

VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI 53022

MEETING: **BOARD OF REVIEW**

DATE AND TIME: **THURSDAY, AUGUST 3, 2017** **9:00 a.m.**

LOCATION: **Germantown Village Hall Board Room**
W112 N17001 Mequon Rd

- I. Call To Order: *This meeting has been given public notice in accordance with Section 19.83 and 19.84, Wis. Stats, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.*
- II. Roll Call
- III. Approval of Minutes: June 30, 2015, July 12, 2016 and May 30, 2017
- IV. Review Procedures
- V. Review Policies Related to Testimony and Waiver of Hearings
- VI. Review Roll
- VII. Omitted Personal Property, Seven Marine N118 W19328 Bunsen Drive, Germantown GTNVPS000111
- VIII. Hear Objections
- IX. Deliberations and Decisions on Objections
- X. Adjournment

**MEMBERS – PLEASE NOTIFY VILLAGE CLERK’S OFFICE
IMMEDIATELY IF YOU ARE UNABLE TO ATTEND THIS MEETING**

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service please contact the Village Clerk at (262)250-4740 at least 2 days prior to the meeting.

PROCEDURE FOR SWORN TELEPHONE OR WRITTEN TESTIMONY
BEFORE THE BOARD OF REVIEW

WHEREAS, Wis. Stat. § 70.47(8) authorizes the Board of Review to consider requests from a property owner or the property owner's representative to testify under oath by telephone or written statements under oath to the Board of Review and whether to allow the same;

WHEREAS, the Department of Revenue has determined that the legal requirements of the Notice to Appear at the Board of Review must be satisfied and the Objection Form must be completed and submitted to the Board of Review as required by law prior to a Request to Testify by Telephone or Submit a Sworn Written Statement form being submitted; and

WHEREAS, the Board of Review in the interests of avoiding any undue surprise or prejudice surrounding testimony at Board of Review hearings;

NOW, THEREFORE, the Board of Review of the Village of Germantown, Washington County does hereby adopt as a policy of the Board the following:

1. PROCEDURE: Before the Board of Review (hereinafter BOR) can consider a request from a property owner or the property owner's representative (hereinafter "Owner") to testify by telephone or submit a sworn written statement, the Owner must first complete and file with the clerk of the BOR the following documents:
 - a. A timely Notice of Intent to appear at BOR;
 - b. A timely Objection Form for Real Property Assessment (Form PA-115A); and
 - c. A fully completed Request to Testify by Telephone or Submit a Sworn Written Statement at Board of Review (Form PA-814).

Such requests must be filed with the clerk of the BOR within the first 2 hours of the BOR's first scheduled meeting. If the Owner fails to file the aforementioned documents as required, the BOR will not consider the request.

2. CRITERIA: The BOR, may, in its sole discretion, consider any or all of the following factors when deciding whether to grant or deny the request:
 - a. The Owner's stated reason(s) for the request as indicated on form PA-814;
 - b. Fairness to the parties;

- c. Ability of the Owner to procure in person oral testimony and any due diligence exhibited by the Owner in procuring such testimony;
 - d. Ability to cross examine the person providing the testimony;
 - e. The BOR's technical capacity to honor the request;
 - f. Any other factors that the BOR deems pertinent to deciding the request.
3. PRECEDENT: Any decision by the BOR pursuant to this procedure shall not create any precedent.
4. EFFECTIVE DATE: This policy shall be effective upon passage.

Passed on the _____ day of June, 2015.

GERMANTOWN BOARD OF REVIEW

, Chairman

ATTEST

Barbara K.D. Goeckner, Clerk

STATE OF WISCONSIN VILLAGE OF GERMANTOWN WASHINGTON COUNTY
BOARD OF REVIEW

PROCEDURE FOR CONSIDERING REQUESTS UNDER
WIS. STAT. § 70.47(8m) TO WAIVE A BOARD OF REVIEW HEARING

WHEREAS, Wis. Stat. § 70.47(8m) authorizes the Board of Review to consider requests from a taxpayer or assessor, or at its own discretion, to waive the hearing of an objection under § 70.47(8) thereby allowing the taxpayer to have the taxpayer's assessment reviewed under § 70.47(13); and

WHEREAS, Wis. Stat. § 70.47(8m) further states that, in cases where the Board of Review grants a waiver, the Board of Review shall submit the notice of decision under Wis. Stat. § 70.47(12) using the amount of the taxpayer's assessment as established by the municipal assessor as the finalized amount; and

