



Zoning Board of Appeals

Thursday, May 6, 2021 at 6:00 p.m.

Meeting Available on Zoom.us at the following meeting number:

<https://us02web.zoom.us/j/85813979365>

In lieu of participating via the Zoom website, the alternative telephone only dial-in is:

Telephone number: 312-626-6799 Meeting ID: 858 1397 9365

"Due to the COVID-19 Pandemic and in recognition of the declaration of states of emergency by the President, the Governor and the Village President, this meeting will not be open to the public in an in-person capacity. Those wishing to observe may do so by downloading the ZOOM app to your personal computer, tablet or smart phone and utilizing the above information to join via either computer or telephone. If you wish to communicate in written format with the Board you may send written comments to the Village Clerk at 235 Hickory St.

Pewaukee, WI 53072 or you may email the Clerk at csmith@villageofpewaukee.com."

1. Call to Order and Roll Call
2. Approval of Minutes
 - a. October 22, 2020
3. Public Hearing
 - a. To consider a Request of Jeff and Suzi Ellington, as applicants and property owners, to construct a new home with attached garage structure at 433 Park Avenue which exceeds the 30 % Maximum Building Coverage Ratio as setforth in Section 40.210.5.2 of the Village Code.
4. New Business
 - a. Discussion and Possible Action to consider a Request of Jeff and Suzi Ellington, as applicants and property owners, to construct a new home with attached garage structure at 433 Park Avenue which exceeds the 30 % Maximum Building Coverage Ratio as setforth in Section 40.210.5.2 of the Village Code.
 - b. Discussion and Possible Action to Determine Future Meeting Date (if needed).
5. Adjournment

All interested parties please note: Section 40.137 of the Village Code states "The concurring vote of four (4) members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variation there from. The grounds of every such determination shall be stated."

Note: Notice is hereby given that a quorum of a Village Committee and/or Commission may be present at the Zoning Board of Appeals meeting, and if so, this meeting shall be considered an informational meeting of that Committee or Commission and no formal action of that Committee or Commission shall occur. Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. To request such assistance, contact the Village Clerk at 262-691-5660.

Dated: April 27, 2021

Cassandra Smith – Village Clerk

**VILLAGE OF PEWAUKEE
ZONING BOARD OF APPEALS
October 20, 2020**

1. Call to Order and Roll Call

Clerk Smith called the meeting to order at approximately 7:00 p.m.

Roll Call was taken with the following present: Kristine Tawil, Douglas Joers, Alternate Richard Goldade and Thomas Houck.

Susan Seagrist, Alternate Patricia Stonger, and Theresa Opie were excused.

Also Present: Mark Blum, Village Attorney; Scott Gosse, Village Administrator; Cassie Smith, Village Clerk.

Clerk Smith asked the board for recommendations for acting chairperson.

Kristine Tawil offered to Acting Chairperson for the October 22, 2020 Zoning Board of Appeals meeting. Motion carried on consensus.

2. Approval of Minutes

- a. **September 14, 2016**
- b. **April 20, 2017**
- c. **June 26, 2017**
- d. **July 27, 2017**
- e. **October 5, 2017**
- f. **July 18, 2019**

T. Houck moved, seconded by K. Tawil to approve the minutes of the September 14, 2016, April 20, 2017, June 26, 2017, July 27, 2017, October 5, 2017 and July 18, 2019 Zoning Board of Appeals meeting as presented. Motion carried 4-0.

3. Public Hearing

- a. **To consider a Request of Scott and Jennifer Immel as applicants and property owners, to construct a new detached accessory garage structure at 161/163 Main Street in a location that is closer to the side lot line (i.e. 5 feet proposed vs 10 feet minimum required) and taller (i.e. 22 feet proposed vs 15 feet maximum permitted) than the Ordinance provides for.**

Scott Immel @ 161/163 Main Street – Mr. Immel referenced the handouts of the non-conforming lot submitted for review of the Zoning Board of Appeals. The lot is non-conforming due to the acreage being less than one acre but he would like to be able to construct a garage on the property with the offset to be 5' vs. the 10' required. To conform with the current offset the garage would have to be placed behind the house and that is not something he would like to do and he sees that as a hardship. He would also like to construct the garage to be taller than allowable per the code as he would like to keep the same look as the house so that the garage building can be consistent with the current house.

