heating and cooling equipment and appliances shall be installed in accordance with the manufacturer’s instructions and the requirements of this code.

M1401.2 Access

Heating and cooling equipment and appliances shall be located with respect to building construction and other equipment and appliances to permit maintenance, servicing and replacement. Clearances shall be maintained to permit cleaning of heating and cooling surfaces; replacement of filters, blowers, motors, controls and vent connections; lubrication of moving parts; and adjustments.

Bunker Hill Code of Ordinance – Accessory Building and Accessory Use

§ 2.01. - General.

The following definitions shall apply in the interpretation and enforcement of this ordinance. Words and terms not defined herein shall be construed in accordance with the ordinances of the city or their customary usage and meaning. When necessary for a reasonable construction of this ordinance, words in the singular shall include the plural, words in the plural shall include the singular, and words used or defined in one tense or form shall include other tenses or derivative forms. The word “building” shall include the meaning of the word “structure.” The words “shall,” “will,” and “must” are mandatory, and the word “may” is directory.

Accessory building and accessory use. *A building or use which is clearly subordinate and customarily incidental to and serves the principal or main building or use; is subordinate in area, extent, and purpose to the principal or main building or use served; contributes to the comfort, convenience or necessity of the occupant of the principal or main building or use; and is located on the same lot as the principal or main building or use.*

Notwithstanding the foregoing or any other provision contained in this appendix "A" to the contrary, no building, or any part thereof, constructed, altered, improved or used for the purpose of human habitation shall be deemed an accessory building hereunder. For the purposes hereof, a building or part thereof shall be deemed habitable if it is constructed, altered or improved so as to be suitable for, or used for, sleeping purposes.

§ 5.08. Accessory use regulations.

The following regulations shall apply to all accessory buildings, structures, and uses:

- A. Limitations on use. An accessory building, structure, or use shall not be rented, shall not be used for commercial, or manufacturing purposes, and shall not contain any kitchen, living, or sleeping facilities. The foregoing notwithstanding, an accessory building or use subordinate to a main building may contain kitchen or living facilities for use in conjunction with recreational activities only.*
- B. Distance requirements from main building. No wall of an accessory building or use shall be located less than six (6) feet from an outside wall of the main building. An accessory building or use may be connected to the main building by a covered walkway; provided, however, such covered walkway shall not be more than six (6) feet in width.*
- C. Restrictions on location. Except as specifically permitted in this section or elsewhere in this ordinance, an accessory building, structure, or use shall not be erected, constructed, installed, placed, or maintained in any required yard. On an interior lot, if an accessory building, structure, or use is not attached to or made a part of the main building and is located in the rear one-third of the lot, it shall be set back at least ten (10) feet from the rear lot line and at least ten (10) feet from each side lot line. On a corner lot, if an accessory building, structure, or use is not attached to or made a part of the main building and is located in the rear one-third of the lot, it shall be set back at least ten (10) feet from the rear lot line; at least ten (10) feet from the interior side yard line (the side yard line farthest removed from the side street); and at least twenty (20) feet or a distance at least equal to the required depth of that yard of the contiguous lot which abuts such side street, whichever is greater, from the interior side lot line (the side lot line which abuts the side street).*
- D. Placement of windows and doors. Windows and doors shall not be allowed on the side(s) of accessory structures which have less than the required main structure setback. Windows and doors on accessory structures can only face internally to the lot.*

The City's Code does include a required five-foot-wide green space around the lot. The Building Official required the placement of the "Air Condition Condenser" to meet this five-foot-wide green space requirement.

5.06. - Area regulations, size of yards.

The following regulations shall apply to all yards:

- A. Front yard, standard lot. On a standard lot there shall be a front yard with a depth of at least fifty (50) feet. Alongside lot lines within a required front yard, a five-foot-wide green space shall be maintained.*

- B. *Front yard, cul-de-sac lot. A cul-de-sac lot shall abut a portion of the front street line which forms the bulb or arc of the cul-de-sac. Such lot shall have a front yard depth of at least forty feet (40) and shall complement adjacent homes creating a consistent neighborhood look as approved by the zoning official. Alongside lot lines within a required front yard, a five-foot-wide green space shall be maintained.*
- C. *Side yards. There shall be two (2) side yards on each lot. Each side yard shall have a depth of at least twenty (20) feet. Alongside lot lines within a required front yard a five-foot wide green space shall be maintained.*
- D. *Rear yard. Each lot shall have a rear yard with a depth of at least twenty-five (25) feet. In addition to this requirement, if a two-story main building is hereafter erected, constructed, or placed on a lot or if a second story is hereafter added to an existing one-story main building, the second story of such building shall be set back from the rear lot line of the lot on which it is situated a distance of at least forty (40) feet. As used herein, the term "second story" shall be deemed to include all portions of the building above the point where the top of the floor of the second story intersects or, if extended on a horizontal plane, would intersect the wall or roof of such building. Along rear lot lines a five-foot-wide green space shall be maintained.*

DETACHED GARAGE

The City issued the permit for 512 Knipp Road in accordance with the plans submitted. The plans showed a detached garage at a height of 18-feet which is the maximum height allowed. The height is to be taken from the finished grade. A cursory review of the height resulted in a height of 18 - 19 feet; however, the finished grade had not been completed. Staff recommended requesting a "certificate of height" verification for the detached garage/accessory structure to ensure compliance with the plans prior to the issuance of a certificate of occupancy.

