

HARTLAND VILLAGE BOARD  
Special Meeting  
Thursday, October 21, 2021,  
6:30 PM  
COMMUNITY CENTER, MUNICIPAL BUILDING  
210 COTTONWOOD AVENUE, HARTLAND, WISCONSIN

Call to Order  
Roll Call

Present: Trustees Pfeiffer, Dorau, Meyers, Conner, Ludtke, President Pfannerstill

Excused: Trustee Wallschlager

Others Present: Interim Administrator Bailey, Police Chief Misko, Village Attorney de la Mora, Attorney Trace Hummel, Clerk Igl, Max Gebhard and family members.

1. Pursuant to Village of Hartland Ordinance Section 66-12 (e), the Village Board will hear the appeal of Max Gebhard to be exempted from the moratorium regulating residency in the village.

Attorney de la Mora asked Mr. Gebhard to step forward, be seated, and confirmed that the applicant had no attorney present. He stated that the applicant would be allowed to present any evidence and the Village Board would then be allowed to ask questions. He stated that the burden was on the applicant to demonstrate reasons why he should be exempted from the Village's moratorium ordinance in place.

Mr. Gebhard was sworn in by Clerk Igl. Mr. Gebhard stated that he was raised in Hartland, had attended Arrowhead, was a boy scout and eagle scout. He stated that his parents own the apartment that he is interested in moving to stating that he had helped to renovate the apartment and wants to live close to his parents while he completes his probation. He stated that the terms of his probation include having employment and that he is part of the management team at a Walgreens in Watertown. He stated that the incident that had taken place was consensual sex between himself and a 17-year-old female. It was stated that he was charged with having sexual intercourse with a child aged 16 or older. Mr. Gebhard stated that he had one violation during his probation involving a theft from Walmart.

Trustee Ludtke asked if only Mr. Gebhard would be living in the apartment, and he confirmed that as correct. Trustee Pfeiffer asked Mr. Gebhard if he was aware of the victim's age, and he responded that he was not. Trustee Dorau asked whether Mr. Gebhard was working at the Walgreens. He responded that he is not but intends to transfer. Trustee Ludtke asked when he was planning to move to Hartland, and he stated that he would like to move as soon as possible once approved by the Village and the County. Trustee Pfeiffer asked how long he had known the female and he responded that he had known her for three months. Trustee Meyers inquired of Attorney de la Mora whether County approval was necessary. Attorney de la Mora stated that County approval is not necessary, but that Mr. Gebhard was convicted in Waukesha County in June of 2020. It was clarified that the offense Mr. Gebhard was found guilty of was sexual intercourse with a child over 16. It was stated that he was sentenced to 2 years of probation with the ability to have probation discontinued within a year if he meets the criteria.

Mr. Gebhard stated that there are criteria to follow as conditions of probation including him being prohibited from being around anyone under 18, no internet access, sobriety, no weapons, no out of state travel and no violations of the law.

Attorney de la Mora asked Mr. Gebhard how the Walmart situation affected his probation. Mr. Gebhard stated that he sat in Jefferson jail for three days, however, the probation officer was more concerned about the possibility of him reoffending with a juvenile than the theft. He stated that he had stolen a couple of t-shirts from Walmart and confirmed that he was working at Walgreens at that time. Again, Mr. Gebhard was asked how the theft affects his probation. Mr. Gebhard responded that sitting in jail made him reflect on how lucky he was not to be in jail but only on probation.

Attorney de la Mora asked how the probation violation is going to affect his eligibility to apply to be taken off probation. Mr. Gebhard stated that probation could extend to April 2023. Mr. Gebhard stated that if he is allowed to live in Hartland, he would transfer to the Hartland Walgreens but had not spoken to the Hartland store manager about the possibility. Attorney de la Mora asked how far away the proposed Hartland residence is from the Walgreens. The response was that it is a 10-minute drive. The applicant was reminded that there is no public transportation in Hartland, and he stated that he has a valid driver's license in good standing. Mr. Gebhard was asked if he is required to register as a sex offender and he responded that the offense was only a misdemeanor. Mr. Gebhard was asked whether he intended to apply for expungement and he responded "absolutely". Trustee Ludtke asked for clarification whether the incident took place in June of 2020 and the theft in June of 2021. Mr. Gebhard responded that the initial incident took place in June 2020, he was found guilty in April of 2021 and the probation violation took place in June 2021. Trustee Conner asked whether Walmart pressed charges and Mr. Gebhard responded that they did not. Trustee Conner also asked whether Walgreens knows of both offenses. Mr. Gebhard stated that Walgreens is aware and that the store manager knew what was going on at the time he was in jail. President Pfannerstill asked for the address that the applicant would like to move to. The address of the rental was provided as 791 Bradford Way. Attorney de la Mora asked whether any underage females live in the other side of the duplex and the response was no.