Attorney Blum verified that that Mr. Immel submitted to the Zoning Board of Appeals a document listing 7 items signed by Scott and Jennifer Immel, a picture of the front elevation of the house, a picture of the current

driveway and shed, a sketch of the proposed garage, a document regarding the accessory building height with 5 items listed, a sketch showing the roof pitch of the house and a 12/12 proposed garage roof pitch, sketch of the house and a 6/12 garage roof pitch, a sketch of the proposed roof height in comparison to the mandated roof height and a survey of the property with the proposed garage shown.

T. Houck stated he appreciated the overlay on the survey and asked if the rear lot line goes back to Wisconsin Ave. Mr. Immel stated that the property does go all the way back to Wisconsin but there is a jog in the property which can be seen on the survey with a slight elevation. The elevation difference from Main Street to Wisconsin Ave is about 10 feet drop.

Charles Ramage – 159 Main Street – Mr. Ramage stated he is not hearing hardship only inconvenience about the proposed garage, he could make the garage smaller to fit the lot.

Mary Ramage – 159 Main Street – Ms. Ramage wants to know the footprint of the garage, what are the dimensions and who is going to build the garage.

Mr. Immel stated that the garage is 22' in width and 40' in depth.

Charles Ramage – 159 Main Street – Mr. Ramage asked what types of materials would be used to construct the garage.

Mr. Immel stated that the materials used will be relatively the same as the house, they want to keep the garage look the same as the home with 6" lap siding.

Charles Ramage – 159 Main Street – Mr. Ramage asked is the garage will be attached and will it require expansion of the drive in width or length.

Mr. Immel stated that the garage will not be attached and the driveway will not be expanded.

Charles Ramage – 159 Main Street – Mr. Ramage asked if their will be utilities; water, sewer, electric or gas.

Mr. Immel stated that the garage will have electricity. Attorney Blum stated the code would not allow for the structure to be lived in.

Mr. Immel responded to Attorney Blum stating that the existing shed would be razed if the proposed garage was approved.

Mary Ramage – 159 Main Street – Ms. Ramage questioned the elevation change; will he need to bring in fill to account for that elevation change.

Mr. Immel responded that it is about a 2' difference in elevation but the structure will have a footing all the way around with siding all the way around the structure covering the block.

K. Tawil moved, seconded by D. Joers closed the Public Hearing at approximately 7:29 p.m.

Motion carried 4-0.

4. New Business

- a. **To consider a Request of Scott and Jennifer Immel as applicants and property owners, to construct a new detached accessory garage structure at 161/163 Main Street in a location that is closer to the side lot line (i.e. 5 feet proposed vs 10 feet minimum required) and taller (i.e. 22 feet proposed vs 15 feet maximum permitted) than the Ordinance provides for.**

Attorney Blum read 40.134(2) of the Village of Pewaukee Municipal Code. Clerk Smith showed the Finds of Facts on the screen to facilitate the meeting and conclusions of law.

A. Are the restrictions on the property unnecessarily burdensome, preventing the owner from using the property for a permitted purpose?

T. Houck expressed that he believes the restrictions placed on this property are unnecessary burdensome due to the property being legal non-conforming and the proposed lot size is roughly a third of the lot if it was new construction and what would be required. Looking at the age of the property and it is falling into a zoning requirement after the structure driveway and pad has been in place and trying to apply the zoning standards that would apply to a much larger lot. The characteristics of the property regarding the decline in elevation on the property due to the amount of fill that would be needed would not match the character of abutting properties. Restrictions placed on the property are unnecessary burdensome and preventing the owner of using the property for the permitted purpose of the multi-family residence. K.Tawil agreed with T. Houck and added that using the property for a permitted purpose includes having an appropriate garage and she believes the restrictions are unnecessary burdensome due to the size of the lot. D. Joers stated he doesn't see the hardship as the proposed garage doesn't have to be two cars deep where the garage could be placed further back on the property towards Wisconsin Ave. and he doesn't see the height difference from 15' to 22' due to the style of the house as it has having flat roofs; he understands getting close to the south lot line but the garage could be moved further back and therefore he doesn't see this as a hardship. T. Houck asked if there would be some type of impervious issue with the driveway and the drainage. D. Joers turned the garage 90° and it fits in the property within the code. T. Houck stated that if you turn the garage can you pull into the garage? K. Tawil stated she has a property where the garage is at a 90° turn and it is horrible and would never build a garage like that. D. Joers stated he still doesn't see the hardship. R. Goldade took the garage and moved it 90° and it may not be ideal but it would allow for the structure to be built within the current limits, even if the structure would be moved back. There are options, the hardship is not the property it is just figuring out where the structure can fit on the property. T. Houck reminded the Board that at one point this property did have a garage at one time but he thinks the hardship the zoning for this property and the property not having the sq.ft on the property as the zoning requires. K. Tawil stated that fitting the garage in to be compliant with the current zoning would create more hardships such as additional costs. R. Goldade asked if the garage needed to be 2 cars deep. T. Houck responded and stated that if two people are working and ideally both would like their cars in the garage. **T. Houck moved, seconded by K. Tawil to approve the variance request for 161/163 Main Street as requested from the Village right-of-way due to the lot configuration and severe elevation difference and the of the property and the height variance due to being consistent with the historic property including the following conditions:**

