

**VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI**

MEETING: BOARD OF ZONING APPEALS

DATE AND TIME: WEDNESDAY, August 14, 2019 5:30 p.m.

**LOCATION: Germantown Village Hall Board Room
N112 W17001 Mequon Road**

- 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:** December 13, 2017
- IV. **PUBLIC HEARING:**
 - A. The purpose of said hearing is to hear any and all parties, their attorneys or agents, for or against the **APPEAL** filed by **Chris Dienberg**, property owner, who is requesting *variances from the Village's Zoning Code (Section 17) to: (1) reduce the minimum side yard building setback requirement from 20 feet to 3 feet under Section 17.17(3); and (2) waive the time limit provisions for the use of temporary structures under Section 17.41(7)(b) for purposes of erecting and permanently using a 24' x 24' temporary storage canopy on the north side of the following property:*

W218N9743 Happy Hollow Lane, Colgate
(Tax Key# GTNV 313-001)
- V. **DELIBERATION AND ACTION BY THE BOARD on Item IV:**
- VI. **NEXT MEETING DATE AND TIME IF NEEDED:**
Second Wednesday's of the month at 5:30 p.m.
- VII. **ADJOURNMENT**

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.

Notice is given that a majority of the Village Board may attend this meeting to gather information about an agenda item over which they have decision making responsibility. This may constitute a meeting of the Village Board per State ex rel. Badke v. Greendale Village Board, even though the Village Board will not take formal action at this meeting.

**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

NOTICE OF PUBLIC HEARING

VILLAGE OF GERMANTOWN

NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Board of Zoning Appeals, Village of Germantown, WI:

Germantown Village Hall Board Room
N112 W17001 Mequon Road
Germantown WI 53022

Date and Time: **WEDNESDAY, August 14, 2019 - 5:30 P.M.**

THE PURPOSE of said hearing will be to hear any and all parties, their attorneys or agents, for or against a **VARIANCE APPEAL** filed by **Chris Dienberg**, property owner, who is requesting *variances from the Village's Zoning Code (Section 17) to: (1) reduce the minimum side yard building setback requirement from 20 feet to 3 feet under Section 17.17(3); and (2) waive the time limit provisions for the use of temporary structures under Section 17.41(7)(b) for purposes of erecting and permanently using a 24' x 24' temporary storage canopy on the north side of the following property:*

**W218N9743 Happy Hollow Lane, Colgate
(Tax Key# GTNV 313-001)**

A copy of the application and supporting documents are on file in the Clerk's office and available for public inspection during the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday.

Dated this 18th day of July, 2019.

Village Clerk

Published: July 24th and July 31st.

VILLAGE OF GERMANTOWN
OFFICE OF THE VILLAGE CLERK
N112 W17001 MEOUON ROAD/P. O. BOX 337
GERMANTOWN WI 53022-0337

BOARD OF ZONING APPEALS
NOTICE OF APPEAL OR APPLICATION

Case No. _____
Filing Date 7-10-2019
Fee Paid \$ 570.00
Hearing Date: 8/14
Notice Mailed: 7/23/19
Notices Published: 7/24/19 & 7/31/19

To: Board of Zoning Appeals
Village of Germantown, Wisconsin

NOTICE IS HEREBY GIVEN that the undersigned hereby (appeals for relief from a decision of an administrative official) (applies for the following described right or privilege) :

1. Appellant's or Applicant's Name: CHRIS DIENBERG
Address: W218 N9743 HAPPY HOLLOW LANE
Phone No.: 414-416-7227 dienbergs@gmail.com
2. Appellant's or applicants' interest in property:
☒ Owner; () Tenant; () Mortgagee; () Agent.
3. Property Owner's Name: SAME AS ABOVE
Address: _____
Phone No.: _____
4. Address of property: W218 N9743 HAPPY HOLLOW LANE
Lot 1, Block 1, Tax Parcel No. GTNV313001, Zoning District: RS-4
5. Present use of the property: RESIDENTIAL HOME
6. Proposed use of the property: RESIDENTIAL HOME
7. Previous Appeal or Application (if any)? Yes () No ☒

If YES, list date of hearing: _____ and Decision of previous hearing: _____

RECEIVED

JUL 10 2019

8. Identify the **PURPOSE** for this appeal or application. Please circle appropriate item below and provide the requested information. Attach a separate sheet, if necessary.

(a) Appeal of decision or order of Administrative Official and Request for Interpretation of Zoning/Building Code.

1. Date of decision or order: _____
2. Description of decision or order: _____
3. Decision or order is erroneous because: _____

(b) Request for Variance of Zoning/Building Code.

