

VILLAGE OF GERMATNOWN
BOARD OF ZONING APPEALS
MEETING MINUTES
June 8, 2022

CALL TO ORDER: The meeting was called to order at 5:31 pm by Chairman White

ROLL CALL: Chairman White, Members Edwards, Huber, Hansen, Schodron, Yao, Planning/Zoning Administrator Retzlaff, Associate Planner/Zoning Administrator Zandt, and Deputy Clerk/Deputy Treasurer Rozek

APPROVAL OF MINUTES: April 13, 2022

Motion (Huber/Hansen) to approve the April 13, 2022 as presented
Motion carried unanimously

PUBLIC HEARING:

Chairman White read the public hearing notices. **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 Patrick Kuehmichel, property owner, N104W20355 Willow Creek Road, Colgate, who is requesting a variance from Section 17.41(1)(b) of the Village's Zoning Code to exceed the maximum number of detached accessory buildings permitted in the Rs-4 Single-family Residential District.

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/ Zoning Adminstator Zandt. Associate Planner Zandt gave background information about the application. In January 2022, Patrick and Ann Kuehmichel, property owners, were issued a code violation notice after a complaint investigation for keeping poultry and the number of accessory buildings on the property. Since that time, the poultry have been removed. The request before you is a variance appeal from one of the zoning code provisions in the Rs-4 District, which is the number of accessory buildings permitted. Section 17.41(1)(b) regulates the number and size of detached accessory buildings. The Kuehmichel property is zoned Rs-4 Single Family and allows up to one detached accessory building. Copy of residential accessory use building and structure resitrictions was given to the board to reference at any time. The subject property is located on the south side of Willow Creek Rd approximately a fifth of a mile west of Appleton Ave and the Lannon Rd round about. Aerial views of the property presented. Existing accessory building on the property includes A. 12x16 wooden shed B. 22x14 lean to and C. 7x7 rubbermaid shed. Related information that may or may not affect the decision today is the Rs-4 district allows for one detached accessory building totaling not more than 1% of the total area of the property, in this case 858 square feet. The three existing detached accessory buildings total 549 square feet. The owner is seeking a variance from section 17.41(1)(b) to exceed the permitted number of accessory buildings in the Rs-4 Single Family Residential District by two for a total of three accessory buildings.

Discussion was had about the definition of detached accessory buildings, the size of the property in relation to Rs-4 standards, and when the zoning code was active or modified. Administrator Retzlaff was sworn in to help clarify when the zonig code was modified.

Chairman White asked Administrator Retzlaff to help the board understand the April 13, 2022 letter to the Kuemichels that explains there are no building permits for these structures that they would not be

legally nonconforming. Retzlaff responded if you don't pull a permit for a structure that is required to have a permit it legally doesn't exist under our code provisions and is subject to a code violation notice. Discussion continued with examples of if a permit was pulled or if no permit was pulled what the outcome would be. Discussion continued about the definition of permanent vs. temporary for how a structure is used. Permits currently require a predefined time period to render them temporary, but the Village of Germantown has no provisions or wording on that. Size limitations were also discussed.

Mr. Kuehmichel spoke that his understanding was when the property was in his grandfather's name that if the structure wasn't permanent and didn't have a concrete base no permit was required. The use of the Rubbermaid bin is to contain things to make the yard look nice.

Chairman White sworn in property owner Patrick and Ann Kuehmichel, N104W20355 Willow Creek Road, Colgate 53017. Patrick explained the use of the two structures that were not the Rubbermaid container. The lean to is for wood, 4 wheeler, and chain saw. The other structure is for tractor and snowblowers. Discussion was had that there is enough square footage if these two structures could be attached somehow to be turned into one building. Mr. Kuehmichel wasn't sure what needed to be done and was concerned because lean to is not weather tight and the other shed is on a gravel pad. The surrounding properties were discussed and Mrs. Kuehmichel added that there is an FDA approved airstrip and 100 year old flood plains nearby make this unique. Due to this other owners are not able to see into their property.

When the Kuehmichel's were asked if these existing structures did not exist could they build one large building, they responded that yes they could in order to maintain the 2 acres and everything needed. To do that know would not be a personal hardship, but burdensome to take down when already under the allowed square footage.

Discussion was then had with Administrator Retzlaff about the zoning area, size of lot, and need of building permits originally vs now.

Chairman White read a letter from Brett & Mary Suhorepetz dated April 29, 2022 that the property in question is adjacent to them and they have no concerns with the shed, pool, Rubbermaid shed or any structure on the property. The structures in questions are not visible nor do they bother them. Mr. Suhorepetz was present in person and added he has known of the structures and has no problem with what Patrick has done. Never had issues.

Chairman White read a letter from Sharon Beay dated May 1, 2022 stated she has no problem with the sheds. She cannot see them and has lived there since 1989 and they have been there all that time. They cause no harm and the pool shed is brand new and keeps the pool area neat. (here in person)

Chairman White read a letter from Gloria Neu, undated stating she has no problem with the sheds on the east side of my property. I would rather he keeps his yard neat and things put away than all over the place. Patrick is a very good neighbor and she doesn't understand all this harassment.

Chairman White asked if anyone wanted to speak or be heard in favor.