- a) Construction of the garage to start within 12 months
- b) Materials to be consistent with the current structure
- c) Shed to be razed before construction of garage begins
- d) The applicant to act on the variance within 1 year of approval.

Motion carried on Roll Call Vote, 4-0.

b. Discussion and Possible Action to Determine Future Meeting Date (if needed).

None.

5. Adjournment

**T. Houck moved, seconded by K. Tawil to adjourn the October 22, 2020 Zoning Board of Appeals meeting.
Motion carried 4-0.**

Meeting adjourned at approximately 7:52 p.m.

Respectfully Submitted,

Casandra Smith
Village Clerk

DRAFT

STAFF REPORT

To: Village of Pewaukee Board of Appeals

By: Mary Censky

Date Prepared: May 6, 2021

General Information:

Agenda Item:

Applicant/Property Owner:

Jeffrey and Suzanne Ellington

Requested Action:

Variance approval to construct a new home with attached garage structure at 433 Park Avenue which exceeds the 30 % Maximum Building Coverage Ratio as set forth in Section 40.210.5.2 of the Village Code.

Current Zoning:

R-5 Single Family Detached Residential District with (LO) Lakefront Overlay.

Current Master Plan Classification:

Single-Family Residential

Surrounding Zoning/Land Use:

North: Pewaukee Lake

South: R-5 Single-Family Detached Residential East: R-5 Single-Family Detached Residential w/ (LO)

West: R-5 Single-Family Detached Residential w/ (LO)

Project Area:

~.14 acres

Property Location:

433 Park Avenue

Discussion:

Section 40.210.5.2. of the Village Code provides that the maximum first floor area coverage of all buildings on a lot (i.e. the Building Coverage Area) shall not exceed 30% of the lot area.

The applicant's lot is 5,246 square feet in area. Thirty percent (30%) of the lot area is 1,573 square feet.

The applicant proposes to remove the existing buildings from this site in favor of constructing a new home with an attached garage. This home with attached garage will have a footprint area of 1,816 square feet.

Recommendation:

The Planner notes here certain key provisions of the Village of Pewaukee Code – Chapter 40, Article II, Division 5 as follows: ...

- Section 40.134. (2) - Gives the Board of Appeals the following "Power" (among others):

To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in no reasonable use, practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

- Section 40.135. - Sets these “Additional requirements”:

In making its determination the board of appeals shall consider whether the proposed variance or use would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects; and may impose such requirements and conditions with respect to locations, construction, maintenance and operation, in addition to any which may be stipulated in this division, as the board may deem necessary for the protection of adjacent properties and the public interest and welfare.

... and certain key provisions of the Wisconsin Statutes as follows:

- Section 62.23(7)(e)7.d.

A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

March 21, 2021

Jeff & Suzi Ellington
433 Park Avenue
Pewaukee, WI 53072

Village of Pewaukee Zoning Board of Appeals
235 Hickory Street
Pewaukee, WI 53072

Dear Zoning Board of Appeals Members,

Suzi and I, along with Espire Builders, want to thank you for the time and consideration you have given us with regard to our requested lot improvement and rebuild of our property on 433 Park Avenue in the Village of Pewaukee.

Suzi and I have are originally from Wisconsin and chose Pewaukee as the place we would raise our family and call home for 25 years now. We have witnessed and benefitted from the meticulous and organized planning of Pewaukee by the coordinated efforts of the village and city boards. We recently learned that the planning commission and zoning board of appeals are volunteer positions, so it is clear you have a great love for our village. We want you to know we also love Pewaukee; it's our forever home. We come to you with reverence with a request that we hope you will agree is in the best interest of our vibrant and beautiful village.

We are requesting to remove the current structures and build a 2,486 square foot walk out with a 2-car garage. We are meeting with the Village Plan Commission on April 8th. Based on their feedback on March 11th, we are hoping the Plan Commission will approve our setback requests, yet we do believe we will need the Board of Appeals' approval for our request related to non-permeable space.

