

MINUTES
FLOSSMOOR PLAN COMMISSION
REGULAR JUNE MEETING
JUNE 17, 2021

Chair Curran called the June 17, 2021 regular Meeting of the Plan Commission to order at 7:38PM

1. ROLL CALL

PRESENT:

Chair Curran (remote), Commissioners Maddox, Martin, Mitchell and Yast (remote)

ABSENT: Commissioners Matthys and McCarthy

ALSO PRESENT:

Scott Bugner, Zoning Administrator; Emmanuel Agbarah, Petitioner, Liz Agbarah, Petitioner; Walter Anglin, Stephanie Anglin, Ashley Rich Residents

2. APPROVAL OF THE MINUTES OF THE MEETINGS OF MAY 20, 2021

Chair Curran asked if there were comments or changes for the minutes of the May 20, 2021 meeting. Commissioner Martin advised that she had provided her recommended changes to Mr. Bugner. Chair Curran asked for a motion and a second to approve the minutes as amended.

Commissioner Martin motioned to accept the minutes of the May 20, 2021 meeting as amended. Commissioner Yast seconded the motion which passed by voice vote.

AYES: Commissioners Maddox, Martin and Yast

NAYS: None

ABSTAIN: Chair Curran, Commissioner Mitchell

3. CONSIDERATION OF A REQUEST FOR APPROVAL OF A SPECIAL USE FOR A SPORT COURT AT 2705 HEATHER ROAD (AGBARAH)

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Chair Curran opened the Public Hearing and introduced the agenda item and asked Mr. Bugner to provide a review of the request.

Mr. Bugner advised that the subject property is an interior lot located on the south side of Heather Road, improved with a single-family residence and attached garage. The property is approximately 15,000 square feet in area.

He advised that in 2018, a permit for a 22' x 35' concrete patio located in the rear yard adjacent to the garage was issued. Subsequently, the patio had been converted to a sport court with a permanently mounted basketball backboard and a painted basketball court on the slab.

He stated that in April of this year staff received complaints from the neighbors on either side of the property regarding the basketball court. The complainants advised that there would be anywhere from 6 to 12 kids and adults playing at all times of the day and night and that whenever they are playing there is constant yelling and banging of balls against the backboard which infringes on the quiet enjoyment of their homes and that the basketball court has become a chronic nuisance.

Mr. Bugner stated that upon receipt of the complaints and verifying that the patio had been converted to a permanent sport court, the petitioner was advised that a Special Use Permit would be required to continue the use as a sport court or to remove the backboard and return the use to a patio.

He stated that the petitioner argues that the court in the rear yard is safer because Heather Road is a busy street and that they want to protect their children and feel comfortable that when they are outside playing and that there is no fear of them running onto the busy street.

Chair Curran asked the petitioner to provide some background on the request.

Mr. Agbarah explained that he had a permit for the patio and that his kids and the neighborhood kids love to play basketball. He stated that his primary reason for putting the basketball court in the back was for the safety of his kids and that he has 3 young children and that their friends come around, and that is safer for him and the kids if they are not playing in the front by the busy street. He stated that there are a lot of cars that drive by fast down Heather Road so his primary job as a parent is to make sure that his kids are safe whatever they are doing. He also advised that part of the reason also is that there are not very many basketball courts in the Flossmoor area and that his middle kid who is 10 years old is a basketball lover and to end up playing for HF and ultimately play in the NBA. He feels that as a parent, he feels that his job is to at least provide him with the tools that he needs to possibly achieve his goals. He advised that his kids have friends in the neighborhood and that they are generally his 7 year - old daughter's age and younger and that he would rather have them play in the back yard where it is safe than potentially running into a busy street and getting hit by a car. He stated that if he had known that he needed a special use permit, he would have applied for one at the time he applied for the patio. He stated that they have taken precautions to put a 9 - foot rebounding net that is temporary and can be taken down in the winter so that the ball doesn't go into the neighbor's yard.

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Chair Curran advised that we appreciate that you want to provide a safe play area for the children and that we aren't in favor of having sports activities in the front where the ball can go into street and put the children in danger. He stated that one of the reasons that we have this ordinance is to ensure that when these recreational facilities are developed in residential areas, that they don't impact the neighbors and so it is important for the community and the Village to ensure that not only do we have a safe place for these kids to play but that they don't negatively impact the neighbors and the community while they playing. He appreciated the petitioner coming in to try and resolve the issue and advised that is not that the Village is against sport courts in general, but that it is also important that they be developed in the right manner.

Chair Curran advised that it looked convenient to put the court on the existing patio but asked Mr. Agbarah if he had looked at other locations that may be a little further from the property line. Mr. Agbarah advised that he had not and that if they were to put it anywhere else they would have to create another patio and that would be essentially in the middle of their backyard. Chair Curran asked if Mr. Agbarah was saying that he would be inconvenienced by having to move the court. Mr. Agbarah stated that the existing court is also used as a patio and not just a sport court. He advised that it is used for picnics and other things and is not 100% used as a sports facility.

Chair Curran advised Mr. Agbarah that if a special use permit is granted that it may have conditions imposed on it and asked Mr. Agbarah if he had anything else he would like to add. Mr. Agbarah stated that he believes being a good neighbor is welcoming people in the community and that a lot of kids are now in the neighborhood and that this is a way for us to bond as a community and that a lot of the kids love playing basketball, adding that they have invited the complainant's kids over to play because they enjoy playing basketball and that they have played back there. He stated that it's not just for him but that it is something that we do as a community to bring people together, especially in these times.

Chair Curran advised that it is not the idea of having a sport court or a recreational area, it's making sure that it is located in the right spot and that the usage of it is such that it doesn't impact the neighbors. He advised that in going through the comments that were received, the issues that have been raised have been noise, lights, balls leaving the property and hours of use, and that those are things that will want to be discussed as we go through the proceedings.