GUARD SHACK/STRUCTURE

The "guard shack" referenced was used as a mock-up for the proposed materials for the new home. The contractor has since used the mock-up to screen the onsite portable toilet. This is to confirm that the noted "guard shack/structure" will be removed upon completion of the project and by final inspection by the Building Official.

PRESENTATION BY PROPERTY OWNER

Mr. Ryan West is building a new home at the location under review. Mr. West expressed that he is an alternate member of the Zoning Board of Adjustment and is not participating in any deliberations regarding this matter. Mr. West stated that he has grown up in the Villages and wants to build a home that is beautiful and different from those around him. He has made every attempt to be a good neighbor throughout the construction.

ALL INTERESTED PARTIES SHALL HAVE THE RIGHT AND OPPORTUNITY TO APPEAR AND BE HEARD ON THE ITEM LISTED ABOVE

Marlene Morales, co-owner of the property located at 514 Knipp, urged the Board to act appropriate under the law. Ms. Morales asked about an additional accessory structure. This item was not considered as it was not properly noticed for the purposes of this public hearing.

CLOSE THE PUBLIC HEARING

Chairperson Rigamonti closed the Public Hearing at 5:44 p.m.

IV. DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FROM STEPHEN M. PEARLMAN REQUESTING AN INTERPRETATION OF STRUCTURE IN SECTION 2.01 AS APPLIED TO SECTION 5.08 C, ACCESSORY USE REGULATIONS, RESTRICTIONS ON LOCATION, AND SECTION 5.03 C, HEIGHT, ACCESSORY BUILDING OR STRUCTURE, OF APPENDIX A, ZONING REGULATIONS, FOR NEW HOME CONSTRUCTION LOCATED AT 512 KNIPP ROAD - LOCATION OF AIR CONDITIONING CONDENSER AND ACCESSORY BUILDING

1. AIR CONDITION CONDENSER

David Light made a motion that the Building Official's interpretation is correct in both the definition and location for the air conditioner: the air conditioner is an appliance and not an accessory structure and the location is not in the designated green space. Patricia Shuford seconded the motion.

ROLL CALL VOTE:

Jennifer Rigamonti - YES

Michelle Belco - YES

David Light - YES

David Marshall - YES

Patricia Shuford - YES

The motion carried 5 to 0.

2. DETACHED GARAGE

The Board discussed the detached garage and concurred it must meet the maximum height requirement of 18-feet in accordance with the City's Code and the Permit issued. Furthermore, the Board discussed the Building Official's determination that the proposed plans for the detached garage meets the City's definition of Accessory Building regarding sleeping purposes or human habitation.

The Board discussed that the City should require a "certificate of height" verification at the final inspection for the Detached Garage and must satisfy the 18-foot height before an issuance of the Certificate of Occupancy.

David Light made a motion that the Building Official correctly interpreted the City's Code regarding the 18-foot and 10-foot height requirements of the accessory structure. In addition, the plans and construction of the detached garage meet the requirements prohibiting human habitation or sleeping purposes, as included in the definition of Accessory Building. David Marshall seconded the motion.

**ROLL CALL VOTE:
Jennifer Rigamonti - YES
Michelle Belco - YES
David Light - YES
David Marshall - YES
Patricia Shuford – YES**

The motion carried 5 to 0.

David Light made a motion that the Building Official correctly interpreted the City's Code as to what constitutes a sleeping structure. David Marshall seconded the motion.

**ROLL CALL VOTE:
Jennifer Rigamonti - YES
Michelle Belco - YES
David Light - YES
David Marshall - YES
Patricia Shuford – YES**

The motion carried 5 to 0.

3. GUARD SHACK/STRUCTURE

The Board appreciated the Building Official's confirmation that the "guard shack/structure" will be removed upon completion of the project, and at the final inspection before a Certificate of Occupancy is issued.

Michelle Belco made a motion that the guard shack structure must be removed at the final inspection before an issuance of the Certificate of Occupancy. Patricia Shuford seconded the motion.

**ROLL CALL VOTE:
Jennifer Rigamonti - YES
Michelle Belco - YES
David Light - YES
David Marshall - YES
Patricia Shuford - YES**

The motion carried 5-0.

V. UPDATE ON ACTIVITIES IN THE CITY

City Administrator, Karen Glynn, appreciated the Board coming together for the meeting and intends to get back to an annual meeting for the Board. The Mayor made appointments at the City Council Meeting on June 15, 2021. These appointments go into effect on July 1, 2021.

VI. ADJOURN

Michelle Belco made a motion to adjourn at 6:43 p.m. David Marshall seconded the motion and the motion carried unanimously.

Approved and accepted on October 11, 2022.

Jennifer Rigamonti, Chairperson

Attest:

Karen H. Glynn, City Administrator/ Acting City Secretary