

VILLAGE OF GERMANTOWN
BOARD OF ZONING APPEALS
MEETING MINUTES

JUNE 15, 2021

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

ROLL CALL: Chairman White, Hansen, Schodron, Huber, Edwards, Director Retzlaff, Assistant Planner Zandt, Clerk/Treasurer Braunschweig, Deputy Clerk/Deputy Treasurer Rozek. Yao Absent. Knop Absent

APPROVAL OF MINUTES: April 14, 2021

Motion (Huber/Schodron) to approve the April 14, 2021 minutes. Motion carried unanimously.

PUBLIC HEARING:

Chairman White read the public hearing notice.

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 Meghann Ybarra and Marty Ybarra, owners of the property located at W202N11860 Merkel Drive, who are requesting variances from Zoning Code Section 17.41(5) to allow the installation of a swimming pool in a street yard, and, from Section 17.50(2)(f) to allow a fence six(6) feet in height in a street yard along Merkel Drive.

Chairman White described the meeting order and that normally the Village's information is given first, then the review of the Variance is given and then the applicant may give sworn information.

Chairman White swore in Associate Planner Zandt.

Associate Planner Zandt gave history and background of the VARIANCE APPEAL filed by, Meghann Ybarra and Marty Ybarra, property owner, who is requesting a variance from Section 17.41(5) of the Village's Zoning Code to allow the installation of a swimming pool in a street yard, and from Section 17.50(2)(f) to allow a fence six(6) feet in height in a street yard along Merkel Drive.

A map location of the subject property was shown and discussed. Definitions of front, side, and rear yard were shown and discussed. Site plan of location of pool was shown and discussed. The zoning was reviewed as RS-5. For pools set backs are 35 ft from the front yard, 15 ft from side, and 5 ft from rear yard. Set backs and building code requirements discussed. Discussed and decided that the pool request would be separate from the fence request. When Director Retzlaff and Associate Planner Zandt were asked if the fence had to go to the Plan Commission they both felt the Board of Zoning Appeals could grant the variance instead of having the property owner go to two separate bodies.

Chairman White swore in property owner Meghann Ybarra of W202N11860 Merkel Drive.

Mrs. Ybarra stated she original looked on the Village of Germantown Webpage for information and thought they had adequate space to be far enough away from house, lot lines, well, and wires. Purchased the property in December of 2020 with the intention of putting a pool up with future thoughts of adding a possible deck. The height of the fence would more to be able to keep the two dogs in yard, privacy and safety with the pool. The drawing submitted was not to scale, but she staked out a 30' circle and then measured from there for setbacks, added to the survey, and thought they were in the parameters and met the set backs.

Chairman White opened the Public Hearing at 6:22 p.m.

Public hearing closed at 6:23 p.m. with no additional comments or questions.

Chairman White explained that the Board will deliberate the findings and that the Board of Zoning of Appeals does not routinely grant requests.

The Findings, Conclusions, Decision and Order were deliberated.

Chairman White concluded that there are two separate requests. The first being the pool and the second being the fence. There was consensus of agreement among the Board. They would discuss the pool first.

Shodron stated this was a low traffic area and it is not in contrary to public interest. White and Hubner agreed. Huber commented that it would not follow the spirit of the zoning code by allowing the pool in a front yard.

Shodron commented that it would be hard to find a similar lot in the Village with this shape. Chairman White agreed saying it's unusual shape doesn't allow a side yard.

Hubner commented that it is not for preservation/enjoyment because there are enough RS-5 lots in the Village that you could put a pool on. Should not be based just because neighbor across the street has one.

Hansen commented that the pool would fit in zoning set backs, it is the fact of the unique shape of the property that takes away the owners rights of not being able to put it in the side or back yard. Hubner questioned how many lots in the Village with similar size lot could accommodate a pool of that size.

The Board agreed there is no substantial detriment to adjacent property.

Hansen commented that a smaller size pool could be put in place, that the extra excavation of large rocks was not a factor, and if the owners had checked ahead of time maybe would have not purchased the lot. The true hardship is the shape of the property. Hubner expressed it is not a hardship to not have a pool. Shodron stated excavation should not be a factor as it will be needed to install the pool anyway.

Motion by Hanen to approve the application for the variance of the pool as presented, second by Chairman White.

Roll Call Vote White, Hansen, Shodron in favor; Hubner and Edwards against, Motion carried.

The Findings, Conclusions, Decision and Oder were deliberated with the fence.

Chairman White commented that the is it a conflict of the zoning code. Hansen agreed.

Chariman White commented that it is a unique shaped lot. Hansen and Shodron agreed stating it has unusual conditions.

The variance is not a preservation of property rights. Hubner commented that there lots of residents with RS-5 zoning that want a fence.

The variance does not create substantial detriment to adjacent property.

The variance does not create any unnecessary hardship.

Chairman White commented that this is something the Plan Commission should consider. Hubner agreed and didn't feel the Board of Zoning of Appeals was qualified for vision and safety concerns.

Motion by Chairman White to send the request of variance of 17.502(f) to allow fence 6ft in height to Plan Commission; the applicant t go before the Plan Commission in August. Second by Schodron.

Motion carried unanimously, roll call vote.

Next meeting date was set for July 14, 2021 at 5:30 p.m.

Hansen motioned to adjourn the meeting at 7:08 p.m. Second by Hubner. All in favor, motion carried.

Respectfully Submitted,

Jennifer Rozek, Deputy Clerk / Deputy Treasurer