

CITY OF DELAFIELD BOARD OF ZONING APPEALS MINUTES

1. CALL MEETING TO ORDER
Chair B. Maslowski called the meeting to order at 7:30 P.M., noting the meeting had been properly noticed and permit fees paid.

2. ROLL CALL
Present Absent
Bill Maslowski
Thomas Hoffmann
Gerry Holton
Al Johnson
Rick Lieblang

Also present
Scott Hussinger, City Building Inspector

3. APPROVE MINUTES OF APRIL 26, 2012 MEETING

R. LIEBLANG MOVED TO APPROVE THE BOARD OF ZONING APPEALS MEETING MINUTES OF APRIL 26, 2012 AS PRESENTED. T. HOFFMANN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

4. OLD BUSINESS

None.

5. NEW BUSINESS

CASE 777 APPEAL OF JEFFREY WEBER TO CONSTRUCT A 16' BY 32' DETACHED GARAGE LOCATED AT 309 MULBERRY DRIVE IN VIOLATION OF SECTION 17.39(5)(H) OF THE CITY OF DELAFIELD ZONING CODE PERTAINING TO MINIMUM SIDE YARD REQUIREMENTS.

B. Maslowski briefly reviewed the case, noting the responsibilities of the Board of Zoning Appeals and the process utilized in this case. The applicant, Jeff Weber, was present. B. Maslowski stated this appeal violated City Building Code requirements related to minimum sideyard requirements and thus required variance consideration.

J. Weber explained his backyard has a ground water drainage ditch along the east side of the property that cut off 40 feet of usable space. When he originally applied to build his home he was told that the house had to be situated in its current location due to the drainage ditch. He was present to request the variance because there was no other location for the proposed garage on his property.

B. Maslowski stated he visited the property recently. He also requested clarification of the location of the proposed garage.

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R. Lieblang stated the Board could not override the subdivision's covenant that stated 75% of the homeowner's were required to sign a petition regarding placement of an outbuilding on the Weber property.

J. Weber stated he thought the referenced subdivision covenant pertained to the developer and after that only 60% of all homeowners were required to sign a petition. There were 21 lots in the development and he still had 18 signatures, thus he had more than 60% approval from the neighbors. His neighbors present in the audience had had a change of heart regarding their signature in favor of the project and were present to provide input.

B. Maslowski questioned J. Weber whether he was aware of a notification to the Board regarding the subdivision covenant prohibiting construction of an outbuilding. J. Weber stated he did not submit the document to the Board and did not know who did.

A. Johnson questioned whether all the lots were constructed and built upon in Copper Ridge Estates and whether the subdivision's control board had reviewed this matter. J. Weber explained that the Architectural Control Committee was non-existent and thus he had visited all the neighbors instead of working through that Committee.

J. Weber stated he did not want to have hurt feelings among the neighborhood. He questioned whether he would still be in violation of the setback if he attempted to connect the proposed garage to his house in some way. S. Hussinger clarified the problematic location of the garage should the garage be shifted. B. Maslowski expressed concern for the lack of detail presented in the plan presented and noted that the request was for the information being presented, not a different option at this time.

J. Weber stated he did not have the appropriate depth needed for his truck and snow plow thus, the additional garage was being proposed. He was not able to rotate the garage to attach to the house effectively in order to make the turns necessary to get in and out of the garage if it were rotated.

G. Holton read the petition presented and looked for a hardship in this case and requested clarification. J. Weber explained the hardship was that his truck would not fit in his current garage. His family was adding a new driver in the next year and he needed more space that would accommodate his truck with an attached snow plow. The plow was only needed in the winter. For that reason, he had chosen in the past to store the truck offsite; however, the truck now needed replacement as the mice had eaten through wiring and the elements had wrecked his truck. G. Holton stated he understood; however, he did not have enough space for his truck in his garage and had to park it outside for 16 years. J. Weber further stated if he could not get the truck with a plow on it in his garage space, it would not be cost prohibitive to plow. The garage could not be rotated on the property to avoid setbacks. He was making every attempt to comply with all restrictions; however, it seemed the proposal was non-compliant with the City and the subdivision and that was why he was present with this request.