First, allow us to outline the current situation on our property at 433 Park Avenue:

- **Non-Permeable Space = 53.5% of the current lot.**
- Setback from the road – On the East side we are 4.25' from the road.
 - Our garage angles away from traffic coming from the East. THIS IS A SIGNIFICANT SAFETY ISSUE. When backing out of our garage, our car is into the street before we can see on coming walkers, bikers or drivers coming from the East.
- East side – Structure at the closest point is 1.5' from the side lot line
- West side – Structure at closest point is over our lot line by ~1'
- Setback from the Lake – 30 feet

The summary of our requests include:

- **Exception for non-permeable space of 38% vs. 30%.**
 - Current lot square footage = 5,246; 30% = 1,573 sq ft
 - We are requesting 1,975 non-permeable sq ft

- The house & garage is 1,808 sq ft. as proposed
- 1,975 includes needs for retaining walls
- All other surfaces will be permeable surfaces.
- Exception for setbacks of 7' on each side vs. 8'
- Exception for setback from the road of 13' vs. 35'
- Setback from the water at 45' (which is equal to the average of our neighbor's setback on either side).

Relative to our request for the variance for our non-permeable space:

1. Unnecessary Hardship:

- Without any variances, a compliant structure cannot be built on this lot. We have one of the few 40' wide lots and our updated survey has our lot at ~135' long. If we were held to the current required setbacks from the lake, sides and the road, a home and garage could not be built to meet the requirement for the garage and a 1,000 sq ft main level home for example.
- Assuming we are granted variances to allow us to build 7' from each side lot line, 45' from the lake and 13' from the road, we still cannot meet the non-permeable square foot requirement and still build a home that meets the requirement to have 1,000 sq ft on our main level.
 - Because of the slope of our lot we will require retaining walls and all other surfaces will be permeable. This means the 402 sq ft of permeable surface we need has to come from the house.
 - Our current home and garage footprint as stated above is 1,808 sq ft.
 - Our first floor living space is 1,308 sq ft.
 - Our first floor living space will be reduced to well under 1,000 sq ft to accommodate the requirement.
- The size of our lot according to the Waukesha County property tax site is .1378 acres = 6,002.57 sq ft. By rebuilding we are ceding over 750 sq ft to the Village as Park Avenue runs across our lot. This reduction in our lot size reduces our non-permeable space allowance by 228 sq ft.

2. Unique Property Limitations

- Our property slopes significantly from the street to the lake dropping 15'. Because of this, we are very limited in the kind of structure we can build to attempt to meet the R-5 Lakefront Overlay District requirements.

3. Protection of the Public Interest

- Our site / building plan is supported by and is definitely in the best interest of the general public. Our proposed building makes the following improvements:
 - Our current non-permeable space on our lot is 53.5%. Our proposal reduces it to 37.6% of our now reduced lot size. **This improves our permeable space by 15.9%.**

- Side Setbacks – We will no longer encroach on our neighbor’s lot and will move from 1.5’ from the other side lot line to 7’.
- Our setback from the lake goes from 30’ today to 45’ in our proposal.
- We solve a SIGNIFICANT SAFETY ISSUE as stated above by better aligning our garage to the street and moving the setback from 4.25’ to 13’ so our car is not already in the street before we can see oncoming traffic.
- Our building plan will create a home that is much more attractive to both the street and the lake.

In summary, granting our request results in significantly more permeable space on our lot, a home that is far more compliant with current regulations and dramatically improves both curb and lake appeal, and it solves a very real safety issue with our garage. In addition, without this variance we cannot build a structure that meets current lot requirements. We greatly appreciate your consideration and look forward to the opportunity to speak with you on April 15th.

Sincerely,
Jeff & Suzi Ellington



NORTH ELEVATION

ELLINGTON RES.
2-9-21

© 2021 ESPIRE HOMES

Elevation not finalized
example demonstrates pitch of lot



STREET ELEVATION - ALTERNATE
SCALE: 1/4" = 1'-0"



STREET ELEVATION
SCALE: 1/4" = 1'-0"



LAKE ELEVATION
SCALE: 1/4" = 1'-0"



SIDE ELEVATION
SCALE: 1/4" = 1'-0"