Chair Curran asked the commissioners for questions of the petitioner.

Commissioner Yast advised that he is abstaining from voting and will recuse himself from questioning as well.

Commissioner Martin stated that she appreciated the community and the safe space and that competitive sports are a great way to raise young people but that her concerns are firstly the neighbors concerns about the hours of the activity, the noise of the activity and some of the other things that were addressed in their concerns regarding the use of the pad. Mr. Agbarah advised that in terms of the ball going into the neighbor's yard he had mentioned that they had put up a 9 - foot net that should prohibit the balls from going over and that adding that would basically rebound the ball in the event it went

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toward their yard. Commissioner Martin asked if the fence was currently installed and whether it was see-thru or a privacy fence. Mr. Agbarah advised that it was a netting that you could see through and that it is currently installed.

Commissioner Martin advised that there are noise ordinances and asked about the hours of use. Mr. Agbarah advised that his kids aren't out there past 10PM playing and that he could agree that everyone goes inside at 10PM. He advised that the kid's bedtime is usually at 9:30PM anyway and asked if the commission believes that is a reasonable time he would be more than happy to do that.

Commissioner Martin stated that Chair Curran had a great point that he brought up and asked about the rear yard and whether the sport court could be moved to another location on the property where it not be so invasive. She asked if that would be something he would consider so that the neighbors could enjoy their space while you can also enjoy your space, or if you have considered vegetative buffers. She advised that the commission when granting special uses for swimming pools and sport courts require a vegetative buffer or some kind sound barrier. Mr. Agbarah advised that he would be open to looking at potential sound barriers that would help.

Commissioner Mitchell advised that he had visited the property and that he walks his dog past there all the time and that he thinks the petitioner has done great with the house. He stated that while we are looking at the plot plan, what is not shown is that there is a large vacant area to the west and another basketball court on the property to the east in the driveway, and that as you walk around the block there are at least 6 or 7 other courts in the driveways nearby. He stated that he understands how the petitioner wants to have the court in the rear yard and the safety concerns, and advised that if they had simply put a moveable basketball hoop on the patio, we wouldn't even be here and you could play whenever you want, but because the court was made permanent and to scale we are here to consider a special use permit. Commissioner Mitchell advised that the only concern he had is the timing. He advised that the commission had approved a court on Central Park Avenue about 10 years ago that was owned by a former professional baseball player and that they had a full court, and that the commission only permitted a half court and prohibited lights because they would often play until 10 or 11 at night, and that hedges were required so that the neighbor behind had a buffer.

Commissioner Mitchell advised that with the petitioner's property, while there is the mesh, there is no hedges or anything else that protects the neighbors from not just the ball bouncing but from all of the kids who are there and asked the petitioner to address what he might be prepared to do as to adding hedges or anything else in that regard, he would like to hear it. Mr. Agbarah advised that there actually hedges there before but that Village told them that they were overgrown and they took them down, but added that if they need to put hedges in so that the kids can have a safe place to play in the backyard then they would be willing to do that.

Commissioner Mitchell advised that other issue is with 10PM, stating that was late. He noted that while that may not seem late in the summer time, in the winter it gets dark at 4:30 or 5PM and in April when the complaints started coming in it gets at 4:30 or 5PM and that they were playing until 8PM and that is a lot for the neighbors to be dealing with. He added that the real concern is how you would police the

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noise and what are you willing to do in that regard because the neighbors, even though they may not have small kids like you, they have a right to enjoy their quiet and their evenings as well. Mr. Agbarah advised that he is willing to make concessions so if you say that 9PM is time where there is no more basketball that's fine. He added that all he wants is for his kids to be able to play back there. He stated that typically dinner is at 7PM at the latest and that they may be out there shooting free throws or whatever, but that they could curb that and whatever we need to do to allow them to play back there, that is what they are willing to do.

Commissioner Maddox appreciated what Mr. Agbarah was doing for the community and that was why we are all here as volunteers because we care about our community. He stated that putting your kids and the neighborhood kids first is a commendable thing and that he much agrees with Mr. Agbarah in wanting to keep the kids safe adding that he just installed a fence in his backyard so he can have peace of mind when his young kids are back there he doesn't have to worry somebody coming in or them getting out. He understands that not wanting the court in the front where a ball rolls in the street and things can go negative. Commissioner Maddox advised that he didn't get a chance to see the pictures and asked if there was currently a fence installed. Mr. Agbarah advised that there was a netting put up which is 9 – feet high by 30 feet wide so that the ball doesn't go into the neighbor's yard. Mr. Bugner advised that it is not a privacy fence and that it does not enclose the rear yard. Commissioner Maddox advised that installing the net was proactive but that he agreed with Commissioner Mitchell that the real issue is the sound and the hours and being respectful of the neighbors so if there could be some sort of agreement on that you would have my blessing be okay with that adding that your kids should be able to be kids on your own property but that the neighbors also deserve some peace.

Commissioner Mitchell advised the petitioner that the reason why the commission is harping on this and that it may seem like they are picking on you is that if you would have indicated when you applied for a patio that this was intended to be a sport court in the first place and obtain a special use permit, these conditions that we are talking about now would have been placed on you before you were even able to do it. He advised that fencing, sound issues etc. would have been discussed and that the neighbors would have had an opportunity to comment on how you could do it without adversely affecting them.