G. Holton stated he visited the property and he did not see any detached structures. There were some in the neighborhood but not in J. Weber's development. In addition he

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questioned the reference to 25 sideyard setback in J. Weber's letter. S. Hussinger stated the minimum sideyard setback was 30 feet.

Discussion ensued regarding whether the house should have been constructed differently in 2001. J. Weber explained that he did not anticipate needing additional garage space when the house was constructed. He had acquired a business and his life had changed in the last ten years. Discussion ensued regarding the width and gable measurements of the garage.

Dave Ysseldyke, 315 Mulberry Drive, stated he had a different perception when the plan was presented to him. When the proposed garage plan was initially brought forward, J. Weber mentioned that no outbuildings were in the neighborhood and this would set a precedent. He had expressed concern at that time and was not given information about the detail of the project. He liked the openness of the lot and City in general and that was why he moved to Delafield. He also was concerned about the size of the structure. If the garage were allowed he thought it would set precedent as well as the proposal would make a garage door face the street. The covenants still in place that expire in 2022 say a garage should not have more than three stalls and should not face the street. While he was not originally aware of this, it is in violation of subdivision restrictions. If the garage were allowed to be constructed, he was concerned about what it would do to the look of the neighborhood. He understood this request to be a variance request and not a change to the subdivision restrictions.

Lisa Weber, 309 Mulberry Drive, stated she fully supported this request. Her husband's truck was popular in the neighborhood and was used by others for plowing and other activities. Other covenants in the neighborhood were also not being followed, such as the mower under the deck next door. Gazebos and pergolas were not attached. Many people parked vehicles in the driveways in the neighborhood. These were all in violation as well. She thought the garage would make the house look more attractive if approved.

J. Weber stated no one had any issues when he provided information regarding signing the petition in support of the garage. There was no misrepresentation to the neighbors.

G. Holton stated he paid attention to the information presented and while the testimony of residents provided background, he considered the facts of each case when making his decisions. Broken covenant restrictions were not assumed as part of the role of the Board of Zoning Appeals.

Maria Ysseldyke, 315 Mulberry Drive, stated she did not think the garage proposal was stated accurately in her meeting with J. Weber. When she looked out her kitchen window she would get a full view of the proposed garage. This was a clear issue of variance.

A. Johnson stated this was a subdivision control issue and not to be handled here. He stated there was no hardship in this matter.

R. Lieblang stated the hardship was related to the drainage ditch. A. Johnson noted the ditch and easement were there, but some lots had to built according to the topography of

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the lot. T. Hoffmann agreed with A. Johnson as he also did not see the hardship at this point. Not everyone could have a garage. The applicant had chosen this lot knowing that the ditch was there.

G. Holton stated this was common in that one person considered inconvenience as a hardship but this was not the definition of a hardship. He did not see the hardship either. If the Board allowed this, anyone in the subdivision could come forward with similar requests.

R. Lieblang stated the drainage easement caused a hardship as J. Weber was forced to place the house in this location. He was not against allowing placement of the detached garage. While he did not think the Building Inspector made a mistake in 2001, he did not agree at this time with the issues being discussed with regard to the hardship.

B. Maslowski stated the authority of this Board was limited as its role was to determine whether the ordinance restricted someone from enjoying the property in the way that the Zoning Code allowed. This was not the case in this matter. The property had been utilized for ten years with many nice things done for the neighbors and not having a garage would not restrict the use of the property in a way that was different from others in the same neighborhood. The covenants were agreed upon at the time of purchase. He did not think there was a real hardship in this case.

G. HOLTON MOVED TO DENY THE APPEAL OF JEFFREY WEBER TO CONSTRUCT A 16' BY 32' DETACHED GARAGE LOCATED AT 309 MULBERRY DRIVE IN VIOLATION OF SECTION 17.39(5)(H) OF THE CITY OF DELAFIELD ZONING CODE PERTAINING TO MINIMUM SIDE YARD REQUIREMENTS. A. JOHNSON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. THREE WERE IN FAVOR. R. LIEBLANG VOTED NAY. MOTION CARRIED.

6. ADJOURN

G. HOLTON MOVED TO ADJOURN THE MAY 10, 2012 BOARD OF ZONING MEETING AT 8:14 P.M. T. HOFFMANN SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.

Minutes prepared by:

Accurate Business Communications, Inc.