

**VILLAGE OF GERMANTOWN
BOARD OF ZONING APPEALS
MEETING MINUTES
August 16, 2017**

CALL TO ORDER: The meeting was called to order at 5:33 p.m.

ROLL CALL: Members Schleif, Hansen, Fritsche and Alternate Member Knop were present. Absent and excused, Chairman White and Member Filla. Also present, Village Attorney Sajdak, Community Development Director (CDD)/Village Planner and Zoning Administrator Retzlaff, and Deputy Clerk Bodoh.

Motion (Fritsche/Schleif) to appoint Member Hansen as Chairman Pro Tempore for the August 16, 2017 meeting, carried.

APPROVAL OF MINUTES: July 12, 2017

Motion (Fritsche/Hansen) to approve minutes as presented for July 12, 2017, carried.

PUBLIC HEARING:

Chairman Hansen read the public hearing notice. Hearing is to hear any and all parties, their attorneys or agents, for or against the **APPEAL** as filed by **Plunkett Raysich Architects, LLP**, agent for **Germantown School District**, seeking a variance from Section 17.45(1) to reduce the minimum parking stall size from 180 sq. ft. to 162 sq. ft. for the new and modified parking areas being constructed at the following properties:

GERMANTOWN HIGH SCHOOL
W180N11501 RIVER LN, GERMANTOWN (GTNV 213-962, 213-963 & 213-999)
KENNEDY MIDDLE SCHOOL
W160 N11836 CRUSADER CT, GERMANTOWN (GTNV 221-982)
COUNTY LINE ELEMENTARY SCHOOL:
W159 N9939 BUTTERNUT RD, GERMANTOWN (GTNV 344-991)

Chairman Hansen opened Public Hearing at 5:38 p.m. and swore in CDD Retzlaff.

CDD Retzlaff stated at May 2017 Plan Commission, approved site development and building plans for improvement to all three subject school sites, including plans for new and expanded parking areas utilizing parking stall size of 162 sq.ft. (9'x18'). Village zoning code requires minimum parking stall of 180 sq.ft. Member Schleif asked if 180 sq.ft. parking stall is standard in surrounding communities. CDD Retzlaff noted 162 sq.ft. stalls approved for other projects. Member Knop asked if standard exists for drive lane. CDD Retzlaff stated no; stall size standard for zoning district. Member Fritsche questioned if any safety concerns for small sized stalls; CDD Retzlaff stated no. Chairman Hansen asked if Fire Chief requested larger stalls during Plan Commission meeting to address fire access. Stall size not issue for Fire Department, drive isles need to be same. Fire Department approved 162 sq.ft. stall size. Chairman Hansen asked if Plan Commission could have approved stall size. Attorney Sajdak stated per code, Plan Commission does not have authority to approve. Member Fritsche asked if all parking at schools would be allowed 162 sq.ft. size or just new addition. Attorney Sajdak stated need to consider each individual property. CDD Retzlaff stated stall size should change for all. Scott Kramer from Plunkett Raysich Architects, LLP, stated most municipalities have 162 sq.ft. stall size. Member Schleif asked if students have assigned parking.

PUBLIC HEARING continued:

Jeff Holmes swore in by Chairman Hansen. Mr. Holmes stated students are assigned parking spots. Over 200 students on waiting list for parking stall. Member Fritsche asked if currently have any 162 sq.ft. stalls. Member Fritsche asked for number of additional stalls if granted variance. Mr. Kramer stated, 82 stalls at High School, 7 stalls at County Line, 38 stalls at Middle School. Holmes indicated parking, pick-up and drop-off area approach school is taking in regard to safety. Additional exit at MacArthur granted by Plan Commission. School needs to meet needs of families, teachers, students and law enforcement. At County Line, road used for parking. Member Fritsche asked if current parking now in same area where buses pick up and drop off; Mr. Holmes stated yes. Chairman Hansen asked if this is safety issue. Chairman Hansen also asked if High School students park in industrial park. Mr. Holmes stated yes; business owners contacted and rent to families. Mr. Holmes stated, best school district in State; demand for parking due to increased enrollment and registrations.

Public Hearing closed at 6:08 p.m.

DELIBERATION AND ACTION BY THE BOARD:

Discussion of five criteria. All five have to be proven in order to grant request.

