



## MINUTES OF AN OFFICIAL MEETING

**Regular Meeting of:** Board of Zoning Appeals

**Date and Time:** May 11, 2023 at 7:00 pm

**Location:** Common Council Chambers, 2000 N. Calhoun Road, Brookfield, WI 53005

**Members Present:** Rod Carter, Frank DeGuire, Dean Marquardt, and Gordon Rozmus

**Others Present:** Justin Drew - Zoning and Building Administrator, Mark Herbst - Building Inspector, Sheldon Lambert - Applicant

**Members Absent/Excused:** Mark Krause, Alderman Bill Carnell (Alternate), Alderman Kathryn Wilson (Alternate)

5/11/2023 - Minutes

1. Roll Call.

Gordon Rozmus called the Board of Appeals to order at 7:05 pm. He stated that the notice of hearing has been duly published pursuant to the State open meetings law and explained the procedure to present the appeals to the Board this evening. Mr. Rozmus indicated that a quorum was present and that the request for variances must receive the affirmative vote of three members of the Board in order for a request to be granted.

2. New Business:

2.a. Consider June 9, 2022 Board Of Zoning Appeals Meeting Minutes.

***Motion by Frank DeGuire, seconded by Dean Marquardt, to approve the May 11, 2023, Board of Zoning Appeals minutes. The motion carried Ayes 3, No's 0, Abstain 1 with Rod Carter abstaining.***

3. The Following Request For Building Permit Has Been Submitted To The City Of Brookfield And Has Been Denied By The Zoning & Building Administrator Because It Did Not Comply With The Zoning Or Building Code Of The City Of Brookfield. There Will Be A Public Hearing Held On May 11, 2023, At 7:00 P.M. At The Common Council Chambers And The Board Of Zoning Appeals Will Thereafter Consider The Following Request For Variance. Please Note That Following The Public Hearing(S), The Board Intends To Take Action By Considering The Request(S) Indicated:

3.a. The Request Of Sheldon And Cindi Lambert, PT SW1/4 SEC 3 T7N R20E PARCEL 57 UNREC MEADOW VIEW ANNEX, To Appeal Section 15.04.420 C 1 A, 15.04.420 C 1 D Iii & 15.04.420 C1d Vi To Permit Reconstruction Of A Shed Which Was Removed At 4240 N. Calhoun Rd. The Proposed Shed Exceeds The Maximum Size Of 200 Square Feet, Exceeds The Maximum Height Of 15' And Is Closer Than The 5' Minimum Distance To The Lot Line.

Building Inspector Mark Herbst explained that on the agenda is a request for a detached structure that was being erected. Staff had noticed that it was going up. Staff researched the record and whether there was a building permit for the structure, and whether there was an order that was issued for stopping it and procuring a permit. Mr. Herbst stated the permit was applied for and it was denied for three reasons. It is considered a shed/garden house, as there is already a large, accessory structure/garage on the site (a detached garage). It is larger than 200 square feet allowed. It is closer than 5' to the property line and is over 15' in height.

Mr. Dean Marquardt asked how this was discovered and what transpired. Mr. Herbst replied he was driving down the street and noticed the structure was going up. He researched it and found there was no permit issued.

Mr. Rod Carter asked if there was any correspondence or calls as a result of this meeting being noticed. Mr. Herbst replied he is not aware of any calls or correspondence.

Mr. Sheldon Lambert appeared before the Board. He is before the Board of appeal the size, height and offsets of the shed. He stated this was all due to a large portion of a tree that was falling on it. It destroyed the roof and a portion of the north wall. He purchased the property after retiring from the military, as well as the proximity to the schools and community. He uses it to store welder machine equipment. He doesn't work out of it as it doesn't have lighting or electricity. He is not sure when it was originally built. When the tree fell, he removed all of the roof. He realized the shed was not following code. He jumped the gun and should have asked for guidance as the structure didn't have a permit in the past. The structure maintains a 360 square foot concrete slab that was poured many years ago. He is not asking to take any more floor space or square footage than it occupies now. What he intended to do was build the structure sound and safe. He wanted to match the roof line on the house as well. He understood that it wasn't to be larger than the existing structure's roof line, but he thought it was solely for attached structures and he overshot that by 3 feet. He made some mistakes but was excited to begin. His goal was to restore the property to the original form and function when he purchased the house and to store his tools. Mr. Lambert stated when he was in the Army, he didn't have a lot of time in his career to do anything. He was in the service for almost 21 years and didn't have a hobby. He bought this property to take advantage of the size of the storage so he could pursue these hobbies. He currently hired a carpenter to fix the height of the building. He stated he was surprised to hear the structure was that close to the lot line. He is not asking more than what was there originally. He understands there are limits for detached garages and sheds. He had only the best interest and intent in mind.

Mr. Marquardt asked if a conforming structure could be built, regardless of what is there now. Mr. Herbst replied yes. Mr. Marquardt asked what the potential hardship would be. Mr. Herbst added that there still is 192 square foot structure next to the garage that was rebuilt. Mr. Marquardt asked how big the detached garage is. Mr. Herbst replied the 3-car garage is 810 square feet, which is way over the 500 sq. ft. allowed.

Mr. Rozmus asked if the garage was built by the previous owner. Mr. Herbst replied he believed so. Mr. Rozmus also noted that the lot is large and there is space elsewhere on the lot to construct the shed. Zoning and Building Administrator Justin Drew added that the structure as proposed is still too large. If the existing shed were removed entirely, a new conforming structure of no more than 200 square feet could be built elsewhere on the property.

Mr. Rozmus asked if the garden house/shed in question could be moved to meet the setback requirement of 5 feet. Mr. Herbst clarified that if the existing structure that is up would have be downsized to 200 square feet, the roof would have to come down to 15' and it would have to be moved on that slab 5 feet off of the north property line. Mr. Herbst added that the 192 square foot existing structure would also have to be removed.

Mr. Rozmus asked if the existing garage was legal non-conforming. Mr. Drew replied yes, it is considered an existing legal non-conforming structure. Mr. Herbst added that once the structure was removed and rebuilt, it has to comply with the ordinance now. The structure is being called a garden house because you cannot have more than one detached garage on the property.

Mr. Rozmus asked what the square footage of the structure is being reconstructed and what should it be. Mr. Herbst replied it is 360 square feet and the maximum square footage is 200 square feet. Mr. Drew added that given that the building attached to it is 192 square feet, it should be no more than 8 square feet.

Mr. Marquardt asked if it was possible to get the shed into compliance. Mr. Herbst responded that it could not. Mr. Marquardt gave a history of the area and said in the 1950's, there was a farm there.

Mr. Rozmus asked if the issue was just the new structure or is it the garage as well. Mr. Herbst replied the garage is not the problem. It is just the shed. Mr. Carter inquired about the foundation of the structure. Mr. Herbst stated that the concrete foundation could stay in place.

Mr. Carter stated that he was sympathetic to the arguments but noted that there were other ways to do this without a variance. This Board is obligated to follow the law. This would set a precedence if we allowed it. Mr. Rozmus asked if the applicant could utilize the building if it was smaller. Mr. Lambert replied he could store some stuff in it. He would make do as rules are rules.

Motion by Frank DeGuire, seconded by Dean Marquardt, to deny the variance as requested. The vote to deny carried unanimously 4-0.

4. Adjournment.

***Motion by Alderman Frank DeGuire, seconded by Rod Carter, to adjourn the meeting at 7:33 pm.  
Motion carried unanimously.***

Respectfully Submitted: Justin Drew - Zoning and Building Administrator