

**VILLAGE OF GERMANTOWN
BOARD OF ZONING APPEALS
MEETING MINUTES
April 27, 2016**

CALL TO ORDER: The meeting was called to order at 5:31 p.m.

ROLL CALL: Chairperson White, Members Hansen, Fritsche and Schleif. Village Attorney Sajdak, Community Development Director/Village Planner and Zoning Administrator Retzlaff and Deputy Clerk Hann. Absent and excused: Members Filla

Chair White read the policy and procedures of the Board of Zoning Appeals.

PUBLIC HEARING:

The hearing is to hear any and all parties, their attorneys or agents, for or against the APPEAL as filed by **James & Mary Stout**, property owner, seeking a building setback variance in order to construct an accessory roof over an existing feedlot that will encroach 18 feet into the minimum 60 feet front yard setback on the property located at **W204N12079 Golden Road, Richfield, WI 53076**

Chair White opened the Public Hearing at 5:30 p.m.

Community Development Director/Village Planner and Zoning Administrator Jeff Retzlaff was sworn in by Chair White. CDD Retzlaff presented the Village's information. A timeline of events with supporting documents were handed out to the committee. In 2014, the Village received a complaint from a neighbor about the odor and a large number of flies coming from the petitioner's property. After the investigation it was determined that the property owner was operating a typical farming operation. In February, 2016 the inspection Services Division of the Community Development denied issuing a building permit for a metal roof structure to be built over the cow yard. The owner is seeking a variance from the 60' street/front yard setback requirement for property located in the A-1; Agricultural Family Zoning District. Specifically, the owner seeks a rear yard building setback variance of 16 feet that would enable him to construct an open style roof structure to be attached to an existing barn and over a portion of the feedlot where the nearest point of the roof structure deck would be 44 feet from the street/front property which is also the right-of-way line for Goldendale Road (vs. the minimum 60' setback requirement). The board asked CDD Retzlaff what is considered a front yard and what is considered a main driveway. Village Attorney Sajdak cited the definition from Chapter 17.08 (65) for **SETBACK OR FRONT YARD** as a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have 2 such yards.

The appellant James Stout, W204N12079 Golden Road, Richfield, was sworn in by Chair White. Mr. Stout explained that the main purpose of the proposed roof structure is to prevent water pollution, covering and managing the animals under an open-air roof system while establishing and maintaining a vegetated grass cover on the remaining open ground within the current feedlot area. This will dramatically improve the aesthetics of the farming operation. After the complaint about flies from a neighbor, Mr. Stout started discussion with the county Land and Water Conservation Division (LWCD) and NR-151 to prevent the direct discharge from the feedlots to the waters of the state. Paul Sebo, County Conservationist,

from Washington County is also present to answer any questions. This roof project is the end result of planning efforts with the LWCD as a means to eliminate or greatly reduce the potential of animal waste runoff leaving the feedlot and reaching the stream directly south of the farm's feedlot. The close proximity of the existing lot and stream makes the roof the project the best alternative to fix the runoff concern. The board asked Mr. Stout about moving the roof project to meet the setback requirements. Mr. Stout stated he could move the structure however then the feed bunk (a conveyor surrounded by concrete) would not be centered under the building. This would leave no room to effectively feed and manage the movement of the cattle.

Paul Sebo from Washington County Land & Water Conservation Division, 432 East Washington St, West Bend was sworn in by Chair White. Mr. Sebo started communication with Mr. Stout about his current family operations and the location of the feed lot. This roof project is the end result of planning efforts with the LWCD as a means to eliminate or greatly reduce the potential of animal waste runoff leaving the feedlot and reaching the stream directly south of the farm's feedlot. The close proximity of the existing lot and stream makes the roof project as the best alternative to fix the runoff concern. This program qualifies for cost sharing with the State of Wisconsin. Chair White asked for clarification on design techniques and viability for other options available. Mr. Sebo talked about pumping and how this property would not be a viable option to pumping. This property is located in a high water table and doesn't have enough acreage to disperse the runoff. Chair White asked if Mr. Stout would have to move the existing chicken building to make the addition fit in the current setback, would the cost sharing program pay for those relocation costs? Mr. Sebo stated the State would not cover those additional expenses. Mr. Sebo stated that in his professional opinion building this structure centered over the existing feed bunk is the best solution for this farming operation and the best use of the cost sharing money.

