

CITY OF DELAFIELD BOARD OF ZONING APPEALS MINUTES

1. CALL MEETING TO ORDER

Chair Bill Maslowski called the meeting to order at 7:30 P.M.

2. ROLL CALL

Present

Bill Maslowski
Thomas Hoffmann
Gerry Holton
Rick Lieblang
Gerry MacDougall

Absent

Al Johnson

3. APPROVE MINUTES OF MAY 13, 2010 MEETING

R. LIEBLANG MOVED TO APPROVE THE MAY 13, 2010 BOARD OF ZONING APPEALS MEETING MINUTES AS PRESENTED. G. HOLTON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. THREE WERE IN FAVOR. G. MACDOUGALL ABSTAINED. MOTION CARRIED.

4. OLD BUSINESS

CASE 761 – APPEAL OF ROBERT HYDE (OWNER) TO BUILD A DETACHED GARAGE AT 1920 BARK RIVER DRIVE, DELC 0754.995.001, RELATING TO SECTION 17.39 (8)(F) AND SECTION 17.39 (8)(I) REGARDING FRONT STREET SETBACK REQUIREMENTS AND INTERIOR SIDE YARD REQUIREMENTS. THIS WAS POSTPONED FROM MEETING ON APRIL 8, 2010.

B. Maslowski reviewed the case, noting the request to build a detached garage at 1920 Bark River Drive, DELC 0754.995.001, relating to Section 17.39(8)(f) and Section 17.39(9)(i) regarding front street setback requirements and interior side yard requirements had been denied and the case postponed from the April 8, 2010 Board of Zoning Appeals meeting. He then reviewed the process to be used in this case, noting there were multiple meetings prior to this one resulting in the new proposal before the Board.

Bob Hyde, applicant, stated he had talked to his neighbors regarding the proposal for the garage that would be 40 feet from the road and 5 feet from the easterly lot line. He submitted a petition into record noting that ten neighbors were in support of the new proposal. He questioned where the measurements originated in the roadway for the setback requirements. B. Maslowski stated he was not certain, but each measurement was done differently. G. Holton stated he thought it began from the edge of the roadway. R. Lieblang and T. Hoffmann agreed.

B. Hyde stated the garage had been reduced in size several times as a result of past Zoning Appeals meetings and the dimensions would now be a 20 feet by 22 feet for a two-car garage. Even with significant reductions to his original proposal, the garage was still not going to meet zoning requirements in terms of setback. He had spoken with an architect and if the garage were moved to the setback requirement areas, it would be too

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long and would not look right on the lot. In addition, it would be cost prohibitive to construct.

G. Holton clarified the request would not include the garage being located ten feet off the front yard setback and five feet off the sideyard setback. He thanked the Hyde's as the garage proposal had taken a great deal of time and cooperation.