WHEREAS, Wis. Stat. § 70.47(8m) further states that, if the Board of Review waives the hearing, the waiver disallows the taxpayer's claim on excessive assessment under Wis. Stat. § 70.37(3) and notwithstanding the time period under § 70.37(3)(d), the taxpayer has 60 days from the notice of hearing waiver in which to commence an action under Wis. Stat. § 70.37(3)(d); and

WHEREAS, the Department of Revenue has determined that the legal requirements of the Notice to Appear at the Board of Review must be satisfied and the Objection Form must be completed and submitted to the Board of Review as required by law by the taxpayer prior to a Request for Waiver being considered;

NOW, THEREFORE, the Board of Review of the Village of Germantown, Washington County does hereby adopt as a policy of the Board the following:

1. PROCEDURE:

- a. Before the Board of Review (hereinafter BOR) can consider, in its sole discretion, a request for a waiver, the taxpayer or its agent (hereinafter "Taxpayer") must first complete and file with the Clerk of the BOR the following documents:
 - i. A timely Notice of Intent to Appear at BOR; and
 - ii. A timely Objection Form for Real Property Assessment (PA -115A);

If the Taxpayer fails to file the aforementioned documents as required, no hearing will be scheduled on the objection.

- b. For requests for a waiver made by the Taxpayer, the Taxpayer shall file a fully completed Request for Waiver of Board of Review (BOR) Hearing

(Form PA-813) with the clerk of the BOR not later than end of the first 2 hours of the BOR's first scheduled meeting.

- c. For requests for a waiver made by the Assessor, such request shall be made in writing not later than 24 hours before the scheduled hearing for the objection except in extraordinary circumstances.
 - d. The BOR may, at any time before a hearing is commenced, make a motion to waive the hearing using the same criteria specified below.
2. CRITERIA: If the Taxpayer files the aforementioned documents as required and a request is made to waive the hearing of an objection, the BOR may use any or all of the following criteria and factors when deciding whether to waive the hearing:
- a. The benefits or detriments of the BOR process;
 - b. The benefits or detriments of having a record for the Court review;
 - c. Avoidance of unruly, lengthy, burdensome appeals;
 - d. Ability to cross examine the person providing the testimony;
 - e. Any other factors that the BOR deems pertinent to deciding whether to waive the hearing.
3. PRECEDENT: Any decision by the BOR pursuant to this procedure shall not create any precedent.
4. EFFECTIVE DATE: This policy shall be effective upon passage.

Passed on the _____ day of June, 2015.

GERMANTOWN BOARD OF REVIEW

, Chairman

ATTEST

Barbara K.D. Goeckner, Clerk

BOARD OF REVIEW
MEETING MINUTES
JUNE 30, 2015
VILLAGE HALL BOARD ROOM

Call To Order

The 2015 Board of Review was called to order at 9:02 a.m. by Village Clerk Goeckner.

Roll Call

Present were: Members present were: Kling, Miller, Niggemeier, and Schneider, with Alternates Simoneau and Leukert. Member Shadid was absent and excused. Also present was Attorney Sajdak, Assessor Jim Danielson and Clerk Goeckner.

Approval Of Minutes – June 3, 2015

MOTION (Schneider/Niggemeier) to approve the minutes of June 3, 2015, carried.

Policies Related to Testimony and Waiver of Hearings

Procedure for Sworn Telephone or Written Testimony Before the Board of Review: Vice Chair Kling questioned technology availability and inability to verify person speaking, as well as those who provide written testimony. Also concerned in absence of face to face it is difficult to ask and get answers to follow up questions.

Clerk asked about 'first scheduled' meeting – would that be meeting to adjourn to a later date, or Board of Review where objections are stated, even if postponed? Attorney Sajdak stated he took language as recommended by State and statutory language intends for 'first scheduled' meaning the meeting that you hold hearings at.

Attorney Sajdak discussed concerns. ID's are not checked for individuals who are here in person either. Lack of interaction concern is a possible drawback to allowing testimony by telephone or as written. As to technology concerns, Board normally meets in Village Hall Board room where there is a telephone. If meeting in other areas this would be an unknown. Policy is written to give us ability to consider request without binding us one way or another. Wants to leave our options open. Clerk – this lays ground work for Board of Review to make decision on a case by case basis.

A #3 was added to general policies and would be revised to indicate there is no precedent, that each individual case, in essence, stands on its own. Because we granted it in one case doesn't mean we're going to grant it to the next case.

We would move the effective date to No. 4 then. Attorney Sajdak will provide policy with the corrected language to Clerk.

