

**CITY OF DELAFIELD BOARD OF ZONING APPEALS MINUTES**

1. CALL MEETING TO ORDER

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

2. ROLL CALL

Present

Bill Maslowski

Thomas Hoffmann

Al Johnson

Rick Lieblang

Marty Sawell

Absent

Gerry Holton

3. APPROVE MINUTES OF MARCH 26, 2009 MEETING

**A. JOHNSON MOTIONED TO APPROVE THE MARCH 26, 2009 BOARD OF ZONING APPEALS MEETING MINUTES AS PRESENTED. R. LIEBLANG SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

Without objection from the Board, B. Maslowski moved to Item 5 on the agenda.

4. NEW BUSINESS

CASE 760 – APPEAL OF MICHELE KRAUSE (OWNER) OF 936 MAIN ST, DELC 0798.993, TO REBUILD DETACHED GARAGE ON THE SAME FOOTPRINT AS THE OLD GARAGE RELATING TO SECTION 17.39(10)(H) REGARDING MINIMUM INTERIOR SIDE YARD REQUIREMENTS.

B. Maslowski reviewed the case, noting the request to rebuild a detached garage on the same footprint as the old garage pertaining to minimum interior side yard requirements had been denied. He read into record a letter from the City Building Inspector denying the request for a building permit as the minimum interior side yard had been exceeded and a variance would be necessary for the garage proposed. He also noted a letter from the applicant requesting consideration be given to a variance for interior side yard setback necessary to complete the rebuilding of the garage was included in the materials submitted for the meeting.

Michelle Krause, applicant, of 936 Main Street, was present.

B. Maslowski distributed information to the Board regarding the procedure to be utilized in this hearing. He noted review of each exhibit submitted by the applicant would take place as part of the consideration for this case.

With regard to the survey information submitted, B. Maslowski requested clarification on the exact location of the proposed garage. M. Krause provided

**CITY OF DELAFIELD BOARD OF ZONING APPEALS MINUTES**

this information, noting the interior side yard was not changing but she would like to enlarge the structure 5.9 feet in width to accommodate a three car garage. She clarified the old garage that was structurally unsound had been removed at the end of the winter season last year as it had fallen under the weight of snow. Further, she explained there were no footings on site and she proposed placement of a floating slab with a screened porch and garage placed atop it.

R. Lieblang stated he visited the site and found there to be many full grown trees on the lot. M. Krause explained there were several large black walnut trees on the property and they would have to be taken down if the garage were to be moved from this location. In addition, she would be required to move her large gardens on the property as well as her driveway and light poles that lined the drive.

B. Maslowski stated there were many items listed in her letter submitted for review, such as the driveway repaving expense, foundation costs if moved, landscaping, historic garage, aesthetics, and cost of insurance that were not considered to be a hardship but a cost of ownership.

M. Krause stated her neighbor had added approximately 30 feet to the garage with variance approval two years ago and the garage was 2.2 feet from the lot line. B. Maslowski noted this garage was not depicted on the survey.

B. Maslowski clarified that if the garage were to be moved in any direction, trees would be impacted. A. Johnson agreed, noting there were four or five trees in the area being discussed.

At the request of the Board, M. Krause reviewed the changes from the existing garage. She explained the old garage had two separate doors varying in height with a lean to that acted as a potting shed and screened porch. The proposed garage would have one double set of doors and a third stall with a different height door where the pavers used to be located. Also, a screened porch would be attached to the garage where the potting shed was currently located. The depth of the garage would be 26 feet and would be 30 feet wide. She also noted the garage materials would be wood to match the house.

R. Lieblang stated he did not think trees should have to be removed to place the garage in the middle of the lot to maintain setback requirements. B. Maslowski noted this could constitute a hardship.

M. Krause also explained there was a dry well area in the backyard and to move the garage to accommodate the setback would negatively impact her neighbors' drainage.

M. Sawell stated the size of the garage was not the issue being requested for variance. The request for variance was due to the distance the garage was

**CITY OF DELAFIELD BOARD OF ZONING APPEALS MINUTES**

currently located from the lot line and the issue remained whether to move the garage or leave it in its current location. He had no issue with the size of the garage.

R. Lieblang stated if the garage was moved it would require removal of approximately four black walnut trees. He thought it more prudent to rebuild it in its current location with the existing setback as the request did not increase the nonconformity nor did it require tree removal.

