

Observer report of the League of Women Voters of Elmhurst, Illinois
By: Edgar Pal, League Observer

**Development, Planning, and Zoning Committee of the City of Elmhurst
Tuesday, May 29, 2018**

7:00 pm

City Council Chambers

209 N. York St.

Elmhurst, IL 60126

Note that the Observer Corps does not guarantee the accuracy or completeness of its reports. You may visit [BoardDocs](#) to read the agenda, official minutes (when available), and all reports and supplemental materials that City Staff have provided for the Committee's consideration.

Background

- AUA = Advocates for Urban Agriculture, a non-profit organization that supports sustainable agriculture in the Chicagoland area. Its Executive Director, Laura Calvert, has previously spoken during public comment at a City Council meeting, and has provided information and resources to City officials and staff.
- DPZ = Development, Planning, and Zoning Committee
- ZPC = Zoning and Planning Commission

Meeting

1. Call to Order

- a. Time: 7:03 pm

2. Roll Call

- a. Members present: Mike Honquest (Chairman), Noel Talluto (Vice Chairman), and Mark A. Mulliner

- b. Other officials: Steven Morley (Mayor), Michael Kopp (Assistant City Manager), Andrew Acker (City Attorney), Eileen Franz (Assistant Planning and Zoning Administrator)
- c. Public: Around 40 members of the public.

3. Written Communications from the Public

- a. Nicole Virgil

4. Public Comments (5 speakers)

- a. Brian Doan – Followed this issue over the years. He's not in favor of the hoop house. He thinks it's too big. His grandfather used to grow vegetables at home. Sustainability has been something to consider. Grandfather lived on a small lot in Glen Ellyn. Hopefully Elmhurst can compromise. It sounds like other membrane structures are currently allowed to stand in Elmhurst. We need to be consistent everywhere.

There are also rumors that an accessory structure is also being built elsewhere, too close to the lot line. We need to "get the code down". Structures need to be permanent. Need to make sure that people are following the zoning code. There are a lot of things in people's backyards that need to be compliant with the code.

It's a good thing to want to grow vegetables, but the hoop house is too big. It should be smaller. As far as the City is concerned, code should be applied equally to everyone. Come to a compromise.

People threaten to vote the aldermen out, but it's not going to happen. Not everyone gets removed from office. Everyone needs to follow the law.

- b. Edgar Pal – Thanked DPZ for placing EDC Appointment on the agenda, to resolve an Open Meetings Act concern. Also informed DPZ that Public Access Bureau wants them to approve minutes of all prior meetings. Could be 25-44 years of minutes not yet approved. Hopes that the Clerk's office is looking into it.
- c. Dan Virgil

- i. Wants to address complaints about the hoop house. People complain that they're noisy. Neighbors have testified that it's not noisy. Other complaint is about flooding. Water that comes under the hoop house can still reach the soil. Hoop house is temporary.
- ii. Other complaint is that it's too large. He's fine with complying with lot coverage and setback requirements. By comparison, detached garage is 524 sq feet, and taller than the hoop house.
- iii. Addresses concern that hoop house should be permanent. The intent is only to extend the season. If it were permanent, you'd have to leave it up all year. Temperature would be too hot in the summer. Even if vented, it's still too hot.
- iv. Updates or new ordinances need to be practical to gardeners.
- d. John Wendel – Lives directly across from the hoop house. He didn't know there was any noise. It was very quiet. He's the neighbor that would be the most affected. He lives directly across from the hoop house. It doesn't bother him at all.
- e. Nicole Virgil
 - i. Presented questions for DPZ to answer. Wanted to see if DPZ would answer today.
 - ii. Ordinance could be clarified to state that it was originally intended to regulate carports. Hoop houses were not contemplated.
 - iii. Regrets that this discussion is resulting in people being forced to remove membrane structures from their backyards.
 - iv. Wants explanation as to why aldermen will not correspond or meet with Virgils. The court case is over, so it's hard to understand why this isn't happening.
 - v. FOIA request revealed concerns from opposition that were emailed to DPZ. Wants DPZ to clarify which concerns they're genuinely worried about.
 - vi. Zoning code already says a lot about accessory structures. Can't hoop houses be regulated under the same code?