MOTION (Schneider/Miller) to accept the policy with noted revisions as stated, carried. 3 in favor, 1 opposed (Kling).

Procedure for Considering Requests Under Wis. Stat. 70.47(8) to Waive a Board of Review hearing: Attorney Sajdak proposed breaking out procedure portion of section with a title of

“Procedure” and have a letter (a) under that. Generally stating Board of Review must have an objection first, before we can consider waiving an objection. Then (b) would say requests for waiver made by taxpayer would need to be filed no later than the end of the first two hours of **Policies Related to Testimony and Waiver of Hearings Policies Related to Testimony and Waiver of Hearings**

Board’s first meeting, which would be meeting where we’re holding objections. Then (c) would indicate requests for waiver made by Assessor, and those should be made not later than 24 hours before the scheduled hearing, except for those circumstances where that’s not possible. Then add (d) stating the Board at any time before a hearing is actually commenced, may be able to also waive that hearing. This would avoid starting a hearing then deciding half way through to waive it. Discussion of whether objector requesting waiver would have to appear at that hearing. Since it is same day, you would suspect they would be there, but it would be up to them and at their own risk if they choose not to be present. We would also make the same changes as in the other policy where #3 would be same precedent – case by case. #4 would be effective date. Further discussion of policy and timing of waiving hearing. **MOTION (Schneider/Miller) to approve the policy, with noted revisions, carried. 3 in favor, 1 opposed (Niggemeier).**

Both policies have an effective date of June 30, 2015.

Review Roll

The Assessor and Clerk certified the assessment roll and provided it to Board members for their review. The Clerk received final numbers from Assessor for the roll.

MOTION (Schneider/Niggemeier) to accept assessment roll, carried.

Discussion of new procedures and currently no requests for sworn or written testimony. Asked if we had any requests for waiver that we should consider. Attorney Sajdak recommends looking at any right before each objection in case there are questions prior to starting on the actual valuations themselves.

Hear Objections:

#1 – Rick Schroeder, H & K Partners 2702 International lane #201 Madison WI 53704 – Agent Gary Kohlenberg 604 LaBelle Ave., Oconomowoc WI 53066 Property Address of N96W17850 N County Line Road, Germanton, Parcel #GTNV 334-095. (Kentucky Fried Chicken on County Line Road)

Land Value is \$630,00

Building and Improvements are \$220,000

Total Value \$850,000

The objector, Gary Kohlenberg and Assessor Jim Danielson were sworn in.

Chair Kling reviewed hearing process and made the objector aware of state law requiring assessor’s value to be upheld and burden of proof on the objector to prove otherwise.

Gary Kohlenberg stated his opinion of the value of property was \$520,000. Mr. Kohlenberg stated his qualifications for representing the property. He presented Exhibit #1 – Appraisal on property from January 1, 2014 with a report date of July 23, 2014. Fee based appraisal. Appraiser is an MAI appraiser. Considered both income approach and comparable sales approach. Reconciled appraisal between the two and arrived at a value of \$520,000.

Hear Objections continued:

Appraiser is not present to testify. Attorney Sajdak stated decision is up to the Board of Review, but must have sworn testimony before you. Whether you accept appraisal of the value, Mr. Kohlenberg is testifying under oath as to his opinion. The distinction to make is testimony he is providing vs. the specific appraiser himself.

Mr. Kohlenberg continued with information from appraisal regarding comparable sales and adjustments made.

Board of Review members asked questions regarding basis for opinion of \$520,000, breakdown between land and improvements in the \$520,000, did he discuss with Assessor at Open Book, other sales to consider, market data, were some comparables arm's length sales, other properties and sales data.

Assessor Danielson asked questions regarding sales history of property, how appraiser arrived at each percentage for adjustments – appraiser not here to testify to that, income approach and market rent.

Mr. Kohlenberg responded to each question from Board and Assessor.

Chair Kling asked if there were any other questions.

No other witnesses from the objector.

Assessor shall present his case.

Assessor Jim Danielson provided testimony regarding sales, Markarian Hierarchy, sales and comparables. He relied on comparable sales approach. Differences he had were standalone restaurants in similar locations. Two new buildings which were built in 2014 and sold in 2015 were arm's length sales transactions. He passed out exhibit #2 – Parcel 333-949 and 940 Jimmy Johns and Buffalo Wild Wings \$1.9 mil sale – 7200 sq. ft. Current assessment on KFC 2670 sq. ft. assessed at \$850,000 represents \$318 sq. ft. Jimmy Johns sold for \$4,176 - \$281/sq. ft. Comp #3 – Taco Bell - Saukville - \$314 sq. ft. Comp #4 Arby's Beaver Dam - \$431.58 sq. ft. Of 4 sales, the two lowest and two largest, others comparable in size, average is \$322 per sq. ft. and current assessment is \$318 / sq. ft. which he feels to be a fair assessment.

