

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

1. CALL MEETING TO ORDER

H. Bills called the meeting to order at 7:30 P.M.

2. ROLL CALL

Present

Henry Bills

Al Johnson

Gerry Maier

Thomas Hoffmann

Absent

Rick Lieblang

3. APPROVE MINUTES OF OCTOBER 23, 2008 MEETING

**A. JOHNSON MOTIONED TO APPROVE THE OCTOBER 23, 2008, BOARD OF ZONING APPEALS MEETING MINUTES AS PRESENTED. T. HOFFMANN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

4. NEW BUSINESS

CASE 756 – APPEAL OF THOMAS KOSIDOWSKI (OWNER) FOR PROPOSED DETACHED GARAGE AT 2634 NAGAWICKA AVE, DELC 0751.032, RELATING TO SECTION 17.39(9)(F) REGARDING MINIMUM FRONT STREET SETBACK REQUIREMENTS.

H. Bills reviewed the case, noting the request for a proposed detached garage at 2634 Nagawicka Ave regarding minimum front street setback requirements had been denied. He noted fees had been paid and neighbors notified as part of the process for this case. He read into record a letter from the City Building Inspector denying the request for building permit noting within this zoning district the minimum front street setback was 25 feet and the proposed detached garage would be located only two feet from the front street lot line. Next, he read a letter from the applicant noting the need for a new garage as well as the existing topography and grading on site making it difficult for the garage to be placed in any other location. The letter also noted the proposed location would allow for a two car garage with storage and a workshop located over head as well as allowing existing trees to remain on the property. Further, the letter noted several pre-existing garages in the neighborhood with similar setbacks to the roadway.

Thomas Kosidowski, applicant, was present, and explained his plan to convert the existing garage to a room within the house. He stated he would like to keep the detached garage for convenience of storage and would like to place the proposed garage where he currently parks his vehicles.

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H. Bills suggested the size of the porch could be reduced to resolve a lot of problems on site. T. Kosidowski noted there was limiting amount of space and sloping topography on the site in that area.

In response to a question from G. Maier regarding connection to the new garage through the current porch area, T. Kosidowski explained the entryway and layout of the house would not function appropriately if connected in that manner.

H. Bills suggested moving the garage eight feet closer to the house and connecting it to the existing structure. T. Kosidowski stated there are trees in that area that he would prefer to leave as he had planted them some time ago.

G. Maier stated he had viewed the site and understood the reason why the garage was proposed in this manner. He had no problem with the requested location of the garage.

**T. HOFFMANN MOTIONED TO APPROVE THE REQUEST FOR A PROPOSED DETACHED GARAGE AT 2634 NAGAWICKA AVENUE, DELC 0751.032, RELATING TO SECTION 17.39(9)(F) REGARDING MINIMUM FRONT STREET SETBACK REQUIREMENTS AS REQUESTED. HE NOTED THERE WAS NOT ANY OTHER PLACE TO CONSTRUCT THE GARAGE ON SITE AND THE NEIGHBORHOOD ALREADY HAD SEVERAL EXISTING GARAGES SIMILAR TO THE ONE PROPOSED. G. MAIER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

CASE 757 – APPEAL OF DAVE MORRIS (OWNER) OF 4207 CAMPBELL TRACE, DELC 0736.988.002, TO RE-ROOF AND STRUCTURALLY REINFORCE BARN ROOF AREAS RELATING TO SECTION 17.39(2)(G) AND SECTION 17.57 REGARDING FRONT YARD LOT LINE SETBACK REQUIREMENTS AND RECONSTRUCTION OF AN EXISTING NON-CONFORMING STRUCTURE.

H. Bills reviewed the case, noting the request to re-roof and structurally reinforce barn roof areas at 4207 Campbell Trace regarding front yard lot line setback requirements and reconstruction of an existing non-conforming structure had been denied. He noted fees had been paid and neighbors notified as part of the process for this case. He read into record a letter from the City Building Inspector denying the request for building permit noting the existing barn was only 10.6 feet from the front lot line and although the non-conformity was not increasing in any way, a variance was still required in this case. Next, he read into record a letter from the applicant, noting that the barn had been damaged by natural forces and had been in existence and use by the family for over

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50 years. The barn was vital to the farming operation on site and there was a need to make the barn structurally sound for the animals and aesthetically pleasing for humans.