5. Business Before the Committee

- a. Minutes of the May 14, 2018 meeting of the Development, Planning & Zoning Committee
 - i. Approved, 3-0.
- b. Review of Municipal Code regarding Membrane Structures
 - i. Honquest
 1. Many in community had expressed concerns about sustainability policy and statements on City website.
 2. Currently, Code allows a greenhouse and extending the gardening season.
 3. What comes before DPZ today is a specific structure that extends the gardening season. It's a false statement to imply that City doesn't support sustainability. Anyone can garden and extend the growing season, using a greenhouse, and make modifications for other times of the year.
 - ii. Franz
 1. Sustainability: Mayor Marcucci previously signed climate protection agreement. Shortly after, City prepared Sustainability Policy. Each department reports on sustainability initiatives. Mayor Morley has formed Sustainability Task Force, which has written a Sustainability Plan. City website provides information on rain barrels and other resources.
 2. On BoardDocs, she provided info relating to local DuPage and Cook County communities, and how they regulate hoop houses. Also listed other communities that regulate hoop houses. Spoke with Laura Calvert from Advocates for Urban Agriculture, a non-profit that has previously helped City of Chicago with regulations.
 3. Greenhouses has been in Zoning Ordinance for several decades. (Franz read the definition.) It's a more permanent type of structure. Temperature can be controlled. Frequently used for seedlings, to get plants started, then moved at a later date.
 4. Hoop houses are typically cheaper. Don't use electricity or solar. Can cover a raised bed and crops in the ground. Plastic covers. Used in fall or spring to extend growing season. Can be used in

summer with lighter covering to provide less protection, also protects against pests.

5. Are there other options to extend the growing season? Five options proposed in staff memo.
 - a. Cloche: Glass cover on a potted plant
 - b. Row cover: It's small. You would have to lift the cover to work on it.
 - c. Hoop house: Taller than row cover
 - d. Cold frame: Covers a raised bed with a lid or glass cover. You would have to lift the cover.
 - e. Rolling row house: Movable hoop house on wheels.
6. Spoke with Laura Calvert about these options. For a lot of these listed options, they don't generate as much heat as a larger structure. Might be used to protect against frost.
7. Contacted several municipalities in DuPage and Cook. Who has dealt with hoop houses or temporary garden structures before? Only local communities with actual requirements were Downers Grove and Chicago.
8. Spoke with Downers Grove staff. They haven't had anyone apply for a permit, but it is allowed. Building code would need to be complied with.
9. Oak Park allows cold frame structures, and allows hoop house as part of a community garden. (Franz read through the Oak Park code.)
10. Downers Grove formally defines a hoop house. (Franz read the definition.) Permitted in rear setback. Has to meet other requirements for accessory structures.
11. Chicago has requirements for hoop houses as well. Allows 575 sq feet. Other coverage requirements must be met as well.
12. Most other communities have not dealt with this. They'd likely treat this as an accessory structure, which would have to meet building code. Unsure as to whether hoop houses would meet

- wind and load requirements. However, these were mostly hypothetical discussions, as the cases have not actually emerged.
13. Provided regulations for greenhouses in other communities. Some treat them as accessory structures; others don't.
 14. Provided info for communities outside Chicagoland area. Each community has their own way to regulate hoop houses, with variations based on size and type of structure.
 15. Addressed previous question from Ald. Mulliner regarding "innovative" ways to extend growing season. Low and high tunnels would be great examples.
 16. Addressed concerns about noise. Laura Calvert said it was comparable to a flag, which is also loud. Another solution might be to add extra plastic (?), but this solution is rare for a residential structure.

iii. Talluto

1. Thanked Franz for her research.
2. AUA had said that low tunnels or row covers might not have enough space inside to hold enough heat. Is there a critical size on the volume needed to allow successful growing over winter? (Franz: Doesn't know.) Probably depends on temperature.
3. Communities had limits on total space coverage for all accessory structures. What is Elmhurst's requirement? (Franz: Coverage for total lot and rear yard would come into play.) If ZPC were to recommend a structure to extend the growing season, could it be done as an accessory structure? (Franz: It could be treated as an accessory structure, but it depends on how you want to do it. Code ultimately looks at coverage and size of lot.)

iv. Morley

1. Downers Grove hasn't had any applications, but would structures have to comply with the International Residential Code? (Franz: Correct)
2. What does the International Residential Code say? (Franz: Doesn't know.)

v. Honquest

1. Under our Code today, are the other options allowed? (Franz: No. Small things like cloches would be okay. Low tunnels and cold frames would not be allowed. Depends on if it's big enough for someone to notice.)
2. We're not looking at adjusting our current code. Should be regulated as accessory structure. Treat same way as a garage, but a temporary structure being the only difference. Would you agree? (Franz: Yes.)
3. As for Oak Park, they allow 120 sq feet for a cold frame. Hoop houses are allowed in community gardens. (Franz: No specific requirements on hoop houses on residential property.)

vi. Kopp

1. Elmhurst Building Code: clearly states that membrane structures shall not be permitted.
2. Zoning Code: amendment sometime in 2009-11 to say that membrane structures shall not be permitted, usually looked at from a carport or shed perspective
3. International Building Code: talks about membrane structures. Depends on whether it's permanent (>180 days) or temporary (<180 days). Permanent structures have requirements for fire safety and exiting. Temporary structures still need to meet fire code, but fewer requirements. Talks about fire spread. If plastic is less than 20mm, then that section of fire code doesn't apply. Another section on engineering requirements (wind, snow, flood, loads, etc.). Every permit applicant needs to answer certain questions that address requirements of International Building Code.
4. There are many sections of International Fire Code that might apply, but only for larger structures that we're not even talking about today. (e.g. weddings, large assemblies, etc.) Provides setback requirements.