Commissioner Martin again appreciated Mr. Agbarah for opening up his home to the neighborhood kids and that is wonderful but that right now she also needed to look at the people that own the properties surrounding them and advocate on their behalf right now. She advised that lighting is an issue, the fence is probably not where it needs to be, and that we probably need to talk about vegetation. She stated she understands that there were bushes there before adding that she moved in to a home that was built in 1954 that had vegetation that was overgrown and had to prune back some of the nature to make it livable and then brought some new plantings in. She advised that she needed the neighbors to be able to live their lives soundly too and appreciate their properties, and be whole in their space so if they are visiting with company or family, they don't want to be drowned out by their neighbor and don't want you in their face. She advised that they don't want a ball zinging by their face when they have visitors in their yard and that she wants the petitioner to tell the commission how you are going to keep the balls on your own property, how you are going to keep the lighting on your property, how you are going to keep your sound buffered so it doesn't drown out your neighbors while they are visiting with their

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company or reading a book on their porch. She added that one of things she loves about this community is that she can go out on her property anytime she wants and sit out there and that it is so peaceful. She advised that she doesn't mind listening to the children play which is like a beautiful song to her, but some people also need to be able to get out and decompress from their day and enjoy their property also, and that we don't want to encroach on them also. She advised that 9PM would be a good time to cut off the play and that is reasonable, and also think that we need to start talking about lighting, fencing, and vegetation.

Commissioner Mitchell advised that he wouldn't support 9PM and would suggest dusk because it changes over time. He stated that when it starts getting dark sound travels. He stated that these complaints started in April when it is dark at 6PM.

Chair Curran asked Mr. Bugner to open it up for public comment.

Walter Anglin of 605 Park Drive advised that he, his wife and 2 sons have lived there since November of 2004 and it wasn't until fairly recently that issues with us being able to enjoy our home has become such that we find ourselves here today. He advised that their sons are 18 years of age and also love basketball and as one of the commissioners mentioned that he often walked the neighborhood that he has probably seen them out playing basketball in their driveway. He stated that one of things that he wanted to respond to is the safety of children playing on a street such as ours, advising that yes, it is a busy street and when their kids were younger, having that same concern, either himself or his wife were always outside with them when they young enough where there was concern where they might chase the ball into the street. He stated that having the basketball net in the driveway is a way of being considerate to our neighbors because with the basketball court being out there it is wide open space and the sound travels away from the house and that no one is ever bothered by their sons playing basketball. He advised that he thinks it is important when you move into a new neighborhood, that whatever you are doing, you have to keep in mind that whatever activity you are engaged in, you keep in mind how that might affect your neighbors. Are they able to enjoy their space while you are entertaining? Are they able to enjoy while you are outside doing whatever it is that you are doing? He stated we all need to keep in mind that we moved into a neighborhood with the expectation of a certain standard of living and that standard of living being where our children are safe and where they can get a good education. He advised that there are several parks in the area and that there are many places kids can go on their own when they reach a certain age or with their parents where they can engage in all kinds of activities and that is why they moved here. He advised that this neighborhood has several parks and that there are parks with basketball courts, and parks with tennis courts, and parks with splash pads. He advised that there all types of things for kids to do and that even the schools have recreational facilities available for our kids to enjoy. To say that you feel as a parent that your kids need to be in the back of your house in order for you to feel safe about them when they are playing, I think that's not taking advantage of all that's available in this community. He advised that he can understand that it might be convenient to have a basketball hoop in the backyard but that might not always be what is taking into consideration how this impacts my neighbors. He advised that when his kids were small and they wanted to run around like kids do, are space is open and there are no fences and that's one of the things we liked about it, that there are no fences because it is a park like setting, adding that it is nice

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and open and that for those that maintain their property as most of us do, it's nice to have that open park like setting. But to back, when the kids were young they taught their kids to respect boundaries and that they also believe in respecting the quiet enjoyment of our neighbors and allow them to do what they want to do with their space while we do what we want to do without infringing upon that. He stated that just recently one of our neighbors that moved in had a wedding with at least 30 people there where they had a DJ and passed around a notice about a week in advance to everyone in the neighborhood that they were going to have a wedding on this day, at this time just so that we were aware and so we could prepare for it and the day of the wedding they kept to their timeline and even thought the wedding was going on from 12-6PM, he was able to take a nap in his bedroom which is on the same side of the house because the noise wasn't to the point where it interrupted his sleep and he is saying that to say you can do what you want to do on your property as long as you aren't infringing upon what your neighbors want to do on theirs.

Chair Curran asked Mr. Anglin for his address again. Mr. Anglin advised that he lives at 605 Park Drive which backs directly up to the petitioner's house facing the east direction.

Chair Curran advised that the situation with these 2 properties is a little bit uncommon if you have properties that are adjacent and parallel to each other and in this particular case Mr. Anglin's house is more in the petitioner's backyard. Mr. Anglin advised that they all share the same back area space. Chair Curran added that their house is behind the back of the petitioner's house. Mr. Anglin advised to some extent yes.

Chair Curran if there any other public who wished to comment.

Katie Lee Dobro advised that she is the sister and sister-in-law of the Agbarah's, that it may be a difficult to hear her because her neighbors were playing basketball right now. And that as a registered nurse we need to understand that even though we watch our children very carefully as much as we can as working parents and during the pandemic, tragedies can happen and minimizing the risk is crucial. She advised that she personally heard the wonderful basketball noises of said neighbors and it brings joy to her heart. She stated the window of the master bedroom literally faces the neighbor and that they stop playing at 10PM just as the Agbarah's stop playing at 10PM.