Dave Morris, applicant, was present, and noted the area damaged provided two-fifths of his housing area for animals. As a result of the damage, more bedding and feed were required as the farm animals did not do as well without being under cover. Also, an electric water line was located approximately three feet under the manure packed floor. Without the manure pack to provide insulation, the water line in that area had frozen. The land was zoned A1e (exclusively agriculture). He also noted the conveyor and the mount feed bank were out in the open and he would like to get those under a roof as well.

A. Johnson stated he had no issues with this request.

John and Connie Topping, 4315 Campbell Trace, neighboring property owners were present. C. Topping stated the barn on the Morris property was located one quarter mile from D. Morris's house and was located in her backyard behind her garage.

J. Topping stated he would continue to be negatively impacted by this matter and then distributed a letter to all Board members. He then distributed photos and a copy of a letter he read into the record, noting he was adamantly opposed to this request due to various concerns. The barn was located ten feet off the westerly property line owned by the Toppings, noting per a survey, the fence and concrete slab owned by D. Morris currently overlapped the property line. The letter also cited foul aromas, lack of oversight by D. Morris, loose animals resulting in property destruction for the Toppings, quality of animal care, insect nuisance as a result of manure, and safety concerns. The letter also went on to cite City Code restrictions in this case, as well as several questions related to various parts of the City Code, such as public nuisances and setback requirements.

A. Johnson questioned how long the farm had been in existence in that location. D. Morris explained his parents had purchased the farm in 1952. A. Johnson then questioned whether D. Morris's insurance company thought the barn was worth saving in this case. D. Morris responded affirmatively, and further explained the barn had been re-tinned approximately 15-20 years ago and it was the lean to portion of the building that required repair.

H. Bills questioned how far the Toppings house was located from the garage. J. Topping stated it was approximately fifty feet and they had lived at that location for 25 years.

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T. Hoffmann noted many of the areas of concern brought forth by the Toppings were not under the jurisdiction of the Board of Zoning Appeals and he questioned whether these issues had been brought forward to anyone else through the years. J. Topping stated these issues had been brought to Matt Carlson, City Administrator, in 2004 and arbitration had been set up in Waukesha County on the matter at that time.

D. Morris noted that the outcomes of that arbitration did not side with the Toppings at that time.

H. Bills noted aromas traveled a great distance given the right wind direction.

Discussion ensued regarding the duties and responsibilities of the Board of Zoning Appeals in this case.

A. Johnson noted the Morris's insurance company was willing to provide funding for rebuilding of the barn because they thought it was worth doing.

J. Topping again noted his opposition to granting the variance. H. Bills explained the Board was taking into account that opposition when considering this case.

A. Johnson stated the barn had been built before the setbacks were established.

G. Maier stated he appreciated some of the things brought forth in this matter; however, the role of the Board was to determine whether the barn should be allowed to be repaired.

T. Hoffmann stated he thought the repairs would be far better looking than what was currently there on site.

J. Topping questioned whether the next step in this process would be to seek legal counsel to appeal the decision if approved. H. Bills explained the process for appeal.

H. Bills noted the request dealt with 50 feet of farm land and the variance was a request of 10 feet. He noted the non-conformity was not being changed in this case.

**G. MAIER MOTIONED TO APPROVE THE REQUEST TO RE-ROOF AND STRUCTURALLY REINFORCE BARN ROOF AREAS RELATING TO SECTION 17.39(2)(G) AND SECTION 17.57 REGARDING FRONT YARD LOT LINE SETBACK REQUIREMENTS AND RECONSTRUCTION OF AN EXISTING NON-CONFORMING STRUCTURE FOR DAVE**