5. Elmhurst Code is based on many international codes, albeit with some local amendments.

vii. Talluto

1. Building codes and zoning codes are separate. They've had changes over time. How would we interpret them? Do they work in concert? (Kopp: Zoning code is based on land use. Building code tells you how to build the structure.)
2. Zoning code allows some temporary membrane structure uses. Building code currently prohibits it. How do we reconcile? (Kopp: Temporary structures only apply in commercial areas for at most 90 days, or in residential areas for charitable uses.)
3. In building code, membrane structures not permitted. How do we currently allow gazebos? Or plastic that rolls over someone's front porch? (Kopp: International building code talks about membrane structure vs. tent. Gazebo would be more like a "tent", and different codes apply. We should clarify this in our Code.)
4. Your opinion would be that we should ask ZPC to clarify the scope of our definitions? (Kopp: Yes. We should consider how gazebos apply. Also look at the original intent of the code.)
5. Why are there different requirements under fire code, based on thickness of plastic? (Kopp: Based on flame spread and combustibility. Thinner plastic would have a flash fire, while thicker plastic would have a slow burn.)
6. A lot of the International Building Code really doesn't appear to apply to structures like hoop houses for gardening use -? (Kopp: It may apply. There might be a way to design hoop houses in a way that meet the criteria.) I thought you said that most of the Code wouldn't apply? (Kopp: Yes. There are exceptions that may waive the load requirements in this case. But there are other requirements that still apply.)
7. Can the hoop house we're talking about actually meet the snow load requirements? (Kopp: Not sure.)

8. There were reasons why temporary membrane structures were addressed in our Code, although not related to gardening. What were the reasons? (Kopp: It was a code enforcement issue. People were using them for storage, like a shed. Others were also using them as a carport, e.g. RVs. There were enough complaints to get ZPC to amend the code to what we have today.)

viii. Honquest

1. If you build a structure, there could be liability. Zoning is a complex set of laws. It would be hard to get clarity on whether a hoop house meets our code.
2. The solution should be a greenhouse, which would meet our code.
3. If you get a huge snowstorm on top of a hoop house, and it collapses, then all you lose are the plants beneath it, not necessarily a life or high-value property.
4. If one has to make structure more “permanent” to meet Code, then he’s reluctant to amend the Code.
5. There’s precedence of what City Code and International Code require, so do we want to make an exception?
6. Now that we’ve had discussion on sustainability, code, etc., we have a good overview of the issue.
7. Reminds everyone that DPZ is discussing because they received referral from Ald. Levin and Deuter. (Read the referral. Described the timeline of events.)
8. As a Committee, DPZ has discussed extending the growing season. Referral didn’t explicitly request to look at other options, only to look at hoop houses. Discussion is now going beyond the scope of the referral.

ix. Mulliner

1. Referrals have specific, targeted ideas. In many cases, referrals expand to broader issues. Hoop house has led them towards a broader solution on how to extend the growing season. The real issue here is extending the growing season, not the hoop house.

There are several systems on how to achieve this. Currently, greenhouses are the only allowed way to do this.

2. Other component relates to “membrane structures”, which needs to be viewed holistically. Break the referral apart into three parts: membrane structures, extended growing seasons, and building code that relates to these. ZPC would look at first two, but not necessarily the third part. Building department can make recommendations on building code, which DPZ would then consider.

x. Talluto

1. Agrees with Mulliner. Reluctant to move this forward with a limiting scope of hoop houses. Believes that there is a strong argument that greenhouses are too expensive, and there should be other options provided to residents.
2. Supports sending this forward to Commission. Not sure exactly how to frame it.
3. Wants ZPC to answer three questions:
 - a. Can hoop houses or similar structures meet safety requirements in Elmhurst? (e.g. utilities, structural, fire, size, etc.) Can solar panels be installed?
 - b. Should their uses be limited? Can they be used for gardening, but not storage of property or vehicles? Also look at size and height requirements.
 - c. Can an ordinance address how to mitigate the impact to neighbors or the neighborhood? (e.g. noise, aesthetics, size, etc.)

xi. Honquest

1. Regarding cabanas and gazebos, has Code defined those differently? (Kopp: They’re defined as tents as opposed to membrane structures. However, neither are allowed and should not be in Elmhurst.) Are these for permanent structures? (Kopp: Permanent gazebos and cabanas are allowed.)

