



Village of River Hills
7650 N Pheasant Ln
River Hills, WI 53217

Village Hall: 352-8213
Public Works: 352-0080
Police: 247-2302

BUILDING BOARD MINUTES

Monday, November 16, 2020 @ 5:00 pm

This meeting was a virtual meeting through GoToMeeting – Meeting code 531-354-629

Members present: Tony Enea (chairman), Peter Kies, Simon Bundy, Steve Simon, Susan Muggli, Chris Meisel, Chris Cunningham, Victor Harding, and Ray Juehring. Also present: Building Inspector Tod Doebler, Village Manager Tammy LaBorde, Village Attorney Bill Dineen, and Deputy Clerk Stephanie Waala.

1. Approval of minutes from the October 19, 2020 meetings.

Motion by Harding and seconded by Juehring to approve as submitted; motion carried unanimously.

2. Discussion/action on the replacement of a shed at the Banyard residence, 1436 W Heather Ln.

Homeowner Kemba Banyard presented the desire to replace a wood shed with a plastic resin Suncoast Tremont 8' x 10' shed. Vanilla color sides, slate color roof, stoney color door.

Motion by Harding and seconded by Juehring to approve as submitted; motion carried unanimously.

3. Discussion/action on the installation of a solar array at the Handle residence, 8755 N Dean Cir.

Building Board member Harding requests a point of order from the Village Attorney Bill Dineen on whether the Building Board is competent to even look at this matter for granting a permit; and if so what are their parameters.

Attorney Dineen suggests that Mr Harding recuse himself from discussion on items 3 and 4 due to his application being item 4. According to the state statute that municipalities have to have specific reasons to restrict solar arrays. They would need to get a permit, the building board does have authority to approve, and the village doesn't have a current specific solar array ordinance.

Building Board Chairman Enea clarifies that the board should consider a solar array like any other structure and that it needs to meet setback requirements and height requirements. Aesthetic requirements would not be a basis to deny an application.

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Attorney Dineen references River Hills Construction Guidelines item 15, line 2 – “out-structures should be screened from view when possible through the use of shrubbery, fences or berms.” The state statute states that restrictions can’t add significant additional costs.

Board member Harding points out that it has to protect the public health or safety and attorney Dineen agrees this cannot be prohibited unless it causes a concern to public safety.

Building Board member Simon asks for clarification the state statute superseded River Hills ordinances based on aesthetics, the board should give consideration to negative impact on neighbors.

Attorney Dineen points out that not everyone will think a solar array is aesthetically appealing, but that is not grounds to deny this type of application according to the state statutes.

Chairman Enea clarifies that according to the state statute the only circumstance that the board can deny a proposal is if it endangering the health and safety of the public. Besides that all the board can do is try to find a place that it meets as many as the design criteria as possible.

Board member Harding reads the state statute – “no political subdivision may place any restriction either directly or indirectly in effect on the installation or use of a solar energy system as defined, unless the restrictions satisfies one of the following conditions – (a) serves to preserve or protect the public health or safety, (b) does not significantly increase the cost of the system or significantly decrease its efficiency, (c) allows for an alternative system where comparable cost and efficiency.

Justin Van Camp of Arch Electric present the proposal for a two wide panel array at the length of 105 feet. Variance to be within the setback has already been granted by the Board of Appeals. Meter equipment will be located on the northside of the barn. Location within the setback was chosen so the array was not in the middle of the field and it will be more efficient due to less shading. Planting of additional trees was part of the approval to the north and west of the array.

Chairman Enea ask if a landscape plan was submitted showing the contingency of the trees that the Board of Appeals put on the variance approval. Deputy Clerk Waala informs the board that no landscape plan was submitted and the Board of Appeals did not specify size for the required trees.

Board member Simon inquires on if the posts are available in a different color or could be painted. Mr Van Camp informs him they currently only come in the standard aluminum color and doesn’t know if painting would be recommended by the manufacturer.

Board member Bundy inquires on how reflective the panels are would it cause a nuisance. Mr Van Camp informs him the modules have anti-reflecting glass so there will be minimal reflections. Also board member Bundy inquires about if there will be a battery for storage of production or going to utility. Mr Van Camp informs him that there will be no battery, it will be going straight to utility, and if there is an over production then he will be receiving a reimbursement from WE Energies.

Motion by Meisel and seconded by Bundy to approve as submitted; 7 yay 0 nay and Victor Harding recused himself from voting, motion carried.

**4. Discussion/action on the installation of a solar array the Harding residence, 7730 N River Rd.
*Return from October meeting.***

Chairman Enea asks for clarification on last months proposal compared to this month's proposal due to not being at the previous meeting.

