

**TOWN OF ELSMERE
PLANNING COMMISSION
MEETING MINUTES
September 5, 2023
6:30 P.M.**

CALL TO ORDER: Chairman John Jaremchuk called the meeting to order at 6:30 PM.

PLEDGE OF ALLEGIANCE:

MOMENT OF SILENT PRAYER FOR THOSE WISHING TO DO SO:

ROLL CALL:

CHAIRMAN	JOHN JAREMCHUK	PRESENT
COMMISSIONER	ROBERT ANDERSON	PRESENT
COMMISSIONER	DEAN DYER	PRESENT
COMMISSIONER	JOHN POCKETS	PRESENT
COMMISSIONER	VACANT	
COMMISSIONER	VACANT	
COMMISSIONER	VACANT	

PUBLIC COMMENT: None

APPROVAL OF MINUTES

Approval of the minutes from the August 1, 2023, Planning Commission Meeting.

ACTION: Commissioner Anderson made a motion to approve the minutes from the August 1, 2023, Planning Commission Meeting with no corrections. Commissioner Pockets seconded the motion.

VOTE: 4 in favor, 3 Vacancies Motion carried

Anderson – Yes, Pockets – Yes, Dyer – Yes, Jaremchuk – Yes

OPENING STATEMENT:

Administrative Assistant Denise Lardani read the opening statement.

NEW BUSINESS:

1. Review Petition 23-13, Tax parcel number 1900-800-076

The applicant seeks a variance regarding lot coverage to install a roof to cover part of the

deck. The Planning Commission will review and make a recommendation to the Board of Adjustment who will then render a decision.

Chairman Jaremchuk asked all involved to please rise and give testimony to the truth.

Code Enforcement Officer Scott Allen read the summary analysis. He stated the Petition was a result of a Cease and Desist due to work being performed without a permit. Scott explained that Exhibit 23-13C shows an already existing wood deck directly next to the proposed new deck and in Exhibit 23-13 I, J, and K the existing wood deck on the plot plan is in fact a 2-story addition and feels the plot plan is inaccurate.

Luis Sierra, the homeowner, spoke on behalf of himself. He stated that he did not realize he needed a permit to install a deck and he was sorry for that. He placed a roof over the deck due to his brother being handicapped and he cannot go up and down steps. Mr. Sierra and his brother have a condition where they cannot be out in direct sunlight.

Mr. Sierra stated that when he came into the office, Kyle told him the deck is approved but the roof is not. If he did a retractable awning, it would not add to the impervious coverage.

Mr. Sierra feels that the site analysis is incorrect and that it needs to be recalculated. With the additional roof, his lot coverage would be 32 or 33% and not 37% that was written in the site analysis paperwork. His roof size is 16 x 16 not 450 square feet that is on the site analysis. He feels that it would be easier for him to be approved at 33% versus 37%.

There were multiple conversations about the conflict of the site analysis, square footage, and whether the plot plan is correct or erroneous. Mr. Sierra stated he supplied the plot plan that was provided when he bought the house before his 2-story addition was built. The plot plan that he provided states it is a wood deck where the 2-story addition is.

Chairman Jaremchuk stated he has 2 questions. One being whether the deck was approved by Kyle. Number two is the site analysis numbers do not match and they need to be equal. He is not going to approve the request and is recommending a continuance to October 3rd.

Code Enforcement Officer Allen stated that to have a new site analysis we need an accurate plot plan.

Councilwoman Mary Steppi, 3rd District, questioned where the 450 square feet additional coverage came from on the site analysis. She also stated that when she was on the Planning Commission Committee a few years ago there were several times the site analysis figures were incorrect. She feels this is a disservice to the Town residents. She also asked who is responsible for the new survey.

Town Manager Steven Martin commented that the issue is the discrepancy in the lot coverage. He is not sure how Mr. Sierra came up with his lot coverage number versus the Town's lot coverage number. He agrees this should not be voted on until the numbers match.

ACTION: Chairman Jaremchuk made a motion to continue the request until the October 3rd Planning Commission meeting due to the Lot Coverage and the Site Analysis difference. Commissioner Pockets seconded the motion.

VOTE: 4 in favor, 3 Vacancies Motion carried

Anderson – Yes, Pockets – Yes, Dyer – Yes, Jaremchuk – Yes

2. Review Petition 23-15, Tax Parcel Number 1900-500-110

The applicant seeks to install a new garage in place of an old one which sat on top of an existing concrete pad. The new proposed garage will be larger in size, creating new impervious coverage. The applicant also seeks to install new impervious coverage to connect the existing driveway to the proposed garage and a small new strip of concrete sidewalk. The Planning Commission will review and make a recommendation to the Board of Adjustment who will then render a decision.