2. Concerned that they're sending a broad case to ZPC. Based on what he's seen, he's not a proponent of large hoop house. Virgil's hoop house was too big.
3. DPZ needs to decide what works and what doesn't work before sending to ZPC. Agrees that greenhouses can be too restrictive.
4. However, Elmhurst has a more restrictive code than international requirements. We want higher quality construction, and fewer fire hazards. What do we want for Elmhurst? Other communities haven't clearly defined hoop houses, or haven't had meaningful use cases. Elmhurst can be progressive, but as we are a densely-populated town, we also must have zoning codes. We make decisions as a community on what we want to see. It really comes down to a matter of taste.
5. In a prior case, we had to consider why we can't have chickens on residential property. We allow cats and dogs, but if we deviate from that then we have to get staff and police involved to provide policy recommendations.
6. Agrees with other aldermen that there's enough info to move forward to ZPC, but scope needs to be narrowed. For example, we're looking to extend the growing season, but not to change land area or code for permanent structures.

xii. Mulliner

1. Wants to clarify regarding permanent structures. Greenhouses should be clearly defined in our Code. We shouldn't have to look at an old version of the dictionary.

xiii. Honquest

1. We're looking at extended growing systems. Is that fair? (Talluto and Mulliner: Yes.)
2. Front vs. rear? (Mulliner: Yes, ZPC should look at this. Talluto: I would oppose structures in rear yard.) That's a good limitation to think about. Should it be behind a fence?

xiv. Mulliner

1. Needs to fit within the current codes relating to lot coverage and size requirements. Also need to restrict height and regulate aesthetics.

xv. Talluto

1. Would not support anything that allows structures to violate code requirements on coverage. However, not comfortable right now with making a height limitation. (Mulliner: When it's finished, we still need to make a decision on limits. Also need to make decision on regulating permanent vs. temporary structures.)
2. Would ZPC look at permanent vs. temporary? (Franz: DPZ, not ZPC, decided this type of question in a prior case. Kopp: permanent vs. temporary is a building code issue, not zoning code issue.)

xvi. Honquest

1. We're looking at extending growing seasons. We're looking at temporary structures. We're staying within our Code's limits on usable lot size, as a maximum. We need to look at utility restrictions. We can also look at safety issues, noise issues. Back or side yards only. Permit or no-permit?
2. Do we put restrictions on height or size? (Mulliner: We'll let ZPC handle that.)

xvii. Morley

1. Appreciates what DPZ is doing. If you rush decisions, you make bad policy. Over the two meetings, we've learned that it's not a simple question. The question is: if there's going to be a massive change to Code, how will it be done?
2. Grateful for all of the research that staff did.
3. This is common and appropriate for a Committee to "unpack" a referral and extend the conversation to other areas.
4. As for giving guidance to ZPC, we're giving guidance to staff on how to write an application to ZPC.
5. DPZ can still inform ZPC as to the "thought process" that led to a certain request. Can provide suggested guidelines, even if it's not a specific request. e.g. front lots, aesthetics, height requirements

xviii. Mulliner

1. Wants to see a draft report and application for DPZ to review before final approval

xix. Talluto

1. We're going to have a report from DPZ to City Council. If Council approves the report, then it will go to ZPC. City is the applicant, asking ZPC for new/amended ordinance.
2. Likes the idea of having a draft report and application. (Morley: It's common practice to see the draft application for complex cases.)

xx. Honquest

1. Asks staff to prepare report and application for consideration at next meeting.
2. DPZ will review that report and application. It will then go to Council, which when approved is then turned into an application to ZPC.
3. ZPC meeting includes public hearing, and there's more deliberation. (Franz: Public hearing is in newspaper. Application is on BoardDocs.)
4. Discussion concluded.

The League Observer left the meeting after the discussion on membrane structures. *Hoop house supporters gathered on the first floor to share reactions. The Committee ended its meeting within 10-15 minutes of concluding the discussion on membrane structures, and minutes will be posted on [BoardDocs](#).*

c. Case 18 P 06 Elmhurst Memorial Hospital and City of Elmhurst
Subdivision

d. Request for Extension 16 P-11/Redeemer Church Conditional Use and
Associated Variations 123 East St. Charles

e. Request for Extension 17 ZBA 06 / MacKenzie Variation 130 E. Church

f. Appointment to EDC

6. Other Business

7. Adjournment

Observer's Remarks

The City moved the meeting from Conference Room #1 (the usual location) to Council Chambers, to accommodate high turnout. Such a move is required by the Open Meetings Act, when the public body anticipates higher than usual attendance.

In the prior meeting, the League Observer noted that there were not sufficient microphones to hear all alderman and staff members speaking at the table. The Observer expressed concern to Mayor Morley and City Manager Grabowski. At this meeting, the concern was resolved by placing three microphones at the table, such that all speakers could be heard.