ESPIRE HOMES INC.
533 Lakeside Dr.
Hartford, CT 06109
860-264-0000

Ellington Lake Home

SCALE: AS NOTED
DRAWN BY: DJA
DATE: 7-26-21

1
2

Reference to plat on file w/ Waukesha County
We are being taped for this lot size

Date September 5, 1983

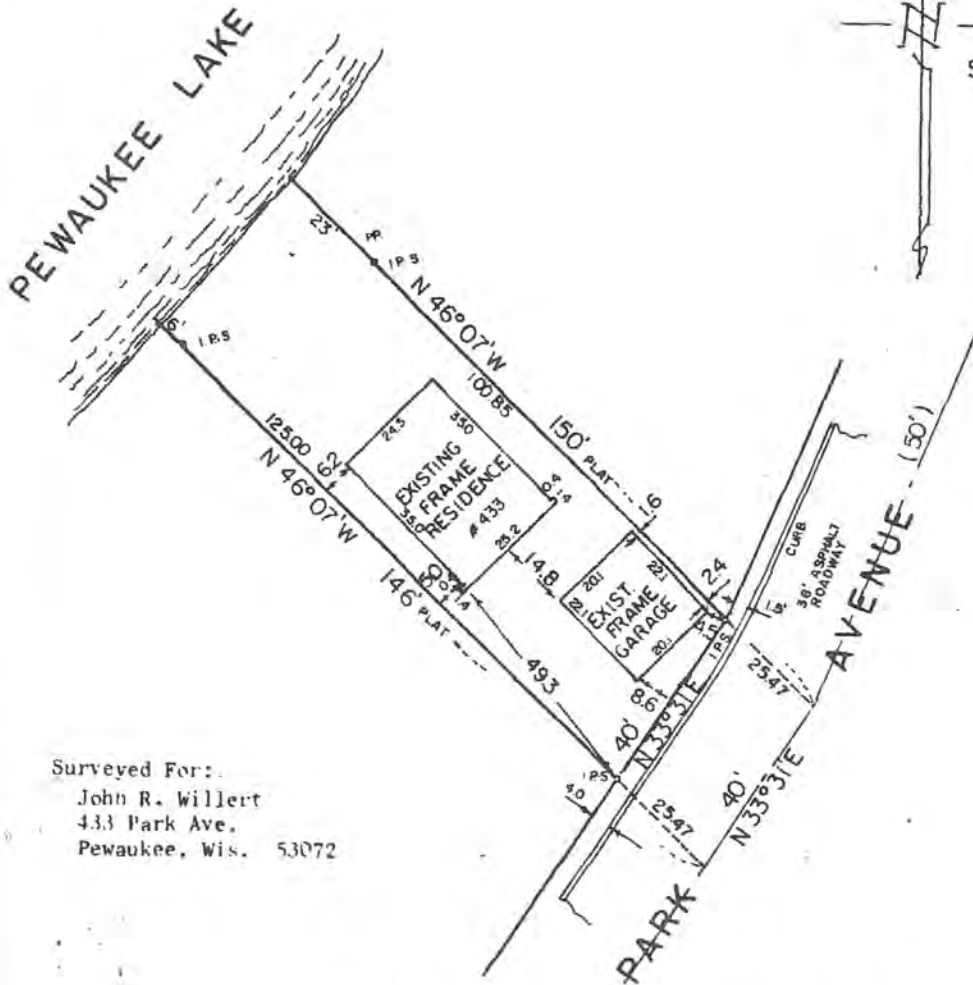
PLAT OF SURVEY

Job No. PE-2084-W



WCPS0074704

LOT 1, BLOCK 2, DREWS' SUBDIVISION, being a part of the Southeast 1/4 of Section 8, Township 7 North, Range 19 East, in the Village of Pewaukee, Waukesha County, Wisconsin.



SCALE:
1" = 30'

Surveyed For:
John R. Willert
433 Park Ave.
Pewaukee, Wis. 53072

SURVEYED BY
PRUDLOW & BUECHL, INC.
233 OAKTON AVENUE
PEWAUKEE, WISCONSIN 53072

Phone 691-4444

I have surveyed the above described property, and the above map is a true representation thereof and shows the size and location of the property, its exterior boundaries, the location and dimensions of all visible structures thereon, fences, apparent easements, roadways and visible encroachments.

This survey is made for the exclusive use of the present owners of the property; also those who purchase, mortgage or guarantee the title thereto, within one year from date hereof, and to them I warrant the accuracy of said survey and map.

Michael W. Buechl

REGISTERED LAND SURVEYOR NO. 8-1106 - STATE OF WISCONSIN



