

**VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
BOARD OF ZONING OF APPEALS
GERMANTOWN, WI
NOVEMBER 9, 2022**

CALL TO ORDER: This meeting was called to order at 5:31 p.m. by Chairman White.

ROLL CALL: Chairman White, Members Hansen, Knop, Edwards. Excused, Huber and Yau. Planning/Zoning Administrator Retzlaff, and Clerk / Treasurer Braunschweig.

APPROVAL OF MINUTES: September 14, 2022

Motion (Knop/Edwards) to approve the September 14, 2022 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 Rebecca Kirst, Allan Builders, LLC, Agent for Maxwell and Dawn Rivera, property owners, who is requesting a variance from the Village's Zoning Code (Section 17) to reduce the front/street yard building setback from 112' to 58.3' for the property located at W129N11638 Hazel Heights (Lot 5 of the Harvest Hills Subdivision).

Chair White read an email from Mr. and Mrs. Nash. The email was dated Friday, November 4th. The email requested additional time for the variance. Notice was published according to code and as a result we need to proceed unless both parties if they are willing to agree to post pone the notice.

Dave Worpapel of Victory Homes represents Kirst and would like to proceed.

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

Chairman White swore in Planning/Zoning Administrator Retzlaff.

Retzlaff gave history and background information of the variance appeal. He explained that the request is to to reduce the front/street yard building setback from 112' to 58.3' for the property located at W129N11638 Hazel Heights (Lot 5 of the Harvest Hills Subdivision).

The property is in the Harvest Hills subdivision. The Property Location map was shown. Aerial's of the property were shown. The prescribed set back of 112 feet was illustrated. Two other properties had requested a variance as well. The requested setback variance illustration was shown with comparison to the prescribed set back. The topography of the lot was illustrated. The mound location was shown with a building envelope to the right or southeast of mound location. Photographs from the cul de sac were shown in relation to the Nelson, Nash, and Revera properties. A graphic from Elm Lane was also shown. The Nash property was shown, and the Nelson property were shown. A graphic 40 foot into the lot was shown. An Elm Lane graphic was shown. The set back for the Nash property is 47 feet and Lot 4 set back is 98 feet.

Chairman White swore in Dave Vorpapel of Victory Companies N118 W2574 Bunson Drive, Germantown.

A document labeled exhibit prepared by Allen Builders of CE3 GEO Madex was distributed to the board and gallery. CE3s is who they use for their lot set up. When the builder approaches a build, site plans for water / septic is needed.

Illustrate the proximity of the mound and grade lines as they relate to the proposed house and work with the house and partial exposure in the back. The size and shape of mound system was staked. Alternatively, if the mound was in the front and home in the back as depicted by the developer, this would like to go another direction and the location of the mound and existing grades. The front set back needs to meet the front of the property and set up for positive drainage around the house. As built are normally not shown by a septic contractor.

The proposed septic mound system may not be shown correct in the illustrations. The drawing of the configuration shows more of a curved mound system. The drawing of the septic does not have a bearing on the variance.

The septic mound may not be exactly where it is shown; however, does not have bearing on the variance.

The position of the house was in line with neighbor properties. The surveyors were taking 150 foot width from each of the lot lines.

The grade is less extreme in the front than in the back.

Is there any detriment to having the mound system at a higher elevation than the house?

The variance will or will not be contrary to the public interest and in accordance with the spirit of the zoning code.

There are exceptional extraordinary or unusual conditions or circumstances that apply specifically to this parcel, use, structure, or intended use that do not apply. The soil appeared to be moved prior to the septic going in. The driveway could be hugging the septic if installed.

The current approved mound location would depend on pumping.

The drawing shows the house in the house envelope. Appears that the house is 100 -110 from the set back. The intent was to show the impossibility. The grading needs to take place.

Is there code for the separation. The code or grade would not want to exceed a certain grade.

Why couldn't the mound system go more to the corner of the lot. There is water standing in that area and deemed not for the mound system.

The Nelson property shows their mound system.