Stephanie Anglin of 605 Park Drive wanted to be clear about what is going on here. She advised that this is not just the kids playing, but adults as well and not just at a certain time of the day. She stated that it all throughout the day and night and it is not just basketball playing as she and her kids love basketball too and that she was a basketball manager. She wanted to explain what it means to live next to someone who has at any given time bouncing 6 balls at a time, throwing them up against the backboard, missing that, and that sound carries because it is less than 17 feet from our window, our dining area, our living room, our family room and our bathroom, even with the windows closed. She stated that they are not just playing basketball, they are yelling and screaming at the top of their lungs all the time. She said that of course kids play and that in the 17 years they have lived there, they have never complained about other neighbor's kids because they were playing at a reasonable level of sound. She stated that the neighbor's we are talking about now, no way. She advised that they have called the police because it

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is at a point where you cannot even be in your room. You cannot eat, you cannot lay and watch the game or any movie in your family room so you have a whole section of our house that you can't use because they are out there bouncing multiple ball at the same time and banging up against the backboard. And to say you are willing to be a considerate neighbor, she advised that they were the ones who spent thousands of dollars to plant evergreens to block them from coming into our yard and that were the ones that actually came forward and said wait a minute, this can't be right that they can ask for a permit for a patio and then build a court. She said let's be clear that these are a nuisance and that this is a constant throughout the day and not something where you say, okay well you have 2 hours fine I'll go into another room for a while, no this is throughout the entire day and night. So the stress of not knowing when they will stop and the fact that they will not calm down, screaming at the top of their lungs. She stated that they have listed their complaints in writing and called the police on multiple occasions. She stated that just the other day, top of the lung screaming so that is an impact to our health to not have the peace of mind to know that I can watch TV or relax or enjoy my sunroom without having to go up against the neighbor's and say could you please not come in our yard, could you please bring it down only to be met with "we're doing us". She advised that this court is not used by the family and that they have had people playing over there when they aren't even home because it is treated like in a playground or a sport court facility. She said make no mistake, this is not a recreational, every now and then thing, this is truly a sports court and so I want neighbors to understand what this truly is and that the petitioner will not abide by any concessions either, and so the only way we can get to the point where they are managed is to call the cops because that's how they are managed. They are not going to listen to any reason and if you give them concessions. She said just when they told them not to play they were out there the next day playing, she stated that we understand that until they got the special use permit that they should not be playing basketball on that court. Records will show that they were out there playing the next day and that she does not believe that they would abide by any conditions or any agreement that you reach and that the neighbors will be managing them by the police.

Chair Curran asked if there was anybody else from the public wishing to comment.

Ashley Rich of 2829 Birch Road wanted to speak on the character of the Agbarah family and that she was an educator in the district. She understands that is a really difficult situation where neighbors can't get along and understands the comments from the previous speaker. She just wanted speak on behalf of them that with this meeting today and all of the information that has been given, if there are conditions and rules that need to be abided by, that will be done by the Agbarah's. She advised that the Agbarah family are the best people. She advised that her young elementary school children and her pre-school child have all played over there and as far as the basketball court she was thrilled to find out that her students had a basketball court in the backyard. She stated that she grew up in an area where there were basketball courts in the driveway and there were situations kids chased balls into the street and were almost hit by a car, so as an educator knowing that her 6 - year old student has basketball court in her backyard and knowing that she isn't going to run out into the street chasing a basketball is very reassuring. She stated as far as the screaming of the children, she pointed out there have been times in her large backyard where they have pool parties and such that there are times that children just might yell and this might happen with or without the basketball court and that can be a completely separate issue and that kids are going to be kids and she advised that her 7 - year old student has other recreational items in her back too. She stated that her parents are very attentive as far as being there

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and being mindful of what they are doing and that there is usually an adult in the home and always someone there to watch them and know what's going on. She added that she knows that it does seem like all of the kids and strangers and people coming in from Indiana to go to the basketball court but it really is that this is an amazing family and that a lot of people like to visit including herself and that we bring our kids there where they can have a safe time in the backyard.

Chair Curran advised that just to be clear, Flossmoor does not have a prohibition on sport courts in the backyard and that Flossmoor is a safe environment for kids to play but that the issue here is the supervision and use of the court that seems to be in question.

Chair Curran asked if there was anybody else who wished to speak.

Mr. Agbarah wanted to say that he and his wife have jobs and that the kids are in school so to say that the kids are playing basketball at all hours of the day and night is incorrect and that while his 10 – year old is really good at basketball he doesn't know anyone that can bounce 6 balls at a time. He stated that he didn't want to bring this up because kids will be kids but that his neighbors kids play basketball and that his bedroom window is right next to where they play, and that they play until 10 or 11PM, but that you don't see me calling the cops because I think that kids should be allowed to play basketball in their driveway or in their property. He stated that we have the pot calling the kettle black in the sense that their kids play even later than his and he hears it because his bedroom window is right there. He stated that he honestly doesn't know what the issue is but that he put up temporary barrier and that if he needs to plant greenery that's fine, if we need to put up a privacy fence I'll put up a privacy fence, and at the end of the day I think that we need take a step back and realize that kids can be noisy but that his kids don't scream at the top of their lungs ever.

Chair Curran asked if adults play there. Mr. Agbarah advised that every once in a while, his neighbor might stop by with his kids but that they don't have tournaments like they are trying to make it seem. Chair Curran advised that you have to understand that the noise impact that can be created with the use of a sport court like this and that if you do have a sport court it is your responsibility to control the noise level, control the play and control who actually uses it. Mr. Agbarah stated that was fair and like he said, if we need to put up greenery so that the ball doesn't go over or otherwise, we will do what we need to do make sure our kids can be safe and plain their backyard.

