

**VILLAGE OF GERMANTOWN
BOARD OF ZONING APPEALS
MEETING MINUTES
October 17, 2012**

CALL TO ORDER: The meeting was called to order at 5:35 p.m.

ROLL CALL: Chairperson Pluta, Member McDonnell, Alternate Members Janzen and Ehler and Deputy Clerk Micka. Absent and excused: Members Riemer and Schleif. Absent: Member Kling.

PUBLIC HEARING: The public hearing was called to order at 5:38 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 Richard Zachowski and Lisa Riegleman, owners, for a variance of Section 17.50(2)(b) of the Code of Ordinances to allow for a detached garage being placed forward of the principal structure for the property located at:
N144 W20749 Pioneer Road

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

Richard Zachowski was sworn in by Chairperson Pluta. He reviewed the application that he submitted for a variance. Mr. Zachowski bought the property in April, and moved in May. He reviewed the survey map of the property. A construction trailer was on the property and not in compliance, it was removed and he referenced a letter from the inspector verifying that it was removed from the property.

Mr. Zachowski stated that the house is built on a hillside with a walk-out basement. He is requesting a variance to build a structure to store trailers, lawn mowers, and snowblowers. He spent a lot of money for elevation changes next to the concrete pad, there is an approximate 4 foot drop to be filled in, and wetlands surround the property. He stated that he hunts and fishes, works with the U.S. Forest Service on invasive species, and feels it is important to preserve wetlands. He referenced a letter from his neighbors in support of the variance, and stated they are the only neighbors that can see his property.

Mr. Zachowski provided a posterboard with pictures of the property, noting the driveway is 330 feet. The top left photo was taken from the road, the top right photo is from the road looking at the street, the lower left photo is the corner of the dwelling to the proposed garage area (located northwest of the residence), and the lower right photo is the same as the lower left with a rough sketch of where the garage would be placed. During discussion, it was noted that a variance of over 20 feet is requested.

Chairperson Pluta asked for questions from the Board.

Is there the ability to place the garage without the variance in the rear of the property? The appellant responded that the rear of the house is built on a hillside and he is limited as to where to place the structure.

What is unique to the position of the house as it relates to where to place the garage? The appellant responded that elevation changes may encroach on the wetlands, there is a 75 foot setback for the wetlands, and there is a ravine approximately 30 feet from the home. The appellant stated that he would need to reinforce a retaining wall to hold the weight of the structure.

Can an accessory building be put in the side yard? The property is zoned Rs-1, and the Village Code requires a side yard setback of 30 feet. The appellant stated that he would need to put the driveway all around the house, and that all the services (electric, phone, gas) come into the house at that location (the middle of the east side). The appellant would not trust the weight of the structure as the backyard has a 12 inch block retaining wall.

What if he came straight back where the trees are located (trees would be cut down)? The appellant replied that he would need 3 feet of fill.

Chairperson Pluta stated that the Board needed to look at the ordinance and practicality. The appellant had no more information to add to his testimony.

Chairperson Pluta asked if there was anyone else present that wished to testify on behalf of the appellant? There was no-one present wishing to testify.

Chairperson Pluta asked if there was anyone present from the Village to testify? Village Planner Retzlaff was not present, but had provided a memorandum to the Board. Chairperson Pluta read the memorandum from Planner Retzlaff.

Chairperson Pluta noted that the zoning code requires an accessory building to be placed in the rear yard. It was noted that information was needed to determine an option to place the structure in the side yard.

The appellant was asked if he knew the definition of front yard versus rear yard. Chairperson Pluta read the definitions from the Village Code.

Chairperson Pluta read Section 17.50(2)(b) of the Municipal Code, which stated that structures must be placed in the rear yard only, or a variance would be required.

Chairperson Pluta asked how tall is the building? The appellant responded it was 16 feet high. According to the Village Code, the structure can be no higher than 15 feet. It was noted that the Zoning Administrator did not point out if the pitch could be dropped 1 foot, or if the truss could be lowered.

Chairperson Pluta asked why the structure could not be placed in the rear yard? The appellant responded that it would be encroaching in the wetlands, there is a huge change in the elevation, which is dangerous, compliance with EPA regulations, and compliance with Army Corp. of Engineers regulations. Discussion followed on any options for placing the structure in the rear. It was noted that a buildable area could be filled in, the elevation of the hillside is very steep, and it would be very costly to fill.

Chairperson Pluta asked if there was anyone else present that wished to testify in favor of the application, and if the appellant had anything to add?

There being no one else wishing to speak, testimony was closed.

DELIBERATION AND ACTION BY THE BOARD:

Chairperson Pluta questioned if the Board had enough information to make a decision? The Zoning Administrator was not present at the meeting and additional topographical information is needed. It was questioned if action should be postponed to allow the appellant to gather additional information and to request a representative from the Village to attend the meeting. After further discussion, it was determined that the Board would need additional information before making a decision on the requested variance.

Motion Janzen to table action with the requirement that the Board members tour the property before the next meeting. Motion failed due to lack of a second.

Chairperson Pluta stated that the burden of proof lies with the appellant and the Board members were encouraged to look at the property. Chairperson Pluta read the Conclusions of Law for the appellant.

Motion Janzen, second McDonnell, to table the deliberation until the next meeting to hear additional testimony from the appellant and the Village.

Ayes: Ehler, Janzen, McDonnell, Pluta.

Nays: None.

Motion carried unanimously.

Chairperson Pluta stated that the all members present at this meeting would be required to attend the next meeting.

Board of Zoning Appeals
Meeting Minutes
October 17, 2012
Page 4

APPROVAL OF MINUTES OF AUGUST 22, 2012: A memo was distributed from Clerk Goeckner stating that the minutes were not complete at this time for approval.

ADJOURNMENT: *Motion McDonnell, second Janzen, to adjourn the meeting at 6:35 p.m. Motion carried without negative vote.*

Respectfully submitted,

Christine M. Micka, CMC/WCMC
Deputy Village Clerk