Variance:

1. *Variance (will/will not) be contrary to the public interest and (will/will not) be in accord with the spirit of the Zoning Code.*
Chairman Hansen stated if variance is granted it will not be contrary to public interest and will be in accord with spirit of zoning code for High School.
For County Line Elementary, all members agree if variance is granted, it will not be contrary to public interest and will be in accord with spirit of zoning code.
For Kennedy Middle School, all members agree, if variance is granted, it will not be contrary to public interest and will be in accord with spirit of zoning code.
2. *There (are/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.*
All members agree there are exceptional circumstances that apply to parcel or use that do not apply to other properties or uses in same district for High School.
For County Line Elementary, all members agree there are exceptional circumstances that apply to parcel or use that do not apply to other properties or uses in same district
For Kennedy Middle School, all members agree, there are exceptional circumstances that apply to parcel or use that do not apply to other properties or uses in same district.
3. *Variance is not necessary for preservation and enjoyment of substantial property rights.*
The Variance is necessary all members agree, for Germantown High School.
For County Line Elementary, all members agree variance is necessary.
For Kennedy Middle School, all members agree variance is necessary.
4. *Variance (will/will not) create substantial detriment to adjacent property, and (will/will not) be contrary to public safety or interest.*
To get cars off street and away from homes, all members in agreement it will create substantial detriment to adjacent property and will not be contrary to public safety for Germantown High School.

DELIBERATION AND ACTION BY THE BOARD-continued:

For County Line Elementary, all members agree it will not create substantial detriment to adjacent property and will not be contrary to public safety.

For Kennedy Middle School, all members agree it will not create substantial detriment to adjacent property and will not be contrary to public safety.

5. *A literal enforcement of terms of Zoning Code (would/would not) result in practical difficulty or unnecessary hardship to applicant.*

Growing School District, all members agree it would result in practical difficulty or unnecessary hardship for the Germantown High School.

For County Line Elementary, all members agree it would result in practical difficulty or unnecessary hardship.

For Kennedy Middle School, all members agree it would result in practical difficulty or unnecessary hardship.

MOTION (Fritsche/Schleif) moved to grant variance as shown based on five (5) Findings of Facts for Germantown High School to reduce parking stall size to 162 sq. ft. By roll call vote all in favor, carried.

MOTION (Schleif/Knop) moved to grant variance as shown based on five (5) Findings of Facts for County Line Elementary School to reduce parking stall size to 162 sq. ft. By roll call vote all in favor, carried.

MOTION (Fritsche/Schleif) moved to grant variance as shown based on five (5) Findings of Facts for Kennedy Middle School to reduce parking stall size to 162 sq. ft. By roll call vote all in favor, carried.

Chairman Hansen stated outcome to appellant and discussion of appeal and decision.

PUBLIC HEARING:

Chairman Hansen read the public hearing notice. Hearing is to hear any and all parties, their attorneys or agents, for or against the APPEAL filed by **Marty and Jeri Meyers**, owners of the following property, who are seeking the following variances from the Village Zoning Code: (1) a variance from Section 17.41(1)(b) to allow an accessory building up to 2,480 sq. ft. (vs. the maximum amount of accessory building area of 2,308 sq. ft. allowed for a 5.3-acre property); (2) a variance from Section 17.41(2) to allow an accessory building with a height up to 26.5 feet (vs. the maximum accessory building height of 25 feet in an Rs-1: Single-family District); and (3) a variance from Section 17.50(2)(b) to allow an accessory building in a front yard (vs. a requirement that accessory buildings are only allowed in a rear yard).

W140 N13721 Country Aire Drive
GERMANTOWN, WI GTNV 024-987

Chairman Hansen opened Public Hearing at 6:49 p.m.

Community Development Director/Planning-Zoning Administrator Retzlaff provided background information as it relates to residential zoning codes and respective setback requirements. Building envelope is defined as property area remaining after setbacks established. Property owner may not consider, on initial planning of primary building location, future location of

PUBLIC HEARING-continued:

accessory building. Municipal Code location of accessory building in side or rear yard relates largely to aesthetics and impact on surrounding properties. Commented diminishing returns on requirement relative to building placement on larger properties. Member Fritsche asked for definition of accessory building versus primary garage. CDD Retzlaff noted accessory building is not primary building; detached from principal residence. Member Fritsche questioned if ultimate usage determines accessory building. Also noted changes in original design meets code for 2 of 3 variances requested. CDD Retzlaff indicated revised plans comply with code allowances. Chairman Hansen questioned if construction material of accessory building needs to be same standard as principal building. CDD Retzlaff stated it does not need to be.