Matthew Kurth, 108 Western Avenue, spoke on his own behalf as the homeowner. He stated that he bought the property in 2018 and the previous owner removed the existing 11' x 21' garage due to its poor condition but left the cement pad that was there, and it was approximately 8 inches from the fence. At one time, there was a continuous driveway that connected to the street but from what he was told, a tree had roots that broke up the driveway and it was partially removed.

Mr. Kurth is requesting to build a garage slightly larger in size in a similar area to maintain the character of the property but to bring it closer to the proper offset. He is proposing the setback to be 3 feet from the side yard and 5 feet from the back. He has had a classic 1965 Buick since he was 16 and it is a fairly large vehicle that he wants to protect from the elements. The design he chose meets the harmony of the surrounding lots.

He is also requesting a short walkway to connect the existing driveway to the sidewalk. It is intended for the safety and convenience of his family. As of right now they are walking in the grass to the front of the house. He stated his mother, and his in-laws are aging and have joint problems that make it hard for them to walk through the grass. He is concerned for their safety when they visit.

Code Enforcement Officer Allen stated that the property is legal non-conforming and what the resident is proposing will lessen the non-conformity as it pertains to the setbacks and the Town is not opposed.

Commissioner Pockets would like to know why the Town made Mr. Kurth go before the Board of Adjustment before coming to the Planning Commission. Why is the Town hell bound on this denying him? He stated he asked the previous Town Manager the same question when he was denied his petition and really did not get a proper response.

Town Manager Steven Martin responded that when a property is Legal non-conforming such

as Mr. Kurth's lot, he will be denied from the Code Office and has to appeal to the Board of Adjustment the decision by the Code Office.

Commissioner Pockets stated that it is unfriendly to the residents and was similar to his case. Why is that procedure in place?

Councilwoman Sally Jensen, 2nd district, stated it is in the Town Code that is the procedure.

Chairman Jaremchuk stated you would have to take the questions to Mayor and Council if you think it needs to be changed. The Code Office has to abide by the Town Code.

Chairman Jaremchuk told Commissioner Pockets if he wants to fight the decision, he will have to file the appeal.

Commissioner Pockets said I am hear fighting for Mr. Kurth and why he is being held up by the Town to argue his case.

Code Enforcement Officer Allen stated it that is Town Code 225-31C.

Several conversations were had about why you have to argue for the right to argue. It was stated that is not a conversation for the Planning Commission it's for the Mayor and Council.

Chairman Jaremchuk asked the Town Manager has any request been made to Mayor or Council to review the Town Code?

Town Manager Steven Martin responded no there have not been any requests to review the Town Code.

Councilwoman Sally Jensen, 2nd District, stated when Commissioner Pockets was denied there were multiple emails back and forth with the Town Manager about the decision and it was made quite clear back then the procedure and she would look into it and send Chaiman Jaremchuk copies of the emails.

Commissioner Pockets stated no I did not receive any explanation.

Chairman Jaremchuk stated the only way to change the procedures is legislative action so lets move on and not argue the procedure now.

Councilwoman Sally Jensen, 2nd District, stated she has not heard anything for or against the petition. She stated that the comments that Commissioner Pockets made about his experience with the Town of Elsmere versus property owners, she doesn't feel his comments are appropriate at tonight's meeting. She stated in this case of a true hardship she is in favor of the Planning Commission recommending to the Board of Adjustment. Note that the petitioner is requesting to tear up old concrete and bring the property more into compliance with setbacks.

Town Manager Steven Martin stated the Town supports the petition that has been submitted.

Chairman Jaremchuk believes this fits the harmonious development intent of the Town of Elsmere, Town Code 225-9.

ACTION: Chairman Jaremchuk made a motion to recommend approval to the Board of Adjustment he believes this meets the harmonious development of the Town of Elsmere. Commissioner Pockets seconded the motion.

VOTE: 4 in favor, 3 Vacancies Motion carried

Anderson – Yes, Pockets – Yes, Dyer – Yes, Jaremchuk – Yes

OLD BUSINESS:

None

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

ADJOURNMENT:

ACTION: Commissioner Anderson made a motion to adjourn the meeting. Commissioner Dyer seconded the motion.

VOTE: 4 in favor, 3 Vacancies Motion carried

Anderson – Yes, Dyer – Yes, Jaremchuk – Yes, Pockets – Yes

At this time, the meeting was adjourned.

Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.


JOHN JAREMCHUK, CHAIRMAN
ROBERT ANDERSON, SECRETARY