G. HOLTON MOVED TO APPROVE THE APPEAL OF ROBERT HYDE (OWNER) TO BUILD A DETACHED GARAGE AT 1920 BARK RIVER DRIVE, DELC 0754.995.001, RELATING TO SECTION 17.39 (8)(F) AND SECTION 17.39 (8)(I) REGARDING FRONT STREET SETBACK REQUIREMENTS AND INTERIOR SIDE YARD REQUIREMENTS WITH THE GARAGE TO BE LOCATED 40 FEET OFF THE FRONT YARD LOT LINE AND 10 FEET OFF THE SIDEYARD LOT LINE NOTING THE NON-CONFORMITY HAD BEEN REDUCED ON THE SIDEYARD AND CONSTRUCTION OF THE GARAGE IS TO THE EXACT PLANS DRAWN AND SUBMITTED FOR THIS MEETING. R. LIEBLANG SECONDED THE MOTION. B. HYDE NOTED THAT WITH THE 40 FEET SETBACK HE WOULD BE ABLE TO GET FIVE MORE FEET WITHIN THE GARAGE SPACE IF IT WAS COMPLETED AS STAKED IN HIS YARD. B. MASLOWSKI STATED IT WAS VERY IMPORTANT TO APPROVE THE DESIGN AS PRESENTED WITH NO CHANGES MADE ONCE ON SITE. THE PLANS APPROVED IN THE MEETING SHOULD BE THE SAME AS THE FINAL GARAGE CONSTRUCTION. G. MACDOUGALL STATED THAT IN THIS CASE THE BOARD WAS APPROVING THE VARIANCE REQUESTS FOR SETBACK REQUIREMENTS. THE AREA THAT MR. HYDE WAS TALKING ABOUT EXPANDING WAS ON HIS OWN PROPERTY AND DID NOT IMPACT THE VARIANCE APPROVAL THAT WERE GOVERNED BY THE ZONING ORDINANCES. MR. HYDE WOULD CONTINUE TO MEET THE FLOOR AREA RATIO (FAR) AND OTHER CODE REQUIREMENTS. B. MASLOWSKI STATED HE DID NOT AGREE. THE VARIANCE GIVEN WAS BASED ON THE INFORMATION PRESENTED FOR THE CASE. HE STATED HE WOULD VOTE AGAINST THE MOTION IF THE STRUCTURE WAS ALLOWED TO BE LARGER THAN PRESENTED AS HE THOUGHT IT WOULD BE A TRAVESTY FOR THE BOARD TO CONDUCT THE MATTER IN THIS WAY. G. HOLTON CLARIFIED THAT THE MOTION INCLUDED A MINIMUM OF 40 FEET FRONT YARD SETBACK AND A MINIMUM OF 5 FEET AS A SIDEYARD SETBACK. NOW THERE WAS MORE OF A SETBACK AND THEY COULD NOW HAVE A 10 FOOT SETBACK. DISCUSSION ENSUED REGARDING WHETHER THE PEOPLE THAT SIGNED THE PETITION OF APPROVAL WERE AWARE OF THE DIMENSIONS OF THE GARAGE. G. MACDOUGALL STATED THE LETTER SIGNED BY THE NEIGHBORS STATED THE SETBACK DIMENSIONS ON IT. MRS. HYDE STATED THE NEIGHBORS THAT SIGNED THE SHEET DID NOT SEE THE PLANS FOR THE GARAGE. B. MASLOWSKI STATED THE INFORMATION THAT WAS A MATTER OF RECORD WAS WHAT HE WAS AGREEING TO. HE CONSIDERED IT A VIOLATION OF EXISTING ZONING LAWS THAT WOULD SHOW ABUSE OF THE SYSTEM IF DONE DIFFERENTLY. HE WANTED TO CLARIFY THAT THIS IS NOT THE OLD PRACTICE OF THE BOARD AS WAS DONE IN THE PAST. THIS BOARD APPROVED AND EVALUATED CASES BASED ON THE INFORMATION SHOWN IN THE CASE ONLY. B. HYDE STATED HE COULD LIVE WITH WHAT WAS SHOWN IN THE FOOTPRINT IN THE PLANS IN THE INFORMATION SUBMITTED TO THE BOARD. G.

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MACDOUGALL STATED THE BOARD OF ZONING APPEALS IS AUTHORIZED TO GRANT VARIANCES AS REQUESTED TO THE ZONING LAW AND THE FACT THAT THE MOTION WAS STATED IN THIS WAY MAY NOT HOLD UP LEGALLY. B. MASLOWSKI STATED HE UNDERSTOOD; HOWEVER, HE HAD SPOKEN WITH THE CITY ATTORNEY EARLIER IN THE DAY OVER THIS ISSUE AND HE FELT COMFORTABLE IN TAKING THIS POSITION ON THE MATTER. **THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

5. NEW BUSINESS

CASE 767 – APPEAL OF JOHN AND LOUISE STOWE, AGENTS FOR HARRY AND ARLENE YOST REV TRUST (OWNERS) AND ANTHONY FEDERSPILL, AGENT FOR JOHN AND LOUISE STOWE TO REBUILD A HOME AT 1557 MILWAUKEE STREET, DELC 0797.121, RELATING TO SECTION 17.39 (9)(n) PERTAINING TO MINIMUM OPEN SPACE REQUIREMENTS AND SECTION 17.39 (9)(m) PERTAINING TO FLOOR AREA RATIO REQUIREMENTS.

B. Maslowski reviewed the case, noting the request to rebuild a home at 1557 Milwaukee Street, DELC 0797.121, relating to Section 17.39(9)(n) pertaining to minimum open space requirements and Section 17.39(9)(m) pertaining to floor area ratio (FAR) requirements had been denied.

Anthony Federspill, agent representing the Stowe's, was present. He explained the Stowe's were considering purchasing the property from the Yost's. Their sons, Gary and Russell were present as heirs of the trust for the property.

