

VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN
(Official Minutes)

ZONING BOARD OF APPEALS HEARING

Wednesday, October 21, 2020

Chairperson Peg Pollitt called the Hearing of the Village of Fontana Zoning Board of Appeals to order at 10:09 am in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Board of Appeals members present: Roll call vote: Derek D’Auria, Peg Pollitt, Jim Feeney, Curtiss Behrens, Greg Trapani, John O’Neill

Also present: Theresa Loomer, Tara Ramljak, Stephanie Smith

Business

Review Legal Requirements and Training

Attorney Thorpe stated he was asked to review the legal requirements of a variance and stated granting variances are an unusual and rare occurrence. Thorpe stated he believes there are concerns that there is not enough consideration being given to legal standards for a variance and believes it would be beneficial to review those standards. The members of the Zoning Board of Appeals are appointed and not elected and are governed by Wisconsin statute 62.23(7) which gives limited discretion. The statutes state the Board has the power to authorize, upon appeal, a variance to the zoning ordinances if it is not contrary to public interest. The first articulation that could allow for granting of a variance is if a property faces a unique condition that results in an unnecessary hardship related to the property. The appellant bears the burden of providing proof that an unnecessary hardship exists. The hardship is not something the Board should infer from their knowledge of the property, but by whether the applicant has met the burden of proof. The Board’s decisions should be based only on evidence presented at the hearing which must prove a hardship unique to the property condition and must not be created by the property owner. If the appellant fails to prove the hardship and the connection to the property, the Board lacks the jurisdiction to approve. The Board’s only discretion is limited to fact finding from the evidence presented and must decide within the statutory standards. Attorney Thorpe provided some examples of discretion as it has been applied to other cases within Wisconsin. He stated a variance lives on with the property for many years to come and is transferable. Loomer stated that she wants the Board to understand how important their positions are and the importance of following statutes. The Zoning Board of Appeals members expressed great interest in having a manual to refer to. Thorpe stated he could come up a manual based on the points discussed today.

Consider Action: Adopting Amended Rules and Procedures

Thorpe stated this amendment is just cleaning up the language in the rules and procedures. The Board members stated they would like to read through the documents and bring it back to the next meeting.

Adjournment

Feeney/O’Neill 2nd made a MOTION to adjourn the Zoning Board of Appeals meeting at 11:07 am, and the MOTION carried without negative vote.

Minutes prepared by: Stephanie Smith, Deputy Clerk/Treasurer

Note: These minutes are subject to further editing. Once approved by the Zoning Board of Appeals, the official minutes will be on file at the Village Hall.

Approved: 11/17/2020