Mr. Kohlenberg asked questions of Assessor Danielson regarding comparables provided, sale dates and requirements of what is allowed to be used according to assessor's manual, age, location, square footage, sales data and values of properties of those chosen as comparables, arm's length transactions, rentals and rental cost per square foot. Assessor Danielson

responded to each question. Board member Miller verified with the assessor the sq. feet on comparable #2 is for the whole building.

Chair Kling offered Mr. Kohlenberg the opportunity to present any other evidence or ask further questions. Mr. Kohlenberg restated values proposed and sq. ft. price of on one of them being \$282. That times square footage of the KFC equals a value of about \$753,000 which is less than assessor's value and asked the age of the subject property be considered. Value based on square foot cost of comparable one provides a value of \$696,000. A value between \$700,000 and \$750,000 using the two comparables. Also stated appeals court decision regarding sale lease back cannot be used as a comparable sale. Value should be a lot closer to what he suggests of \$520,000.

Hear Objections continued:

Assessor Danielson recapped – they researched leases but did not gain access to the leases. Researched sales for both communities mentioned. Assessments were set and not contested. Comps are all good comps and better in location to summary market data in appraisal. Believes \$850,000 is equitable.

No other questions. Testimony closed at 11:12 a.m.

Deliberations And Decisions On Objections

Board deliberated on comparables, sales and other testimony provided. **MOTION (Kling/Schneider) to uphold the Assessor's valuation of \$850,000. The Assessor presented evidence of fair market value of the subject property using assessments which conform to the statutory requirements and which are outlined in the Wisconsin Property Assessment Manual, that the property owner did not present sufficient evidence to rebut the presumption of correctness granted by law to the assessor, that the assessor's valuation is reasonable, in light of all the relevant evidence and that we sustain this same valuation as set by the assessor, by roll call vote, all in favor, carried.**

The Board of Review will now take a 5-minute recess.

The Board of Review was called back to order by Chair Kling at 12:02 p.m.

Hear Objections:

Clerk Goeckner stated the next objection is from property owner Matthew J. Schmidt, W188 N12369 Maple Road Richfield, WI – GTNV 174 991. However, the Assessor has stated this issue has been settled. Assessor Danielson confirmed this. Attorney Sajdak verified this change was reflected in assessment roll as presented. Assessor confirmed.

Clerk Goeckner stated the next objection is from property owner Andy Pelkey, 9320 West Grandview Court, Franklin WI for property at N112 W21830 Mequon Road, Germantown WI – GTNV 193 987. Land Value of \$68,400 Improvement Value of \$129,200 for a total valuation of \$197,600.

Attorney Sajdak informed the Board line 5 of objection form is the same as assessed

evaluation. Statute says when appearing before the Board, the person shall specify in writing the person's assessment of value of the land and of the improvements that are the subject of person's objection and to specify information person used to arrive at that estimate. On this form, estimate is same as assessed value. I know the question the taxpayer wishes to raise. Is this body comfortable with the method that we are (using to) get to that point? Discussion of Board's duties to understand what is being objected to and why. If the assessment matches the estimate of what it is worth, why are we objecting? Does this fall into our procedure? Does Board have an actual objection if there is no difference in dollar amounts between the two lines? Discussion of question of waiving the hearing. Further discussion of need to be a difference between the assessed value and the property owner's estimated value for there to be an objection. Discussion of timeliness of filing objection. Mr. Pelkey filed intent on Friday. There was a question of whether his intended objection would be a qualifying objection, but was unknown until the form was received by the Clerk. Attorney Sajdak confirmed there are no issues with respect to the timing of his objection. Board members – unclear what the dispute is.

Hear Objections continued:

MOTION (Schneider/Miller) to reject the objection because the value is the same (assessed and property owner's estimate), by roll call vote, carried.

Clerk Goeckner proceeded to type the determination of the first objection for KFC, and clarified with Attorney Sajdak the mailing address to be used is that of the objector, Rick Schroeder, H & K Partners in Madison. She will also mail a copy to the Agent representing the case.

There were no further objections filed.

Adjournment

MOTION (Miller/Schneider) to adjourn the meeting Sine Di at 12:37 p.m., carried unanimously.