Homeowner Victor Harding informs the board that his first array was approved in March 2020 by both the Board of Appeals and the Building Board. He was under the understanding that with that same variance he would be able to put an additional smaller array in approximately 30 feet to the south. This array has currently been installed and has been seeking approval from the Building Board since September 2020. It was later determined the variance was not for both arrays and he would have to go back to the Board of Appeals for the variance of the second array. Due to this issue and the opposition from the neighbors to the southeast he is presenting his alternative location within the setback. Mr Haring feels this will solve the setback issue. In response to Mr Wagner's letter this would solve the issue of having a minimum buffer of 150 feet between properties. The setback being met will no longer adversely affect the neighbor's property value. Mr Harding feels he has met all the needs and requests of the neighbors and doesn't not understand their additional objection that the array is obnoxious visually. According to the statute the array is not affecting public safety and this new location would not significantly increase cost to the installation. The landscape plan submitted by Mr Wagner of 38 trees to be installed would cost more then the array itself. Mr Harding would be willing to discuss tree installation depending on prices. None of the other surrounding neighbors can see the array from their properties in either of the proposed locations. Mr Robbins has cut down trees and buckthorn on the northwest corner of his property which now gives him full view of tennis court and solar array. Mr Harding feels this is a shakedown from Mr Robbins to do his landscaping for him.

Mr Wagner reviews the letter submitted the board prior to the meeting. It contains a letter signed by neighbors opposed to the project. As well as a letter from Realtor Katie Falk where she claims the array will have an adverse financial/value impact on the real estate. There has been no landscape plan presented by Mr Harding nor discussion with the neighbors. Due to the array being installed prior to approval Mr Wagner questions whether Mr Harding should be issued a citation, the array removed, or should the board even be reviewing the application. Mr Wagner quotes village ordinance 7.0905 where it states a project should be in harmony with its surroundings. A Landscape plan develop by Franzen Landscape was presented showing all additional screening at either array's location that the neighbors to the east and southeast feel is necessary to block all view of the arrays from their homes.

Mr Robbins questions why the homeowner is the one to determine the bast location of an item on their property without the approval from the neighbors.

Chairman Enea asks for clarification from Mr Wagner and Mr & Mrs Robbins on are they objecting to both proposed locations of the solar array. Mr Wagner responds yes.

Board member Juehring inquires as to what the actual cost of the landscape plan presented by Mr Wagner would cost. Mr Wagner claims that he does not know the cost of the plan he proposed and that it is the obligation of Mr Harding to determine the cost and present an official proposal.

Board member Simon informs the board that he went to Mr Harding's property to view the array prior to the meeting and his opinion is that the current location next to the first array is the best

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location. A level of screening between the array and the other properties would be suggested; however, due to the distance away from the other properties does not feel the landscaping needs to be nearly as extensive as the proposed landscape plan by Mr Wagner.

Board member Meisel requests that all correspondence from all parties be submitted to the board sooner than the day of the meeting. Questions the accuracy of a realtors opinion on value of a property because they are not a real estate appraiser. Their opinions are based off of prior sales of similar properties and this property is unique in that not may solar arrays are around.

Board member Kies suggests the board start creating rules about solar arrays and be cognoscenti of what the neighbors expect which may be sheltering or buffering

Chairman Enea asks Mr Harding is the landscaping issue something that can be settled between himself and Mr & Mrs Robbins. Mr Harding responds that they have had multiple discussions about it and at this time they are not able to come to a mutual agreement about screening due to the price not being reasonable.

Board member Simon request a landscape plan be created by Mr Harding.

Board member Muggli ask Mr Robbins when he looks at the arrays in their current locations don't you have to look though the tennis court fencing. Mr Robbins responds when he walks his perimeter of his property, he can see the arrays.

Motion by Simon and seconded by Muggli to approve the request for the second solar array stipulating that the second (southernmost) array stay in its current location and that the applicant returns to a future meeting with a landscape plan that includes screening. No vote taken and motion withdrawn by Simon.

Motion by Simon and seconded by Muggli to table until a landscape plan can be submitted with the proposal; motion carried unanimously.

5. Comments on items not listed on agenda

Board member Simon asks the boards opinion on the packet received from Mr Wagner hours before the meeting.

Attorney Dineen informs the board there is no time limit requirements to individuals submitting items to the board prior to the meeting. It is similar to a party bringing documents to a meeting. Timeframe and guidelines can be created to prevent last minute information being submitted.

6. Adjourn

Motion by Meisel and seconded by Simon to adjourn at 7:16 pm; motion carried unanimously.

Submitted by Stephanie Waala, Deputy Clerk/Treasurer, on December 18, 2020.