Chief Torin Misko was sworn in. He stated that the applicant correctly stated information related to the June 2020 investigation and that the penalty for the offense is a class a misdemeanor. He stated that Mr. Gebhard was placed under probation. Chief Misko stated that there was a probation violation in June 2021 which was very similar to what the applicant stated. Chief Misko stated that Mr. Gebhard was with a 14-year-old female at the time of the Walmart theft. Additionally, Mr. Gebhard also had contact with two females, ages 15 and 17 during the same month. As a result, Mr. Gebhard spent four days in jail and was required to attend a program. It was stated that there was no theft criminal charge, a probation violation only. Chief Misko clarified that while the applicant stated the victim was 17, the police reports indicate the victim was 16. Additionally, he stated that the reports indicate that the victim was asked whether the applicant knew her age and she stated that she had asked him if her being 16 bothered him to which he responded no. It was stated that Mr. Gebhard was a resident of the City of Waukesha at the time of the crime and that the crime took place in the City of Pewaukee.

President Pfannerstill asked the applicant whether what the Police Chief stated was true. Mr. Gebhard stated that he has been lied to about age and that she had said she was 18.

Discrepancies in the applicant's statements related to ages of female in incidents were raised. The discrepancy on how long the victim was known by the applicant was also questioned.

Trustee Pfeiffer asked whether in two years when the applicant's probation is complete and if his record is expunged, Mr. Gebhard would have to apply to move to Hartland. Chief Misko responded no, that the applicant would be free to make that move upon expungement. Trustee Conner asked if there was any report related to the incident of alcohol usage. Chief Misko stated that two forms of marijuana along with some types of alcohol were found in the victim's room after the incident. Also found in the victim's room after the incident were cigarettes, over the counter cold medication and seltzer type of alcoholic beverages. Trustee Dorau asked Attorney de la Mora whether the Village's moratorium only addresses people that are registered as sex offenders or applies to any sexual offense. Attorney de la Mora responded that the moratorium includes a listing of types of sexual violators that it pertains to.

Trustee Ludtke commented that the applicant is seeking residency in Hartridge subdivision which is densely populated and includes a school and two parks. Chief Misko stated that the residence is 8/10 of a mile from Hartland South and 4/10 of a mile from Penbrook Park.

Chief Misko stated that the saturation level is currently at 5.13 while the Village is trying to get to 1.1 or less. He stated that the formula compares the Village's population of sex offenders to Waukesha County at large. The applicant was asked for final comments. He stated that he had performed Eagle Scout projects at Hartland schools and is still known at the school by the principal and feels the distance that he would be residing from schools is not a concern. President Pfannerstill stated that the Village Board would close the hearing and move to deliberation. The hearing was closed at 7:07 p.m.

2. Following the submission of testimony under oath/evidence, the Village Board will deliberate in open session and render a decision regarding the appeal.

Trustee Ludtke thanked the applicant for coming in to meet with the Village Board. Trustee Conner thanked the applicant but stated concerns with determining age limits and two occurrences. He stated that as it is a misdemeanor, the applicant should continue down the right road, could have the conviction expunged and come back to the Hartland area when clear. He stated he was uncomfortable approving the appeal. President Pfannerstill also thanked the applicant but based on the inconsistencies, saturation level, probation violation with underage females he didn't feel that the applicant's case would make him believe the moratorium should be overturned for Mr. Gebhard. Trustee Meyers thanked the applicant and raised concerns that the application violated his probation even though he knew it was wrong. Additionally, Trustee Meyers felt that due to the saturation level the Village should not make an exception but wished the applicant the best. Trustee Dorau thanked the applicant stating that she would have considered the appeal if it was just the first offense. She stated that the contact with a 14-year-old concerned her. She stated that she hopes he can stay employed at his current job, can get this expunged and wished him the best. Trustee Pfeiffer stated that the inconsistencies were a concern as well as the after the fact contacts with underage females. He stated that the Village Board must consider the safety of kids in the Village and that perhaps the applicant can move back to Hartland after April 2023.

Motion (Ludtke/Dorau) to uphold the moratorium and deny the appeal for exemption for Max Gebhard. Motion carried.

3. Adjournment.

Motion (Conner/Ludtke) to adjourn at 7:17 p.m.

Respectfully submitted,

Darlene Igl  
Village Clerk