1. Describe the requested variance and dimension of variance:
PLACEMENT OF 24'X24 CANOPY DOES NOT MEET SIDE YARD SET BACK. YOU HAVE A SIGNED LETTER FROM ADJACENT NEIGHBOR GRANTING PERMISSION FOR THIS LOCATION THIS IS UP AGAINST A TREE LINED LOT LINE
2. Explain how the Variance, IF granted, is consistent with the spirit, purpose and intent of the Code:
THIS DOES NOT ENFRINGE ON THE ADJACENT PROPERTY BECAUSE OF THE THICK TREE LINE. TREES WERE TRIMMED WHEN BUILT, BUT HAVE GROWN BACK.
3. Describe the exceptional, extraordinary or unusual conditions or circumstances that apply specifically to this lot/parcel, use, structure, or intended use that **DO NOT** apply generally to other properties or uses in the SAME district:
DUE TO PLACEMENT OF SEPTIC SYSTEM, HOUSE HAD TO BE PLACED TO REAR OF LOT. THERE IS A PLUMBING PIPE FROM THE GARAGE THAT CAN'T SUPPORT A VEHICLES WEIGHT GOING TO THE NORTH
4. Describe what special conditions exist which cause practical difficulty or unnecessary hardship, IF variance is NOT granted:
THIS IS USED TO COVER A BOAT AND RV WHICH I USED TO COVER WITH A TARP. THE CANOPY LOOKS MORE APPEALING THAN THE TARPS
5. Explain why the variance **IS NECESSARY** for the preservation and enjoyment of substantial property rights possessed by other properties in the SAME district:

OUR REAR YARDS ARE ALL OPEN AND WHEN TALKING WITH MY NEIGHBOR, EVERY COULD SEE IT AND THE CURRENT LOCATION IS LESS NOTICEABLE.

6. Explain how this variance, IF granted, **WILL NOT** create substantial detriment to adjacent property, **WILL NOT** be contrary to the public interest and **WILL NOT** endanger public safety and interest:

CANOPY HAS BEEN UP FOR 3 YEARS WITH NO ISSUES
A RECENT LOT CHANGE IS CAUSING THIS ISSUE

(c) Request for interpretation of regulations of the Zoning Code or the District boundaries of the Zoning Map.

1. List applicable section(s) of the Zoning Code: _____
2. Describe proposed use/activity/construction: _____

3. Explain reasons supporting requested action: _____

4. Has request been referred to Plan Commission? Yes () No ()
If YES, give recommendation of Plan Commission: _____

(d) Permission for Temporary Use Permit.

1. Describe use requested: _____
2. Proposed commencement date: _____
3. Proposed termination date: _____

(e) A determination that an unspecified or unclassified use is permitted in a Zoning District.

1. Describe use requested:

2. Attach copy of recommendation of Village Plan Commission.

(f) Permission to substitute a MORE restrictive non-conforming use for an existing non-conforming use.

1. Attach copy of recommendation of Village Plan Commission.
2. Attach copy of certification of Zoning Administrator to legality of present non-conforming use.

3. Date of commencement of present use: _____
4. Value of improvement on date use became non-conforming (attach documentation supporting value): \$ _____
5. Present value of all existing improvements, additions and alterations since date use became non-conforming (attach documentation): \$ _____

REQUIRED DOCUMENTATION

Each appeal or application must be accompanied by:

- A. Current plat or survey of the lot/parcel, with complete details of the site, dimensioned, elevation data, easements, existing and proposed physical features, yards and setbacks, etc.
- B. Attachments as outlined above.
- C. Filing fee(s)
- D. Copy of decision or order which is the basis of this appeal/application.
- E. Name and Address of counsel IF appellant/applicant elects to be represented by counsel.
- F. Any additional fee of \$ _____ to cover the administrative costs if a contested case is requested.