The board asked final questions of Mr. Stout. Was Mr. Stout being required by the state to limit his runoff and whether other alternative were suggested? Mr. Stout stated he is not being required to address his run off. However, doing nothing is not an option if he wants to maintain the animals on the farm while still utilizing the infrastructure of the barn building, feeding system, and the lot. Mr. Stout clarified that if the feed bunk was not located down the center of the proposed building he would have additional costs in feeding some of the herd differently and additional costs of creating the pens differently. He stated that because the concrete feed bunk is located where it is, that is a unique characteristic of this property.

Chair White worked through the five findings of fact with the owner, Mr. James Stout, allowing him to speak to each for the Appeals Board to make their findings. Findings in application:

Chair White invited anyone in favor of the appeal to speak. No one present wished to speak.

Chair White invited anyone opposed to the appeal to speak. No one present wished to speak.

Chair White asked if anyone wished to speak. No one present wished to speak.

The Public Hearing was closed at 6:45 p.m.

DELIBERATION AND ACTION BY THE BOARD:

Discussion followed:

- Setback is 60' for A-1
- Unique circumstance
- Error and omission on part of the original surveyor
- Unique circumstance is potential miscalculation by surveyor which village had no part in

Conclusions of Law:

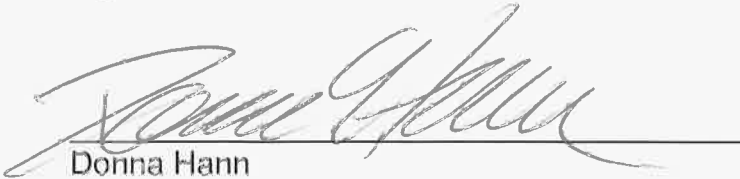
1. The variance will not be contrary to the public interest because it is and will be in accord with the spirit of the Zoning Code because this would be good farm management and the existing barn is in good repair and pre-dated the current set back requirements.
2. There are exceptional, extraordinary or unusual conditions or circumstances that apply specifically to this lot or parcel, use, structure or intended use that do not apply generally to other property or uses in the same district because the setback normally isn't meant for a barn and the concrete feedlot was in existence and creates a unique situation.
3. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district because doing nothing is not an option to prevent run off and this is an existing farming operation.
4. The variance will not create substantial detriment to adjacent property, will not be contrary to the public safety or interest because it will be a benefit to surrounding properties by controlling run off and helping the property owner in his farming operation.
5. A literal enforcement of the terms of the Zoning Code would result in a practical difficulty or unnecessary hardship to the applicant because it would be difficult to move the existing feed bunk and operating the farm in a different manner than what was intended

MOTION (Fritsche/Schleif) move that we approve the variance from the 60' street/front yard setback requirement for property located in the A-1; Agricultural Family Zoning District, Specifically that would enable applicant to construct an open-style roof structure to be attached to an existing barn and over a portion of the feedlot where the nearest point of the roof structure deck would be 44 feet from the street/front property line which is also the right-of-way line for Goldendale Road based upon findings discussed and would be limited to the submitted plan request for variance application. Roll call vote, 4 yes, 0 opposed, 1 absent, carried.

APPROVAL OF MINUTES: No minutes to approve at this time.

ADJOURNMENT:

MOTION (Schleif/Fritsche) to adjourn meeting at 7:02 p.m., motion carried.

A handwritten signature in black ink, appearing to read "Donna Hann", written over a horizontal line.

Donna Hann
Deputy Clerk