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**MORRIS (OWNER) OF 4207 CAMPBELL TRACE, DELC 0736.988.002 AS REQUESTED, HOWEVER, THE TWO NEIGHBORS SHOULD VEHEMENTLY WORK TOGETHER TO “MEND FENCES” IN THIS CASE. A. JOHNSON SECONDED THE MOTION. J. TOPPING STATED HE HAD NO PROBLEM WITH D. MORRIS BUT WITH THE COWS. C. TOPPING STATED SHE COULD NOT OPEN THE WINDOWS IN HER HOUSE DUE TO THE SMELL OF COWS AND MANURE. G. MAIER STATED IF THE BARN WOULD BE MOVED, THE SMELL WOULD STILL REMAIN. J. TOPPING QUESTIONED WHEN D. MORRIS COULD BEGIN HIS CONSTRUCTION REPAIRS IF APPROVED KNOWING THAT THE TOPPINGS WOULD BE APPEALING THE DECISION. D. MORRIS STATED HE COULD BEGIN IN THE MORNING. **THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.****

CASE 758 – APPEAL OF JOHN NAGY (OWNER) AND PETE DAVIS (AGENT) FOR PROPOSED REBUILDING OF ATTACHED GARAGE AT 741 MILL ST, DELC 0787.058 RELATING TO SECTION 17.39(9)(F) REGARDING MINIMUM FRONT STREET SETBACK REQUIREMENTS, SECTION 17.39(9)(M) REGARDING MAXIMUM FLOOR AREA RATIO AND SECTION 17.57 REGARDING RECONSTRUCTION OF AN EXISTING NON-CONFORMING STRUCTURE.

H. Bills reviewed the case, noting the request for a proposed rebuilding of an attached garage at 741 Mill Street , regarding minimum front street setback requirements and maximum floor area ratio and reconstruction of an existing non-conforming structure had been denied. He noted fees had been paid and neighbors notified as part of the process for this case. He read into record a letter from the City Building Inspector denying the request for building permit noting the existing home was located only 6.7 feet from the front street lot line and the allowable floor area ratio had been exceeded by 306 feet of floor area.

Kent Johnson, architect for project, stated he was available for questions as the owners were unable to attend this meeting.

Next, he read into record a letter from Kent Johnson noting the poor construction and architectural inappropriateness of the current structure. The letter also noted the proposed request to reconstruct the garage slightly larger than the existing structure to accommodate the current cars and storage of lawn equipment. A new master bedroom suite would also be constructed over the new garage and relocation of an existing deck to an appropriate spot on the house. The floor area ratio had been exceeded in these proposed plans by approximately 2.3% due to the increase in garage size.

H. Bills questioned whether the large trees on site would be saved with the construction proposed. K. Johnson was not certain; however, he

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explained the structural analysis of the house yielded results that would indicate the garage was in urgent need of repair and was not adequate for two cars. The intent was to clean up the property with a better looking house. He displayed architectural renderings of the proposed house and noted the garage would not encroach into the setback areas. He then reviewed the survey for the site, noting the deck would be more in line with the house as proposed and all adjacent homes were located close to the lakeshore. He stated the proposed plans showed a house that was architecturally appropriate for the site and no additional side or rear setbacks were needed.

G. Maier stated the only change was to add 2.3% of the floor area ratio and most of that would be garage space.

**T. HOFFMANN MOTIONED TO APPROVE THE PROPOSED REBUILDING OF ATTACHED GARAGE AT 741 MILL STREET, DELC 0787.058 RELATING TO SECTION 17.39(9)(F) REGARDING MINIMUM FRONT STREET SETBACK REQUIREMENTS, SECTION 17.39(9)(M) REGARDING MAXIMUM FLOOR AREA RATIO AND SECTION 17.57 REGARDING RECONSTRUCTION OF AN EXISTING NON-CONFORMING STRUCTURE FOR JOHN NAGY (OWNER) AND PETE DAVIS (AGENT) AS REQUESTED. A. JOHNSON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

5. CORRESPONDENCE

None.

6. ADJOURN

**T. HOFFMANN MOTIONED TO ADJOURN THE DECEMBER 11, 2008 BOARD OF ZONING APPEALS MEETING AT 8:20 P.M. G. MAIER SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.**

Minutes prepared by:

Accurate Business Communications, Inc.