**R. LIEBLANG MOVED TO APPROVE THE APPEAL OF MICHELE KRAUSE (OWNER) OF 936 MAIN ST, DELC 0798.993, TO REBUILD DETACHED GARAGE ON THE SAME FOOTPRINT AS THE OLD GARAGE RELATING TO SECTION 17.39(10)(H) REGARDING MINIMUM INTERIOR SIDE YARD REQUIREMENTS AS LONG AS THE GARAGE WAS NOT ANY MORE NONCONFORMING AND NO TREES WOULD BE REMOVED AS A RESULT OF THE REBUILD. T. HOFFMANN SECONDED THE MOTION. B. MASLOWSKI DID NOT AGREE WITH BUILDING THE GARAGE IN THE SAME LOCATION AS HE HAD DIFFICULTY WITH APPROVING ANY SQUARE FOOTAGE BEING ADDED TO A NON-CONFORMING STRUCTURE IN THE SAME LOCATION AS HE THOUGHT IT EXPANDED THE NON-CONFORMITY. R. LIEBLANG STATED THE NONCONFORMITY OF THE LOT LINE WAS NOT CHANGING. M. SAWELL STATED THE SETBACK WAS NOT BEING INCREASED. A. JOHNSON QUESTIONED WHETHER ALL BOARD MEMBERS VOTED ON CASES HEARD BEFORE THE BOARD. IT WAS DETERMINED THE CHAIR DID NOT VOTE. B. MASLOWSKI STATED HE THOUGHT THIS WAS A NON-CONFORMING ISSUE AS THE SIZE WAS BEING INCREASED AND AS CHAIRMAN HE WANTED THIS KIND OF ACTION TO STOP. HE VIEWED THIS AS A NON-CONFORMING STRUCTURE THAT WAS MADE MORE NON-CONFORMING DUE TO ITS SIZE NOT BECAUSE IT WAS CLOSER TO THE LOT LINE AND HE WAS PRESENT TO TRY TO STOP THIS FROM OCCURRING IN THE FUTURE. A. JOHNSON QUESTIONED WHETHER IT WAS PRUDENT TO HAVE THE APPLICANT RETURN IN THIS CASE. M. KRAUSE STATED THIS MATTER WAS PLACED ON THE BOARD AGENDA AS T. MANEY STATED IT DID NOT FIT THIS SECTION OF THE ZONING CODE. B. MASLOWSKI STATED HE WOULD LIKE TO HAVE ALL INFORMATION AVAILABLE PRIOR TO HOLDING DISCUSSIONS AS HE WOULD LIKE TO SEE THE LOCATION OF THE TREES ON THE PROPERTY. R. LIEBLANG STATED THE BUILDING REQUEST WAS LEGAL DESPITE THE NON-CONFORMITY. **THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.****

Without objection, B. Maslowski moved to Item 6 on the agenda.

5. PRESENTATION AND DISCUSSION BY CITY ATTORNEY RE: ZONING APPEALS AND PROCEDURES

B. Maslowski distributed information regarding what he believed the purpose of the Board to be under his chairmanship. He noted responsibilities and

**CITY OF DELAFIELD BOARD OF ZONING APPEALS MINUTES**

objectives as well as the belief that approvals should be based upon hardships only.

R. Lieblang questioned whether alternate ideas could be presented, noting it was a waste of taxpayer money to continually have people return to the Board through the appeal process when resolution could have been realized at the first hearing of the case. He questioned what the State Statutes directed in this matter.

B. Maslowski introduced Kathryn Sawyer Gutenkunst, Assistant City Attorney, to the Board.

K. Gutenkunst explained the Board was governed by State Statutes and ordinances. There were some changes in the ordinances that would be made available to Boards in upcoming weeks. She noted when alterations to requests were allowed there were two kinds of variances the Board would consider – use variances and area variances. Further she suggested each Board member have a copy of the City's zoning code (Section 17.84) and the Zoning Board Handbook, 2<sup>nd</sup> edition to use as guidebooks.

R. Lieblang explained that all use variances were handled by the Plan Commission.

Discussion ensued regarding when alterations to requests should be utilized and to what extent alterations should be suggested by the Board. T. Hoffmann stated without flexibility in considering cases, there would be no need for the Board.

K. Gutenkunst also noted the Board could request an attorney be present at any Board meeting when needed.

B. Maslowski thanked K. Gutenkunst for her information and time spent talking to the Board.

Without objection from the Board, B. Maslowski moved to Item 4 on the agenda.

6. CORRESPONDENCE

None.

7. ADJOURN

**A. JOHNSON MOTIONED TO ADJOURN THE SEPTEMBER 10, 2009, BOARD OF ZONING MEETING AT 8:25 P.M. M. SAWELL SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.**

Minutes prepared by:

**CITY OF DELAFIELD BOARD OF ZONING APPEALS MINUTES**

Accurate Business Communications, Inc.