B. Maslowski explained the zoning process to be followed during the appeal process this evening.

A. Federspill stated he believed the largest part of the hardship in this case was related to the change in zoning that required lots to be 10,000 square feet. This lot was in place prior the change in zoning. This made the lot a smaller substandard lot and in order to meet the open space requirements, construction could not be done on the lot or the lot would be considered unbuildable. The existing property had been reviewed by an engineer on his Staff and the house was up on piers. Some had fallen and there was nothing to be done with the house except to tear it down. He was trying to improve the property through the variance process to meet requirements. The size of the home being asked for was 2,385 feet. Other houses in the area were over 3,000 square feet on a 10,000 square foot lot, and the house design was less than that amount. He did not think the design was "overbuilding" as the Stowe's were simply trying to construct a retirement home. Without a variance, the lot was unbuildable. The FAR requirement related to the lot size and would also be unbuildable to current zoning standards. The FAR would be over 30% due to the lot size and would be 600 feet less if the lot was a regular size 10,000 square foot lot. The house was now listing and needed improvement, but it could not be done due to the foundation issues. He thought if the variances were approved, the drainage issues would be solved for the lot and improvements would be made to the lot and neighborhood.

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Sean Paschke, 1553 Milwaukee Street, stated there was a ten foot easement between the property and the lot next door. He had seen the plans for the house and was in support. His only concern was that he did not have a basement and in hearing of the drainage problems on the lot, did not want to have any additional water on his lot or to experience any flooding issues as a result of the new construction. He would like to examine the grading plans for the site to avoid water runoff coming onto his lot. The plans for the new house looked great and it would improve the neighborhood. While he did not want the Yost's to leave, he thought the new house plans would be great.

B. Maslowski stated the building plans had to be approved by the Building Inspector and ordinances were in place that governed any change in slope. He suggested Mr. Paschke meet with the Inspector on any matters of concern. A. Federspill stated the Inspector was well aware of drainage issues and worked very hard to control drainage concerns for residents.

R. Lieblang questioned the setbacks. A. Federspill stated all setbacks were in conformity regarding front, shoreline, and sideyard if approved. He had designed the house in more of a Cape Cod style home with the overage in FAR in the attic space to accommodate bedrooms upstairs. Height would compare to the house to the north with a 12:12 pitch to the roof line.

G. Holton noted a discrepancy between the information being stated and the survey submitted to the Board in packet materials for the meeting. A. Federspill stated the sellers provided the survey dated February, 2009. The survey was redone in November. The original survey was used as a guideline with notation of drawing only in the information submitted to the Board. He had sent a surveyor to locate the structure on the original survey and that surveyor had found that it was a bit different than the original and was better in terms of open space and FAR requirements. The setback from the lake was slightly greater and the new survey would make the proposed house design less non-conforming.

T. Hoffmann questioned whether this proposal was okay with the Costigan's. A. Federspill stated he was unsure of the issue had by the Costigan's. He thought it might have had to do with the meander line issue and that they may have had the original survey for the property.

B. Maslowski stated he was confused about how the survey had actually changed. A. Federspill noted the dates on the survey. B. Maslowski questioned the common lot line with the Costigan's property. A. Federspill noted there was a ten foot strip of land, not to be confused with an easement, that was owned by the Costigan's and was deeded to the house owned by the Costigan's across the street.

R. LIEBLANG MOVED TO APPROVE THE APPEAL OF JOHN AND LOUISE STOWE, AGENTS FOR HARRY AND ARLENE YOST REV TRUST (OWNERS) AND ANTHONY FEDERSPILL, AGENT FOR JOHN AND LOUISE STOWE TO REBUILD A HOME AT 1557 MILWAUKEE STREET, DELC 0797.121, RELATING TO SECTION 17.39 (9)(n) PERTAINING TO MINIMUM OPEN SPACE REQUIREMENTS AND SECTION 17.39 (9)(m) PERTAINING TO FLOOR AREA RATIO REQUIREMENTS AND TO APPROVE

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THE PLANS AS SHOWN AS A TEARDOWN AND THE NEW PLANS FOR THE NEW HOUSE AS PRESENTED. G. HOLTON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

6. **ADJOURN**

T. HOFFMANN MOVED TO ADJOURN THE MAY27, 2010 BOARD OF ZONING MEETING AT 8:13 P.M. G. MACDOUGALL SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.

Minutes prepared by:

Accurate Business Communications, Inc.