Chair White gave Mr. and Mrs. Rivera opportunity to speak.

Chair White opened the public hearing at 6:20 p.m.

Chair White Swore in both Doug and Amy Nash of W129N1169 Hazel Heights, Germantown.

The cul-de-sac shows that the houses are staggered with different setbacks. Their house is north of the subject property.

Chair White swore in Michael Nelson W129N1165 Hazel heights. He will be south of the proposed home.

Room to move both the home and septic back.

There are different types of mound systems. They can be more expensive.
There is a low lying area.

The proposed septic is South and East.

Chair White offered Mr. and Mrs. Rivera a chance to speak.

The variance was pursued and would like to see some type of compromise. Would like to build like everyone else did.

Director Retzlaff went back to the building envelope and set back-ups. The pie shaped lot, shows the developers responsibility that each can support an on site septic system with the idea that the ultimate location, size by the builder and owner. The final plat shows building envelope that the house can go anywhere in that envelope. Wherever the box is the home can go anywhere. Pie shaped lots come into play.

The hearing was closed at 6:43 pm.

The Zoning Board of Appeals deliberated.

Will the variance be contrary to the public interest and in accordance with the spirit of the zoning code?

RS3 houses have to be 45 feet from the road. The pie shaped lot does not change that. This request would be more than 45 feet from the road. The intent is too make sure that the houses are not closer than 45 feet from the road. There was consensus from the Board that the request is in accordance with the spirit of the zoning code.

There are still side setbacks.

Property owners are working with the code and neighbors interests in mind.

Conditions were discussed.

Are there exceptional extraordinary or unusual conditions or circumstances that apply specifically to this lot or parcel that do not apply to other.

Could the house be built a different way or with a different septic system that would meet the set-backs? It would not suitable to have mound system in the back corner. Look at the elevation, indicates that there are exceptional circumstances as with the pie shaped lot.

Is the variance necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district.

The grading is unusual. Could be looking out at a hill. Could be on the side.

They would be able to build a house at the bottom of the slope.

Are they able to build the house? Not complete impossibility to build; but would loose out on a substantial property right. The hill makes a difference. Discussion ensued of a mini-mound system; however, there are drawbacks. The variance is not necessary because there might be other options. The word necessary is key.

Are there other options?

Have other options been looked at such as a mini mound system. If the mound system is set to the back, not the only way.

The variance is not necessary because lacking information.

The variance will not create substantial detriment to the adjacent property and will be contrary to the public safety or interest. Is not contrary to public safety; not a substantial detriment. How houses lay out are fortuitus. Does not create a drainage issues.

A literal enforcement of terms of zoning code would not result impractical difficulty or unnecessary hardship. The literal enforcement would create a hardship. If there is a power outage and would have to pump out.

Could adjourn and Vorlbag to bring in a septic guy with options and evidence. If do not grant then propose B or C. they might be back in front of use

Discussion ensued that the Board does not have sufficient record to make a motion.

If other options are reviewed and do not like but it works. Hardships are not grounds for variance. This is a self-imposed hardship. If the only reason is due to costs.

Motion (White/Hansen) Defer decision on this variance and set this matter for further hearing at which time the applicant will need to present evidence of other potential options, locations or systems. Need sufficient evidence. Rather than denying outright, come back with more analysis, or expert. If there are no other options, locations, systems will deliberate again. Motion carried. Hansen, Knop, White aye. Edwards voted no.

Chair White instructed the applicant on the powers of the Village ordinances and Wisconsin state law. Not sufficient evidence to say that the variance is necessary and not enough evidence with the literal enforcement of the code; unclear of other options or systems are viable. Rather than denying the variance outright, giving an opportunity to come back with a septic contractor or more analysis of other locations and more about another system. The item is left that the applicant will contact the Village Hall when prepared for an additional meeting.

NEXT MEETING DATE AND TIME IF NEEDED:

Second Wednesdays of the month at 5:30 p.m.

ADJOURNMENT

Motion (Huber/White) to adjourn at 7:10 p.m.

Motion Carried unanimously.