

**VILLAGE OF GERMANTOWN  
BOARD OF ZONING APPEALS  
MEETING MINUTES  
December 13, 2017**

**CALL TO ORDER:** The meeting was called to order at 5:30 p.m.

**ROLL CALL:** Chair White, Member Schleif, Alternate Knop, Alternate Merry. Member Hanson arrived at 5:50 p.m. Absent and excused Member Fritsche, and Member Filla. Also present Community Development Director (CDD)/Village Planner and Zoning Administrator Retzlaff, and Clerk Boldrey.

**APPROVAL OF MINUTES:** November 8, 2017

**Motion by Schleif, second by White to approve minutes as corrected for November 8, 2017, with corrections of spelling of Schleif and Chair White abstained from vote of the Approval of August 16, 2017 minutes. Motion carried.**

**PUBLIC HEARING:**

5:30 P.M. Chairman White read the public hearing notice. THE PURPOSE of said Hearing is to hear any and all parties, their attorneys or agents, for or against the **APPEAL** as filed by **Jeffrey and Shelly Davis**, owner of the following property who is seeking a variance from Section 17.16(3) of the Germantown Municipal Code which requires a side yard setback of 20 feet. The request is to allow a side yard setback of 10 feet at the property located at:

**N112 W20569 Mequon Road, Germantown WI 53022 (GTNV 301-984)**

Chairman White offered for Jeffrey Davis to speak first.

The Planning and Zoning Administrator stated the following:

The property is zoned Rs-3 Single Family Zoning District.

The building permit was rejected by the Office of the Inspection Services due to the setback requirement.

The proposed addition does not meet the minimum 20 feet side yard building set back requirement for property in Rs-3 zoning district. The proposed is 16'7 x 34'6, (approximately 580 square feet) addition to an existing dwelling.

Mr. Jeffrey Davis was sworn in by the chair.

Mr. Davis distributed a letter from his neighbor on the East. The letter is dated December 11, 2017 and is signed by Patrick and Carolyn Quella.

Mr. Davis commented that he did not know that 20 feet was the line. He was told ten feet when he stopped in the office. He received misinformation. He has spent time and had drawings prepared for ten feet. The property is 24 years old and the exterior needs renovation and they want to put an addition on the house due to family wanting additional bedrooms and bathroom. Also wants to be able to park cars in the garage. He has ten feet but it is 7.35 feet from the footing to the property line.

Mr. Davis stated that this is a space issue. There are no extreme hardships.

Jim Hansen Arrives 5:50 p.m.

Mr. Davis distributed pictures to the board. Two 8/12 x 11 color photographs taken from the vantage point of the garage with a car on the right hand side. The second is a picture of the side of the house with a swing set. Ten feet West of the property line. The shot looking due East to the neighbor's house. The Quella's are not worried of their view. Nothing to obstruct anything in their lifestyle.

Mr. Davis understood that the issue is the setback.

Chair White questioned if there are other ways for the addition. Could the architect come up with another way for the addition?

Mr. Davis commented the mound system and gas line is in the front yard. He did not want the house to look like a duplex with the garage on the other side of the house. The second floor plan shows the bedrooms are not huge with a jack and jill bathroom.

Schleif questioned if the trees would be disturbed.

Mr. Davis commented that he may have to take some of the trees from his side but will keep the tree and hedge line.

Mr. Davis commented that the drive will stay the same; however the concrete pad will be redone with the addition.

Mr. Davis commented that the garage will remain a garage. There will an addition of a one car garage.

Mr. Davis's lot size is a little over an acre.

Chair White asked if the Board had any additional questions.

Mr. Davis did not have any additional questions.

Retzlaff commented on the statement that the resident was told wrong information. The contractor is a local contractor that does a lot of business in the Village. Chair White commented that there is a legal doctrine called an estoppel does not apply on municipalities and not a basis on granting a variance. Even if convinced beyond a shadow of a doubt that cannot be the basis for the granting of a basis.

Schleif questioned if Mr. Davis could buy land from the neighbor. Retzlaff commented arguable yes; however, as long as the parcel size of the neighbor does not fall under one acre.

Chair White offered Mr. Davis one more comment prior to close of public hearing.

Mr. Davis stated that he would not have went through the effort and expense if he knew the lot line and setback.

Public Hearing closed at 6:09 p.m.

**DELIBERATION AND ACTION BY THE BOARD**

The deliberation by the Board was as follows:

Variance will not be contrary to the public interest and will be in accord with the spirit of the Zoning Code.

There not 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.

Variance is not necessary for preservation and enjoyment of substantial property rights.

Variance will not create substantial detriment to adjacent property, and will not be contrary to public safety or interest.

Discussion ensued of the literal enforcement of terms of Zoning Code that it would not result in practical difficulty or unnecessary hardship to applicant.

Chair White brought up a case that a variance was granted and then the Supreme Court took it away.

**MOTION by Schleif, second by Knop deny the variance based on the findings of fact. Motion carried 3-2. (Aye: Schleif, Knop, and White) (Nay: Hansen and Merry)**

Chairman stated outcome to appellant and discussion of appeal and decision.

Meeting Adjourned at 6:48 p.m.

The next meeting date if needed would be January 10, 2018.

**MOTION (Schleif/Hansen) to adjourn meeting at 6:34 p.m. Motion Carried.**

Respectfully Submitted,

*Deanna Boldrey*  
Deanna Boldrey, WCMC/CMC  
Village Clerk