Mr. Anglin wished to follow up and be clear that his wife and he aren't exaggerating about the situation and that it is not just us but also the Schallmo's who could not be present tonight. He stated that we have all raised children and that we want them to be safe and that the issue isn't basketball but where it is being played. He said that our lots are not spread out enough to where they can have a basketball court in their backyard because of the layout of our homes which enclose the space and because it is somewhat of an enclosed space, the sound is trapped within that space and bounces off the houses and there is nowhere for it to go. He stated that's why looking around the neighborhood all of the other neighbors have taken that into consideration and put their basketball hoops in their driveways. He advised that no one goes to front of their homes to enjoy the yard, and that everyone enjoys their backyard where it is private and you expect it to be quiet and where you don't expect to have to interact

with anybody that you don't choose to, but when you have a sports court erected in your back yard and however often you want to out and enjoy it, when those times occur it interferes with the other neighbors around you that want to enjoy their space quietly. He said that you can't have balls bouncing off of concrete in an enclosed space like that and not know that it is impacting your neighbors. He stated that we all want our kids to be safe but that there are other options. He advised that the driveway is the closest option which may require you to be out there with the kids and that might require you to park the cars at the end of the driveway. He stated that his neighbors to the south have a similar length driveway as the petitioner and that they would park their cars at the foot of the driveway when their kids were younger and play basketball in the driveway and that only time from 2006 to 2020 did he ever need to have a conversation regarding the use due to the time of night. He advised that it was never an ongoing issue and it never a problem where they could not take them playing basketball. He stated that as parents we all understand that kids are going to be kids, kids are going to want to be loud and have fun, but when your activity impacts your neighbors negatively like it is doing to us and the Schallmo's at some point you should say to yourself ok, this is creating a problem what else can we do so that our neighbors can enjoy their space like we enjoy our space. He advised that quite frankly, their backyard isn't big enough for them to put up the type of sport court that he has even if it were to be relocated and that unless some type of sound barriers were placed all around it, we would still be in the same position. He said there would have to be the type of sound barriers that see as you drive along the expressway for us as neighbors on either side not to be impacted, inconvenienced and annoyed by them being out there playing basketball, and contrary to what was said, it is all times of the day and night. He stated that we would not be here if this were not a situation where our lives have not been negatively impacted. He advised that we all work and that some people work from home, adding that his wife works from home and so for her, it is more impactful than it is for him because he is not always there. He advised that even though her office space is on the other side of the house, she still hears them when the windows are open. He stated that it is not just the kids, but Emmanuel as well. What we are talking about is not taken into consideration how what you are doing is impacting other people around you. He stated that we all have a responsibility as neighbors to think about how what we do impacts the people around us.

Chair Curran advised that we appreciate and understand the point being made and asked to move on to any further comments. He asked Mr. Bugner if the correspondence that the commission was given needed to be read into the record or if was sufficient that they were provided.

Mr. Bugner asked the Anglin's if they would like me to read their letter into the record which they so desired as well as the Schallmo's letter.

Mr. Bugner read the Anglin and Schallmo letters as follows:

"Dear Flossmoor Planning Commission:

We are owners of the property located at 605 Park Drive and provide the following testimony against awarding a Special Use permit for the sports court that was illegally erected by our neighbors.

The residents at 2705 Heather Road applied for a permit to build a patio; but proceeded to erect a sports court that has resulted in increased costs and diminished enjoyment of our home. One can only assume that they were hoping to beg forgiveness vs. seeking permission when they purposefully lied about the intended use of the construction. The significant adverse impact that has directly resulted from their actions include chronic noise, increased costs, projectile objects, and inability to use our property for normal residential activities.

We have lived in this neighborhood for about 17 years now without incidence. Our sons, along with others in the area, enjoy playing basketball and have a portable basketball hoop in our driveway. The sport court erected by our neighbors is different from the passive recreational setting typically found in a residential area. The sports court that our neighbors erected is the active recreational type that is of an intensity more typically found in parks, schools, clubs, or arenas. There have been numerous times when anywhere from 6 to 12 kids and adults are playing basketball at all times of the day and night. Each person will often have their own ball and will bounce and throw the balls against the backboard at the same time. The neighbors also installed lighting over the court which has enabled them to play late into the night. We are also aware that residents and non-residents have had open use of this area even when the owners were not at home. Also, as is typical in an arena or park setting, there is shouting, and screaming at noise levels that can be heard in our kitchen, family room, bathrooms, and sunroom.

The point where the balls are bounced and launched towards the backboard is only \approx 17 feet from our kitchen window. Due to the location of their sports court and its proximity to our homes the sound is unbelievably unbearable (even with the windows closed). Intermittent and repetitive pounding on concrete coupled with shouting and screaming are some of the most distressing sounds to the human body and can lead to health concerns. This infringes on the quiet enjoyment of our home as we are not able to relax in our sun room, kitchen, family room or garden. Their game playing occurs at all hours throughout the day and night. Until they were forced to stop there was constant stress of not knowing how we can return to the peace and tranquility that existed with the previous owners.

We have tried to talk to the owners on numerous occasions regarding the problems they have created to no avail. We have spent thousands of dollars to create a natural barrier between our properties to keep them from trespassing onto our property to retrieve the balls resulting from overthrows, missed shots and multiple balls thrown at the same time. We contacted the police and complained about their repeated trespassing. It is important to note that the Agbarrah's disregarded specific instructions not to play basketball on the court on numerous occasions unless they received a special use permit. They violated these instructions regularly since receiving them. The Agbarrah's did not care for the appearance of their yard and neglected to maintain its appearance until they were made to abide by the

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village rules. This is further evidence of the attitude and pattern of behavior which would persist if they are granted the special use permit.

We live in a neighborhood where the owners pay a significant amount of money in taxes for a good quality of life and we expect everyone who lives here to embrace all the responsibilities associated with living in a neighborhood such as the one we live in. It is a combination of property maintenance, mutual respect and consideration of others that makes a neighborhood a desirable one where property values continue to appreciate as the markets allow. There are alternatives (even if not preferred or considered less ideal for the property owner) to play recreational basketball with minimal impact to their neighbors – a portable hoop in the driveway, numerous parks and schools provide suitable space and equipment for this activity.

