

**VILLAGE OF GERMANTOWN
BOARD OF ZONING APPEALS
MEETING MINUTES
JULY 18, 2012**

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

ROLL CALL: Chairperson Pluta, Member Kling, Alternate Member Janzen, Planner / Zoning Administrator Retzlaff, and Acting Clerk Micka. Absent and excused: Members McDonnell, Riemer, and Schleif.

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 Lisowski for a variance for a proposed 13' x 28' garage addition which indicates an encroachment of 6.6 feet into the front yard setback on Bittersweet Trail on the property located at:

W171 N10272 Wildrose Lane

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

Richard Lisowski was sworn in by Chairperson Pluta. He reviewed the application he submitted with the Board. He is on a corner lot, and his garage is too small for his storage needs of snowblowers, lawn mowers, etc. He has lived in Germantown for over six years, and likes his house, location and neighbors. He would like to add one stall onto the garage, which would encroach 6.5 feet to the north. He is a sportsman and keeps his equipment covered in the winter, he is paying storage fees, this is not a hardship, but it is not his desire.

Chairperson Pluta asked Mr. Lisowski if there is anything special to his parcel? Mr. Lisowski responded that the subdivision has by-laws and restrictions and no sheds can be built. A neighbor built a shed, was taken to court, and had to take it down. He does not want to put up a structure, this would look nice, and he could make it work with the garage.

Chairperson Pluta asked Mr. Lisowski why is it necessary to preserve the enjoyment of property rights? Mr. Lisowski responded that there are 66 houses in the subdivision, 22 of those have three car garages, and all are probably within the setbacks.

Chairperson Pluta asked Mr. Lisowski if the variance is granted, would it endanger public safety? Mr. Lisowski responded that the Board would know that best, and it would not be a detriment to the neighbors.

Chairperson Pluta asked the Board members if they had any questions for the appellant? Questions were raised on the length of the garage and if it could be seen from the road. Mr. Lisowski responded that he is extending the garage six feet to store a boat and lawn mower and the extension could not be seen from the road.

There were no further questions from the Board.

Chairperson Pluta read a letter from Diane Ulmer, W171 N10286 Wildrose Lane, in support of the variance.

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 none, Planner Retzlaff was asked to testify.

Planner / Zoning Administrator Retzlaff stated Mr. Lisowski had applied for a building permit, and was denied because of the setback requirements. The property is zoned Rs-5, is a corner lot, and has two front yards by definition. Section 17.18(3) of the Germantown Municipal Code requires a front yard setback of 35 feet. The application for a 13' x 28' garage addition has an encroachment of 6.6 feet into the front yard setback. The reason for denial was a lack of compliance with the minimum setback. One driveway is allowed, and the applicant could build within setbacks to the rear.

Mr. Retzlaff was asked the purpose of setbacks? Setbacks are for safety, clearance, visibility, and separation between buildings. The village adopted the code with the understanding that lots would be large enough for the buildings.

Chairperson Pluta asked if there was anyone present to speak against the application? There being none, Chairperson Pluta asked if the appellant had anything to add? Mr. Lisowski stated that he had thought of other options, but there would be extra expense. One option would be to turn the garage 90 degrees, enter off Bittersweet Trail and abandon the other driveway, but that would cost over \$10,000.

There being no one else wishing to speak, testimony was closed at 6:06 p.m.

Chairperson Pluta asked each Board member if there were any issues with granting the variance.

Member Kling stated it was a reasonable request, he did not know if it was common to grant this type of variance, and had no concerns with aesthetics.

Member Janzen stated he had looked at the property and can empathize with the appellant, since he has a 2.5 garage. He sees no hardship, and felt with careful planning the applicant could fit everything in his garage. He saw no problems with visibility, has safety and emergency vehicle concerns, and the applicant could add onto the existing garage in the rear and be within the setbacks.

Chairperson Pluta understands why the appellant wishes to add on to the side, but the Board's job is to enforce the zoning code for the village. He believes with a good designer the appellant can meet his needs for storage.

DELIBERATION AND ACTION BY THE BOARD:

CONCLUSIONS OF LAW FOR A VARIANCE:

1. Chairperson Pluta: The variance will be contrary to the public interest and will not be in accord with the spirit of the Zoning Code because the appellant can solve the problem without granting the variance, since there are other options.
2. Member Kling: There are 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 because this is a corner lot.
3. Member Janzen: The variance is not necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district because of visibility concerns and there are other options without the variance.
4. Chairperson Pluta: The variance will not create substantial detriment to adjacent property and will not be contrary to the public safety or interest. All members concurred.
5. Member Kling: A literal enforcement of the terms of the Zoning Code would result in practical difficulty or unnecessary hardship to the appellant because of the extra expense.

Motion Janzen, second Kling, that the requested variance of Section 17.18(3) of the Germantown Municipal Code be denied because of the ability to build on the rear of the existing garage and visibility concerns.

Motion Janzen, second Kling, to amend the motion to add that Bittersweet Trail is a main thoroughfare in the subdivision.

Motion to amend carried without negative vote.

Roll call vote on motion as amended:

Ayes: Janzen, Kling, Pluta.

Nays: None.

Motion to deny the variance carried unanimously. Ayes: 3. Nays: 0.

Chairperson Pluta stated that the appellant would be notified in writing of the Board's decision.

APPROVAL OF MINUTES OF MARCH 21, 2012: ***Motion Janzen, second Pluta, to approve the minutes of the March 21, 2012 meeting. Motion carried without negative vote.***

Board of Zoning Appeals
July 18, 2012
Page 4

Acting Clerk Micka stated that an application for a variance was received for the August meeting, but the applicant could not attend the meeting on August 15th. The Board decided to change the next meeting date to August 22nd.

ADJOURNMENT: Motion Janzen, second Kling, to adjourn the meeting at 6:33 p.m. Motion carried without negative vote.

Respectfully submitted,

Christine M. Micka, CMC/WCMC
Acting Village Clerk