Respectfully submitted,

Barbara K. D. Goeckner MMC/WCPC
Village Clerk

**BOARD OF REVIEW
MEETING MINUTES
JULY 12, 2016
VILLAGE HALL BOARD ROOM**

Call To Order

The 2016 Board of Review was called to order at 9:06 a.m. by Village Clerk Goeckner.

Roll Call

Present were: Members present were: Schneider, Shadid, Niggemeier, Miller and Alternate Leukert. Also present were Village Attorney Sajdak and Clerk Goeckner.

Approval of Minutes from June 30, 2015 and June 6, 2016

Members did not receive minutes from June 30, 2015 so will need to be approved at the next meeting. **MOTION (Shadid/Schneider) to approve June 6, 2016 minutes, carried.**

Election of Chairperson and Vice Chairperson

Nomination by Schneider for Miller as Chair who declined for Schneider as Chair, who declined. Nomination by Schneider for Niggemeier to be Chair, who was appointed as Chair for 2016 Board of Review.

Nomination by Niggemeier for Shadid as Vice Chair, who was appointed as Vice Chair for 2016 Board of Review.

Verification of Mandatory Training

Clerk Goeckner verified the following members have received the required training for Board of Review: William Shadid, Lynn Miller and Sam Schneider received training 4/16/2015. Alternate Kim Leukert received training on 4/26/2016. The mandatory training was reported to the Department of Revenue as required.

Review Procedures

Chair Niggemeier reviewed the Board of Review procedures for the board members.

Policies of 2015 Related to Testimony and Waiver of Hearings for Review

Clerk Goeckner reviewed the policies approved in 2015 relating to the testimony and waiver of hearings in regard to providing testimony by telephone or in writing and the ability to waive a hearing directly to court.

Review Roll

The Assessor and Clerk certified the assessment roll and provided the roll to the Board of Review members for their review.

Hear Objections

No objection forms were received. An email was received approximately 6 hours past the 48-hour deadline, from a party indicating they wanted to be heard at the Board of Review. At the time of 9:45 a.m. Attorney Sajdak announced that the individual has not appeared and we have not received an objection form from him. It is unknown whether or not he will show.

MOTION (Shadid/Schneider) to recess the Board of Review at 9:46 p.m.

Deliberations And Decisions On Objections

At 11:06 a.m. the Board of Review was called back into session after being in recess the entire time in the Village Board room. No one has appeared to file an objection or to request a hearing. One individual, who had sent notice 6 hours late has not come in with an objection and that is the triggering mechanism by which this body would determine whether they will hear it or not.

His argument is that he did not receive open records in time to allow him to present his case.

Board will not hear this due to lack of proper objection.

MOTION (Schneider/Shadid) to adjourn the Board of Review for 2017 Sine Di, carried.

ADJOURNMENT

Meeting adjourned at 11:07 a.m.

Respectfully submitted,

Barbara K. D. Goeckner MMC/WCPC
Village Clerk

BOARD OF REVIEW
MEETING MINUTES
MAY 30, 2017
VILLAGE HALL BOARD ROOM

Call To Order

The 2017 Board of Review was called to order at 9:00 a.m. by Village Clerk Goeckner.

Roll Call

Members present were: Leukert, Miller, Niggemeier, Schneider, and Shadid. Also present was Clerk Goeckner.

Election of Chairperson and Vice Chairperson

Nomination by Niggemeier/Schneider for Member Miller for Chair of the 2017 Board of Review, carried.

Nomination by Miller/Niggemeier for Member Schneider for Vice Chair of the 2017 Board of Review, carried.

Verification of Mandatory Training

Clerk Goeckner verified the Member Leukert attended Board of Review training on April 26, 2016 and meets the requirement for the 2017 Board of Review mandatory training. The required certification was filed with the Department of Revenue on May 17, 2017.

Board of Review Set to August 3, 2017 at 9:00 a.m. to Hear Appeals on 2017

Assessments

The 2017 Assessment Roll is not yet complete. Therefore, the Board of Review is set to meet on August 3, 2017 at 9:00 a.m. to hear appeals on the 2017 Assessments.

Open Book will be held on July 13, 2017 from 12:00 p.m. until 6:00 p.m.

Mark Brown, Assessor for Associated Appraisal stated this is only a maintenance year for assessments.

MOTION (Schneider/Miller) to adjourn the Board of Review to the later date of August 3, 2017 at 9:00 a.m., due to assessment roll not being complete at this time, carried.

ADJOURNMENT

Meeting adjourned at 9:17 a.m.

Respectfully submitted,

Barbara K. D. Goeckner MMC/WCPC
Village Clerk