We implore the committee to deny the special use permit due to the persistent and chronic problems it has created for those who live near them. We also believe the committee should make it clear to the owners that recklessly and willfully violating the rules will not be tolerated. Granting a special use permit in this case would be a green light for more to be without proper review necessary to balance the interest and impact of their neighboring tenants.

Thank you for your service and consideration.

Sincerely,

Walter and Stephanie Anglin”

“This letter is to add to the Anglin’s response to the Village regarding 2705 Heather Rd and the hearing scheduled to take place tomorrow the 17th. We live on the East side of the Agbarah family and can attest to everything the Anglin’s have stated. The Agbarah family does not take into consideration their neighbors at all. To add to the mess of this sports court - they have now built a patio on the SIDE of their house which is directly across from our deck which is in our backyard (where most logical people would put a deck or patio - right outside their back door not on the side). On weekend evenings they have 20 or so guests - they have on music, they dance, kids are running all around, their fire pit smoke goes right in our windows but most concerning - they have illegally put up two flood lights and a camera which looks directly into our family room and kitchen. We have already incurred expenses to put up evergreens to try to block them (as did the Anglin’s) but they just can’t grow fast enough. We cannot even go on our deck to quietly relax and talk because they always have some sort of party going on. They have taken over our back yards and give no regard to neighbors. When the basketball playing was in high gear - the noise and commotion was so disturbing and friends would ride their bikes through our yard.

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Besides having to hopefully cease with the basketball playing - we implore the Village to require the Agbarah's to put up a privacy fence so we can have some peace in our lives as they are nuisance neighbors. Thank you for your time and consideration."

Chair Curran asked for the address of the Schallmo's. Mr. Bugner advised that was 608 Burns.

Mr. Bugner advised that he had 10 or so emails of support however most of those did not provide an address. Mr. Bugner advised that while would not read them all, they will be reflected in the minutes.

"To whom it may concern:

I am in full support of the Special Use permit for a sports court at 2705 Heather Rd. This court provides a safe space for children to play without the constant worry of having basketballs bounce out into a 2-way street with neighborhood traffic.

As an educator in Flossmoor, I feel reassured to know that there are families that are thinking ahead and being proactive about these types of safety issues for the children in the community. Not only will this court provide safety for the children within the home but also their friends and family that come to visit to play as well. Please consider the safety of our children when thinking about what this family's alternative choice would have to be in the event that they are not able to have the sports court in the safety of their backyard. Thank you for your time.

--

Best regards,

Mrs. Ashley Rich

First Grade Teacher

Western Avenue Elementary"

"To whom it may concern,

I am writing in regards to a Special Use Permit request for 2705 Heather Rd.

I take great comfort and have peace of mind knowing my three young kids, 5, 7 & 12, have a safe place to run, dribble and play basketball. Heather Rd has a serious issue with speeding cars at all times of the day. It takes one ball in the street, one car speeding, one driver not paying attention to cause a horrific outcome.

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The owners have taken the proper measures to contain the ball to their yard and gives the kids a great place to get outside, safely, and enjoy being kids!

I strongly urge you to allow the Special Use Permit at 2705 Heather Rd.

Thank you for your time.

Alexandra Bjorklund”

“To whom it may concern,

I am writing to address an upcoming decision regarding a recently installed basketball court at the Agbarah home in Flossmoor.

I am a colleague and a friend to the Agbarah’s and would like to share that their home and more specifically their back yard is a safe place for many families in the community. I have come over to visit and have noticed that neighborhood children walk across the street directly into their backyard as if it were their own knowing it was a place they could play safely. It provides ample space away from traffic and an environment that allows kids to play safely as well as the Agbarah’s to monitor and watch them.

If they were required to remove the basketball court or forced to move it in front of the house it would likely put children in harm’s way with a busy street just feet away. I’m unsure of what if any negative impact the court has on surrounding neighbors but I can attest that forcing them to remove it would do more harm than good.

--

Regards,

Tom Bazan”

“To whom it may concern,

My daughter is the niece of Liz and Emmanuel Agbarah. They have been living in Flossmoor for 11 years. Their home has always been a safe and fun place for my daughter to grow up.

I am in full support of their use of backyard patio as a basketball sport court. Being able to play safely in the backyard gives every parent the peace of mind that you would expect to have in Flossmoor.

Thank you,

Katie Huidobro”

“To Whom It May Concern:

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I am writing this letter in support of the sport court located at 2705 Heather Road. We are a family of five and have been a resident for all of our lives and even attended Homewood Flossmoor High School. I have always been proud of our community, especially how we banded together during the pandemic and these uncertain times. We often walk our dogs past the house in question. The family at 2705 Heather Road has always been a joy to speak with and share a friendly wave whenever we happen to coincide. I have also worked in this community for 23 years and counting. My family and I have often remarked on how wonderful it is to see youth engaging in outdoor activities such as the family in question. So many youths spend so much time inside, playing the newest video game console or participating in the trending social media platform. To see the kids of the neighborhood enjoying themselves in a proactive and healthy way outside, especially during the times of COVID, should be encouraged and nourished. It is refreshing to see kids have a safe place to play and parents that are involved and care enough to provide that for them. I fully support this outdoor sport courts and play. When it is in back of the home, one doesn't have to worry about children running in the street to chase the ball or even playing in the street like other children who don't any other place to play. Sports are extremely important in children's lives. They promote mental and physical health and teamwork as well and can open many doors for them that aren't available to all children. This type of activity should be encouraged not discouraged. One of the things we love most about the community is the way the village and residents work together to promote a healthy and unified environment. My family and I fully support the sport court.