John Weske N104 W20255 Willow Creek Rd, Colgate prior to new neighbor buying house in area like a park, everyone friends and neighbors. Has no problem, isn't a nuisance and everything fits.

Speak in opposition - no one

Chairman White asked the Kuehmichel's if they had any further comments.

Public Hearing closed at 6:26 pm with no additional comments or questions.

Chairman White explained the Board will now deliberate the findings in order to grant the variance.

The Findings, Conclusions, Decision and Order were deliberated.

1. Whether or not the variance will/will not be contrary to the public interest, will/will not be in accordance to the Zoning Code
Board concurred that the limitations on the number accessory buildings is to not have cluttered yards, nothing is viewable from the street. These buildings do not run fowl of what zoning code is trying to protect and not contrary to spirit of zoning code.
2. The variance is an exceptional, extraordinary, or unusual condition or circumstance 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.
Board discussed if permits were needed at the time of installation would make it extraordinary. Have homeowners testimony that grandfather didn't need one at time, along with size of parcel in the Rs-4 district making that an unusual condition. Another unusual condition is when the parcels were combined, whenever that was, someone had to survey and seen the structures. There are different fact patterns with the pool shed than the other two older buildings, so can conclude there is nothing extraordinary about the two in the back due to lack of clarity, there is nothing extraordinary about the pool shed. Discussion continued about the zoning of the property and the amount of accessory buildings being requested and the specification of how the variance should be worded if granted. Consensus was reached about the older two buildings being extraordinary, but not the Rubbermaid.
3. The variance would be necessary for the preservation and enjoyment of substantial property rights.
Board discussed if there was a way for owners to build a larger structure in conformance with the zoning to have all the storage they want, or is there something unusual about the lot that would prevent that. Consensus was had that there is nothing extraordinary or necessary for preservation in regards to the pool shed. Discussion continued about the grandfather clause in relation to the other two structures.
4. The variance will create substantial detriment to adjacent property and will be contrary to the public interest.
Consensus was reached that there is no detriment to the adjacent properties or public interest.
5. A literal enforcement of the terms of the Zoning code would/would not result in practical difficulty or unnecessary hardship to the appellant/applicant.
Discussion was had if it was really a hardship or practical difficulty due to testimony and convience for the owner not taking into consideration the financial costs. Continued with the literal interpretation of enforcing the zoning code.

Motion (Hansen/Schodron) to grant the variance requesting one additional detached building in the Rs-4 Single family district. Discussion continued about the number of buildings the board was actually approving.

Amended Motion(Hansen/White) Grant variance requesting exceeding the number of attached buildings in the Rs-4 single family specifically the 12x16 wooden shed and 22x14 lean to. Motion carried unanimously by roll call vote.

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 John Weske, property owner, N104W20255 Willow Creek Road, Colgate, who is requesting a variance from 17.1(1)(b) of the Village's Zoning Code to (a)exceed the maximum area allowed for detached accessory buildings in the Rs-4 Single-family Residential District by 337 square feet; (b)exceed the maximum number of detached accessory buildings allowed in the Rs-4 Single-family Residential District; and (c)exceed the maximum number of attached garages in the Rs-4 Single-family Residential District.

Chairman White once again explained the structure of the meeting at 7:04pm.

Administrator Retzlaff gave background on the property. In January 2022, Mr. Weske was issued a code violation notice following a complaint investigation into an outdoor wood furnace, accessory buildings and attached garage. The outdoor wood furnace item is a building code violation, not zoning so Village Board will consider the opportunity for a variance request. Only the accessory building code violations and attached garage code violation will be presented. The Weske property is located on Willow Creek Rd in the same neighborhood as the Kuehmichel's. Zoned Rs-4 single family allowing one attached garage, with the Weske's having two, and one detached accessory building, with the Weske's having four. The total accessory building area is 1% of property size which would be 313 square feet and the four buildings currently are at 800 square feet (10x12 garden shed, 10x20 metal lean-to, 20x24 Quonset hut, and 4x8 chicken coop). Ariel view of property was shown along with map detailing location of all accessory buildings. The Weske's are seeking three different variances

1. To exceed the maximum number of accessory buildings allowed in an Rs-4 district by three buildings, if you consider the owners offered to remove the chicken coop it would reduce the number to two.
2. To exceed the maximum total area allowed for accessory buildings in an Rs-4 by 487 square feet and
3. To exceed the maximum number of attached garages allowed in an Rs-4 District by one attached garage.

During investigation none of the structures installed were permitted. there is no evidence or documentation in the Village files for property that indicates building permits were obtained for any of the accessory structures or the attached garage. Therefore, regardless of the variance decisions, staff requests that the BOZA require that the property owner obtain any/all necessary building permits. Discussion ensued of the buildings as allowed.

Discussion ensued of removing the chicken coop,

Motion (Huber/Hansen) to deny to exceed the number of out buildings. Roll call motion carried Schodron voted nay.

MOTION (Hansen/Huber) deny to exceed square footage of attached garage. Roll call motion carried Schodron voted nay.

No meetings schedule for July.

Motion (Schodron/Hansen) to adjourn meeting at 8:19 pm

Respectfully Submitted,

Jennifer Rozek, Deputy Clerk/Deputy Treasurer