

VILLAGE OF GERMANTOWN
BOARD OF ZONING APPEALS
MEETING MINUTES
MARCH 21, 2012

CALL TO ORDER

The meeting was called to order at 5:30 p.m.

ROLL CALL

Present was Chairman Pluta, members Schleif, McDonnell and Bojarski. Absent was member Riemer. Also in attendance was Planning and Zoning Administrator Jeff Retzlaff, Attorney John DeStefanis representing the Village of Germantown, Attorney Mike Herbrand representing the Board of Zoning Appeals, appellants Arthur and Karen Derepkowski, Arthur and Liz Zabel, Ralph Schroeder and Susan Znorski. A court reporter was also present.

PUBLIC HEARING

5:30 P.M. THE PURPOSE of said hearing will be to hear any and all parties, their attorneys or agents, for or against the **APPEAL** as filed by **ARTHUR AND KAREN DEREPKOWSKI**, owners, seeking a review of an alleged error by the General Government and Finance Committee on Attorney's 12/16/11 letter as it relates to the Administrative Decision of the Planner/Zoning Administrator for the replacement of existing metal fence in CUP #5-10 for the property located at:

N96 W15630 County Line Road

Chairman Pluta read the policy and procedures of the Board of Zoning Appeals.

Arthur Derepowski was sworn in by the Chair. He read from a typewritten statement he brought with him and distributed same to Board. Eight exhibits were presented to the Board. His statement is included with the document prepared by the Court reporter. A summary of his testimony included the following

- Since the barn and vegetation was removed, he can see the parking lot, and traffic on County Line and Pilgrim Roads
- The previous fence was about 8 feet tall
- He never saw a final site plan
- He thought the landscapers were going to be back in spring to finish the job

Attorney DeStefanis questioned Mr. Derepowski. The questioning is included in the document prepared by the Court reporter. A summary of the questions and answers included the following:

- Mr. Derepowski was at the Board meeting when the CUP was adopted
- He spoke at the public hearing

- He did not address the property line setbacks

Art Zabel was sworn in by the Chair. His testimony is included in the document prepared by the Court reporter. A summary follows:

- The Village Board approved site plan A
- Existing means what was already there
- The final plat was approved by the Planner

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PUBLIC HEARING continued

Attorney DeStefanis questioned Mr. Zabel. He presented four exhibits to the Board. The questioning is included in the document prepared by the Court reporter. A summary follows:

- In July 2010 Spec Prop made application for a CUP and site plan approval
- The Plan Commission formulated a list of conditions and recommended approval to the Village Board
- It came before the Village Board September 20, 2010
- Condition #7 regarding a metal fence was quoted
- Only one amendment was made regarding the fence posts
- In October 2010 it was brought back before the Village Board for clarification
- There was an agreement in 1989 between Mr. Specht and the Village

Liz Zabel was sworn in by the Chair. Her statement is included in the document prepared by the Court reporter. A summary follows:

- She had watched the Plan Commission and Village Board meetings and read all the material and conditions of the site plan.
- The CUP reads metal fence along the north property lines
- The language states replace existing metal fence
- The metal fence was in poor condition and falling down in places

Art Zabel approached the Board and was still under oath. He stated the following:

- There was an agreement in 1989 between Mr. Specht and the Village of Germantown and a letter was presented regarding same
- Mr. Zabel was a Trustee in 1990
- Cousins bought the barn from an auto painter
- It was agreed not to combine the two properties into one
- There would be temporary parking
- Cousins put in a wood fence in 1989 – 1990

Susan Znorski appeared before the Board and was sworn in. She stated that there is a safety consideration because people could cut through their yard and also garbage blows in their yard.

With no other appellant or witness for the appellant, the Village began their portion of the meeting.

Planning/Zoning Administrator Retzlaff was sworn in by the Chair. A summary of the testimony is as follows, the entire portion is on the document provided by the Court reporter.

- He has been employed with the Village since Sept. 2006
- He has over 20 years experience
- SpecProp made an application for a CUP for offsite parking for Cousins on the corner of Pilgrim and County Line Roads in July 2010
- There was an Alternative A and B plan
- Both plans were submitted to the Village
- Both plans had the same fence
- Drafting the CUP is a ministerial function
- There were six amendments but only one regarding the fence, that being the support posts
- No one discussed a privacy issue
- The buckthorn and barn originally blocked the view of County Line Road

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DELIBERATION AND ACTION BY THE BOARD

The deliberation by the Board was as follows:

- The Administrator's interpretation was incorrect because the intent of the Village Board was for the entire fence to be replaced

- The existing metal fence should be replaced
- The key phrase is existing metal fence
- It was believed the Planner carried out the intention of the Village Board

Motion by McDonnell second by Schleif that the Zoning Administrator is ordered to require the owner to replace the prior metal fence along with all other conditions of the CUP.

Motion by McDonnell second by Schlieff to amend the motion to state the length of the fence should be consistent with the dotted line showing the fence in the CUP. Motion carried.

Moved by Bojarski second by McDonnell to replace the fence with the same 8 foot high privacy fence as what was installed along the north property line. Motion carried

Roll call was taken on the motion as amended, all present voted aye excepting Pluta nay. Motion carried.

APPROVAL OF MINUTES: September 21, 2011

Motion by McDonnell second by Pluta to approve the minutes. All present voted aye. Motion carried.

ADJOURNMENT

Motion by McDonnell second by Schleif to adjourn at 8:45 p.m.

Respectfully submitted,

Elizabeth Knaack
Village Clerk