Sincerely,

Tony, Anna, Bella, Stella and Bentley”

“To Whom It May Concern:

I am writing this letter in support of the sport court located at 2705 Heather Road. I received the letter sent out to the residents and sending this on behalf of my family and myself. I have been a resident for over 13 years and have always loved the community. I often walk my dogs and ride my bicycle past the house in question. I am surprised this is an issue. I have worked with the youth of this and many other communities for most of my adult life. When I see youth playing outside, it always warms my heart. So many youths of today spend so much time indoors, playing video games and watching t.v. To see any youth enjoying themselves in a healthy and productive way outside, especially during these times of COVID, but even before this pandemic, is what we strive for in this world and should be encouraged. It is a wonderful gift to see kids have a safe place to play. I am in favor of all outdoor sport courts and play whether it be in front or in back of the home. When it is in back of the home, one doesn't have to worry about the youth running in the street to chase the ball or even playing in the street like other children

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who don't have the room to have a court or even hoop in their driveway at all. We are a community that has been through so much lately, and we should embrace and encourage youth who have not only the motivation but the opportunity to play and be active in a safe place such as the sport court at 2705 Heather Road. I once again fully support the sport court.

Thank you,

A. Soloff"

"Hello,

My family is very close with the Agbarah Family at 2705 Heather Rd in Flossmoor. My kids are 7 and 5 and love to play in their back yard, particularly the sport court. It's puts my mind at ease knowing they're not playing close to the street with the threat of speeding traffic up and down heather. I am in full support of this permit

Thank you!

Brit Volini"

"To whom it may concern:

We are writing to you to express our delight and excitement for the prospect of a sport court at 2705 Heather Rd. We love the idea of having a private safe place for our three children to play basketball, especially our younger ones who are just learning the sport. They aren't quite old enough to join a league, and we feel the best way for them to learn the game in a nurturing environment is to play with our friends and neighbors at 2705. We thank you kindly in advance for your consideration of this court, and strongly encourage you to approve the special permit for its installation.

Thank you for your time,

André and Andréa Senegal"

"Hello my name is Joel Ortiz.

I live at 2708 Heather rd. and have been a resident since 2018. In this time my 3 children have at Emmanuel home many times I feel safer with my children playing basketball in the back of his home since cars often will drive very fast down Heather rd. I have never had any incident regarding my children playing there no have ever felt concerned about their safety. Since COVID-19 has made social

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and public sports and events I have appreciated even more Emanuel's willingness for my children to be outside and exercise. Recently my children have not been able to play basketball at Emmanuel house and i sincerely hope that they can get back to being able to be children and play safely so that I may continue to have peace of mind living here in Homewood, Flossmoor

Sincerely

Joel Ortiz"

"To whom it may concern,

I received notification in my mail and I would like to submit my written testimony in support for the use of the "sport court" in the back yard

LaToiya M. Christian"

"To whom it may concern,

I received notification today regarding this matter.

This email serves as my support for the use of a "sport court" at the address listed on the notice.

Please submit on my behalf.

Sincerely,

Trisha Gougis"

Chair Curran closed the public hearing portion and aske the commissioners for their comments and any questions.

Commissioner Mitchell stated that he was really concerned about the tenor of the concerns of neighbors that it has gotten to this point regarding the use of a back yard. He advised that a person should have a right to have parties in their backyard, to have their kids play in the backyard, whether it a pool or a trampoline, bouncing ball or whatever they do just for the enjoyment of the kids, but it appears that this has gotten to a certain point that there is no compromise whatsoever. He stated the

problem he has is that his understanding is that there is no prohibition of having recreational equipment in the backyard but there is a concern about the size of the property in regards to those types of uses. Mr. Bugner advised that "permanent sport courts" are a special use but that there is nothing that prohibits recreational equipment in the rear yard. Commissioner Mitchell advised that the real concern is that because of the way the patio is configured in the and that this is a permanent professional court with the backboard fixed to the concrete and that it is a park like court that is going to attract serious basketball players who want to play on a marked court and that it is a magnet which draws neighbors that would rather play there instead of their own driveways so he can understand their concerns in that regard. He stated that if in fact the petitioner had come to the Plan Commission requesting that type of sport court we would have been very much concerned about all of these issues that have been raised ahead of time because these are exactly the types of issues that come up such as lighting, and time of play. He stated that he has walked by and seen 5 or 6 basketballs on the ground at a time so the neighbors aren't exaggerating in terms of the use of the court so the real concern that he has is if this is really a public park in the their backyard as opposed to your special use that you asking for, for your children, and that what the Anglin's and the Schallmo's have described is that you have pretty much created a public basketball court in your backyard which he knows Flossmoor would not allow a public park in a backyard. He asked what limitations is the petitioner prepared, is it just for his kids or for the neighborhood kids because if you keep saying the neighborhood kids he has a real problem with that. He stated that he also has a problem with the idea that it's just not for kids, and that if you like playing that's great but the intensity of playing by adults as opposed to the children is another matter. He stated that he is kind of torn in that he doesn't like the fact that it is a park in the backyard which attracts others because it is a nice flat court in comparison to a slanted driveway and becomes a nuisance unless it can be controlled. He stated that unless you can tell him or the neighbors can tell him some things that they could have in place that could compromise he is not in favor of granting the special use permit at this time. He stated that since April there has been no cessation of the tenor of the acrimony between the neighbors which is really troubling and he is having a problem with that.