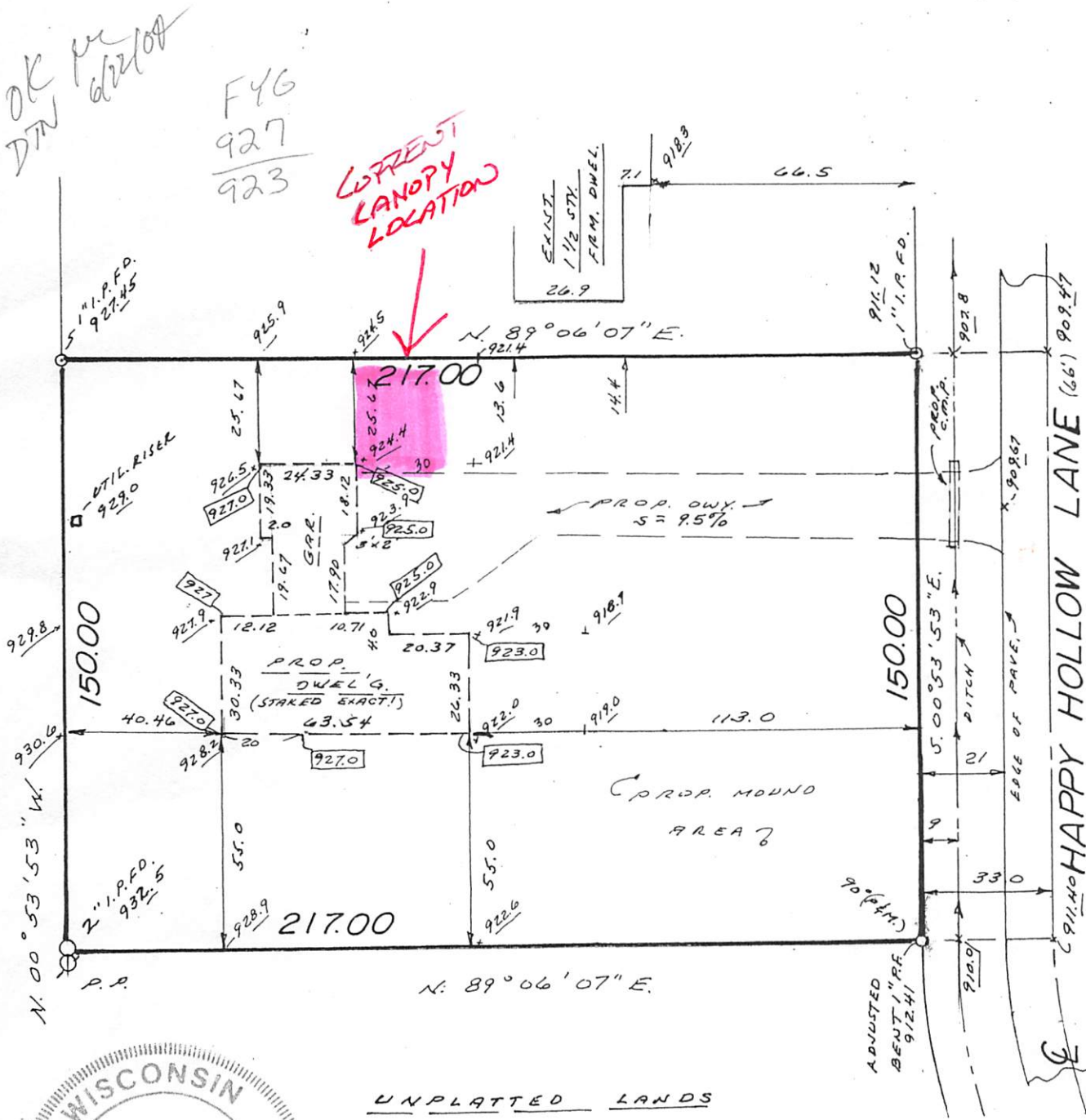
I hereby certify that the above application and/or appeal and all attachments hereto are true, correct and complete to the best of my knowledge and belief.

Dated: July 10, 2019 
Signature of applicant or appellant

Plat of Survey

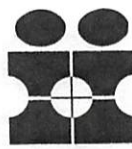
Survey For: WOLTER BROS. BUILDERS DIENBERG/FLEISCHHACKER
Location: HAPPY HOLLOW LANE

Description: LOT 1 BLOCK 1 HAPPY HOLLOW ESTATES, a subdivision of part of the S.W. 1/4 and N.W. 1/4 of the S.W. 1/4 of Section 31, Town 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin.



UNPLATTED LANDS

00.0 - DENOTES PROP. FIN. GRADES AT BLDG. CORNERS
00.0 - DENOTES EXIST. GRADES



INTERLINE SURVEY SERVICES, INC.
10521 W. FOREST HOME AVE. STE. 201
HALES CORNERS, WI 53130
PHONE 425-2060

SURVEY CERTIFICATE

Scale: 1" = 40'

State of Wisconsin ss
Milwaukee County

We, Interline Survey Services, Inc., certify that we have surveyed the above described property and the above map is a true representation thereof, and shows the size and location of the property, its exterior boundaries, the location and dimensions of all visible structures thereon, fences, apparent easements and roadways and visible encroachments, if any.

This survey is made for the exclusive use of the present owners of the Property, and also those who purchase, mortgage, or guarantee the title thereto, within one (1) year from date hereof.

Gary J. Smith
Wisconsin Registered Land Surveyor

Date: 5/13/04
Job No.: 29770

OFFICE COPY