

MEETING:	REGULAR MEETING OF THE BOARD OF ZONING APPEALS
DATE AND TIME:	Thursday, July 13, 2023 5:30 PM
LOCATION:	Germantown Village Hall Board Room N112 W17001 Mequon Road

MINUTES

- I. **CALL TO ORDER:** *This meeting has been given public notice in accordance with Section 19.83 and 19.84, Wis. Stats, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.*
Chairman White called the meeting to order at 5:30 pm.

- II. **ROLL CALL:**
Members Present: Edwards, Yao, Chairperson White
Also Present: Planning/Zoning Administrator Retzlaff and Assistant Planner Johnson
Members Absent: Hanson, Huber

III. **APPROVAL OF MINUTES:**

A. February 8, 2023 Minutes.

Motion: Approve as presented with the removal of Member Yao who was not at the February Meeting.

Motioned By: Barry White

Seconded By: Tim Edwards

Yes: White, Edwards

No: None

Abstain: Lilibeth Yao

Motion Passed (Yes 2, No 0, Abstained 1)

IV. **PUBLIC HEARING, DELIBERATION AND ACTION:**

Public Hearing opened: 5:51 pm.

No one spoke for or against the request.

Public Hearing closed: 5:52 pm.

Chairperson White read the public hearing notice.

- A. 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 Nathan Laurent, property owner, who is requesting a variance from the Village's Zoning

Code (Section 17) to reduce the rear yard building setback from 30' to 18' for the property located at N109 W16415 Hawthorne Drive (Lot 131 of the Hawthorne Meadows Subdivision).

Chairperson White swore in Director Retzlaff. Retzlaff summarized the request.

Lilibeth asked if the village had received any comments from the neighbors – there were none. Nathan Laurent was sworn in by Chairman White. Laurent summarized his request.

White asked how deep the new garage would be. Laurent 29'6 outside 30'4. White asked about putting the garage forward. Laurent said at setback already. Lilibeth asked if Laurent had considered any other options. Laurent has but has found none to be feasible. Jeff – 5-foot setback applies to the rear yard only not the side. Edwards asked if he considered a shallower garage. Laurent replied no. Lilibeth asked if the size was consistent with the size of other garages. Retzlaff replied yes. Edwards asked if there are any plans to replace shrubbery? Laurent replied that he has already planted 12 arborvitaes on south side and will be applying for a fence permit as well as plant another 20 arborvitaes.

The Findings, Conclusions, Decision and Order were Deliberated.

1. **Is within the spirit of the zoning code.** The Board was split on whether the variance is contrary to the public interest and would be in accord with the spirit of the Zoning Code, with two members finding that the space between the proposed garage and a neighbor's house was sufficient to satisfy the public interest and the spirit of the Zoning Code, and one member finding that the 40% variance was too substantial to find the variance consistent with the public interest and the spirit of the Zoning Code.
2. **Are there exceptional, extraordinary or unusual conditions or circumstances that apply specifically to this lot or parcel that do not apply to others.** The Board decided there are not exceptional circumstances that apply. While the shape of the lot creates an unusual circumstance for this parcel, the requested variance is for the owner's convenience (a larger garage to accommodate large vehicles) not anything resulting from the unique or exceptional condition of the parcel.
3. **Is the variance necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district.** The Board decided this is not necessary for the preservation of property rights. The hardship resulting from denial of the variance is personal to the property owner (lack of a larger garage) and not from conditions unique to the property.
4. **Will/will not the variance create substantial detriment to adjacent property and will be contrary to the public interest.** The Board decided that this variance would not be detrimental to an adjacent property or public interest. There was no evidence or testimony that an adjacent property would be affected, and there would be no impact on public safety.
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.** The Board decided that this request is not due to any hardship from the applicant. There is no unnecessary hardship or practical

difficulty because the parcel can still be used, even if the garage is not as large as the owner would like.

Motion: Approve as presented

Motioned By: Barry White

Seconded By: None

Motion failed due to the lack of a second.

V. SET NEXT HEARING TIME:

Retzlaff said an application had been received for August meeting August 9th.

VI. ADJOURNMENT:

Motion: to adjourn at 6:04 pm

Motioned By: Lilibeth Yao

Seconded By: Tim Edwards

Motion approved