Commissioner Maddox agreed with most of Commissioner Mitchell's points but the only difference is that if that is your property then if you want to use it to play basketball yourself because you want to be back there with your kids or even with friends, you should be able to. However, there has to be some respect and mindfulness of your neighbors if it is a noise concern. He added that if that's your way of exercise or if that's how you release when you come home from work, you should have the right to do that if you are tax paying resident of Flossmoor but again you have to mindful of the neighbors and that a 3 on 3 game with adults playing has greater intensity and needs to be taken into consideration. To summarize he thinks that the main issue is the noise and of course the time is an issue as well, but the noise is the main concern. Commissioner Maddox advised that he spent 7 years in the fire service and that sometimes his 24 - hour shift would be a full 24 hours and that he didn't necessarily have a traditional sleep schedule where sometimes he would come home and go right to sleep after the shift

and that some people may work nights and sleep during the day. He advised that he isn't in a position to tell anybody who they can or can't have in your backyard, but that we have to take the concern of your neighbors as taxpayers as well that they want to be able to enjoy their property in peace especially indoors as well if it is affecting their lifestyle inside their home. He stated that noise is main issue and that yes vegetation or a fence may help with the balls from rolling into the neighbor's yard but he doesn't know how there can be assurances for this committee to come to a decision that the sound would no longer be an issue. He advised that you could stand at the mic and say we will keep it down just as much as the neighbors could say that they would stop calling the police. He advised that the commission makes decisions based on solids or things that we know will be in place that will mitigate things from coming back us or being a continuing issue for building or police department staff.

Commissioner Martin echoed the comments of Commissioner's Mitchell and Maddox and stated that the petitioner needs to work with the neighbors and that we need to address some of the other issues regarding location, lighting, fencing and the vegetation and that she does believe that there has been quite an imposition put on the neighbors which has been voiced. She advised that she did not feel sound about this situation and therefore not in favor at this time to approve the petition.

Chair Curran advised that the commission has addressed all of the issues in the public comments and the problem with noise is that it is difficult for the Village to regulate and that there really isn't anyway to ensure that noise won't travel outside of your property. He advised that we can deal with lights and prohibit them on the sport court and that we could talk about hours of use being to dusk or earlier. He also advised that who uses the court is an issue and that it is one thing if children aged 6-12 are using it versus teens or adults where that becomes more of a playground or a park atmosphere. He stated that unfortunately there seem to be a lot of issues that need to be dealt with, and that he really isn't sure how the Plan Commission can deal with all of this to make it livable in the neighborhood.

Chair Curran turned it back over to the Commissioner's for a motion on the matter.

Commissioner Mitchell explained to the petitioner that the Plan Commission either recommends approval or not that they are a recommending body who's vote then goes to the Board of Trustees for final approval. Given all of the comments from the neighbors, Commissioner Mitchell asked Mr. Agbarah if maybe he would like to have this continued and be given an opportunity to talk to your neighbors to seek some sort of resolution where you can agree of how this can be done and then come back and we don't have to address this. He stated that his sense is that you are not going to get a recommendation here and that you would be required to take the backboard down and start over. He advised that the neighbors have taken the time to honestly express feelings and that it is troubling that they have had to call the police 3 or 4 times. He stated that if you think it may be useful to sit down and have a conversation with the neighbors what you may be able to do at least on a trial basis and push this back to be heard again with those recommendations that they may want to try. He stated that they have all

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had kids, they have all raised kids and they understand the predicament you are in, they just don't agree with how you have decided to address it yourself, by yourself, in disregard to everybody around you and that's how it sounds. He advised that instead of asking for a vote at this time, you may want to continue it and get an opportunity to talk to your neighbors and see if something can be worked out and come with a plan that they might feel comfortable with trying to see if some of these concerns could be mitigated so that you could get the special use permit.

Mr. Agbarah agreed that it was fair to continue and try to find a compromise. He advised that he had never talked to the other neighbor about any issues so it is weird for him to hear that from them because they have never voiced anything to him regarding the basketball court or the patio that was put on the side. He stated that is a little troubling that as neighbors they can't talk to me and send the letter saying that he is affecting your way of living. He stated that he believes that most things can be worked out through communication and that when Walter and his wife came up and said that we have an issue, he advised he got the net. Commissioner Mitchell advised that Mr. Agbarah didn't ask his neighbor if that was enough. Mr. Agbarah advised that they asked them to put up a net and that they did that, so they did have that conversation. He stated that if he needs to put up vegetation or a privacy fence that's fine as well.

Commissioner Martin asked how long this has been in place. Mr. Agbarah advised about 2 years.

Chair Curran asked Mr. Agbarah if he would like to continue this to another hearing date or if he would like the Commission to take a vote on the petition. Mr. Agbarah advised that he would like to continue the hearing.

Chair Curran asked for a motion to continue this petition to the next meeting.

Commissioner Mitchell motioned to continue the petition for a special use permit at 2705 Heather Road to a meeting to be scheduled in the future. Commissioner Martin seconded the motion which passed by roll call vote.

AYES: Chair Curran, Commissioners Maddox, Martin and Mitchell.

NAYS: None

ABSENT: Commissioners Matthys and McCarthy.

ABSTAIN: Commissioner Yast

Chair Curran appreciated everybody's participation on this matter and for the candid comments, and that it is our desire that everybody can come together to an understanding and a plan that makes this work for everybody. He advised that we look forward to the additional information at the next meeting.

4. OTHER BUSINESS

None

5. NEW BUSINESS

None

6. STAFF REPORTS

None

7. MEMBERS CONCERNS AND IDEAS

None

8. ADJOURNMENT

Commissioner Martin motioned to adjourn the meeting. Commissioner Maddox seconded the motion which passed by voice vote.

AYES: Chair Curran, Commissioners Maddox, Martin, Mitchell and Yast

NAYS: None