Chairman Hansen swore in Mr. and Mrs. Meyers and Builder, Plecha.

Mr. Meyers stated limitations on placement of house due to perk of property and DNR stated flood plain on north portion of property. Wanted to keep integrity of Community, the building and property. Member Schleif asked when house was built. Mr. Meyers stated 2008. Chairman Hansen questioned if possible driveway access placement to rear yard. Mr. Meyers noted existing driveway is 250' feet long, extending it to rear would be additional 250'-300'; hardship due to expense. Member Fritsche asked if accessory building could be constructed behind current garage. Mr. Meyers replied not possible due to current piping for septic and gas lines. Builder Plecha confirmed distance requirement from septic; not optimal for driveway over underground lines. Member Fritsche asked for clarification on direction of accessory building entrance. Mr. Meyers noted overhang would face west; placement of accessory garage hidden by mature trees. If accessory building constructed in rear yard, would be more visible. Preservation of green space by constructing accessory in front area. No neighbors to north. Member Schleif questioned direction of existing garage doors face south. Mr. Meyers noted placement of accessory building next to existing garage does not meet setback requirement. Redesigned plans to comply with 2 of 3 zoning codes; seeking variance only for one zoning code. Requested location is best placement for everyone.

Chairman Hansen asked if anyone present to speak for the variance; hearing naught. Chairman Hansen asked if anyone present to speak against variance; hearing naught, public hearing closed at 7:20 p.m.

DELIBERATION AND ACTION BY THE BOARD:

Discussion of five criteria. All five have to be proven in order to grant request.

Variance:

1. *Variance (will/will not) be contrary to the public interest and (will/will not) be in accord with the spirit of the Zoning Code.*
Variances such as this have been granted in past hearings on rural area properties. The code that prohibits accessory building construction in front yard is aesthetic in nature. Driveway is 250' long, building would be 180' from road and behind tree line; code should not apply. Trees not permanent; can be cut down or die. Zoning code does not address difference in property size. Area of Germantown is more agricultural with barns in forefront of houses. May not agree with zoning code, but need to uphold code as written. All members agree, variance will be contrary to public interest and will not be in accord with spirit of Zoning Code.

DELIBERATION AND ACTION BY THE BOARD-continued:

2. *There (are/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.*
Issues addressed in hearing: flood plain, layout of house and mound system placement, making construction of accessory building in rear yard more difficult. Mature trees provide screening. All members agree there are exceptional and extraordinary conditions that apply specifically to this lot.
3. *Variance is not necessary for preservation and enjoyment of substantial property rights.*
Options for placement of accessory building meeting zoning code exist. Bound by code of ethics to follow ordinances, despite prior granting of variance for similar circumstance. All members agree variance is not necessary for preservation and enjoyment of substantial property rights.
4. *Variance (will/will not) create substantial detriment to adjacent property, and (will/will not) be contrary to public safety or interest.*
Requested placement of accessory building would not be a detriment due to substantial tree screen. Doesn't appear to have public safety component. All members agree it will not create substantial detriment to adjacent property and will not be contrary to public safety or interest.
5. *A literal enforcement of terms of Zoning Code (would/would not) result in practical difficulty or unnecessary hardship to applicant.*
Members noted not able to consider financial hardship in determination. Options exist that meet zoning code requirements. All members agree it would not result in practical difficulty or hardship to applicant.

Not enough justification to grant variance against zoning code. Zoning code provides consistency in neighborhood designs.

Chairman Hansen stated he will accept a motion.

MOTION (Fritsche/Knop) to deny variance to construct accessory building in front/street yard, based on fact that 3 of 5 criteria not met. By roll call vote, all in favor, carried.

Chairman Hansen stated outcome to appellant and discussion of decision and appeal process.

MOTION (Fritsche/Schleif) to adjourn meeting at 7:58 p.m., carried.

Kathleen M. Strebe, Deputy Clerk
On behalf of Cheryl Bodoh, Deputy Clerk