

**CITY OF DELAFIELD BOARD OF ZONING MINUTES**

1. CALL MEETING TO ORDER

Chairperson H. Bills called the meeting to order at 7:30 p.m.

2. ROLL CALL

Present

Absent

Henry Bills  
Thomas Hoffmann  
Rick Lieblang (entered 7:32 p.m.)  
Gerry Maier  
Gerald MacDougall

Al Johnson

3. APPROVE MINUTES OF AUGUST 10TH, 2006 MEETING.

**T. HOFFMANN MOTIONED TO APPROVE THE MINUTES OF THE AUGUST 10, 2006 MEETING. G. MAIER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

4. NEW BUSINESS

CASE 729 – APPEAL OF SCOTT NEWCOMER (OWNER) AND GREG MANIACI (AGENT) FOR A REVISION OF VARIANCE #715 GRANTED SEPTEMBER 23, 2006 FOR THE PROPOSED REBUILDING OF A NEW HOME AT 1829 NAGAWICKA RD, DELC 0782.005, IN VIOLATION OF THE MINIMUM SOUTH SIDE YARD LOT LINE SETBACK REQUIREMENTS.

It was noted that the fee was paid, the proper neighbors were notified, and the notice was properly posted in the paper.

The letter dated August 2, 2006 from Building Inspector, T. Maney, to G. Maniaci (Agent), Regency Builders, was read.

The letter dated August 1, 2006 from Regency Builders to the Board of Zoning Appeals was read. The certifications were included in the packets showing that it was engineered properly.

Four letters have been received regarding this case:

A letter dated August 24, 2006 from Gregory L. Meyers and Mary E. Fitzpatrick was read. They were concerned about the possibility of needing retaining walls, the ground floor being close to two feet above grade, the certified survey showing the location of the sewer easement, the procedure used for contacting neighbors regarding the boathouse, the construction fence, and stabilization of the property. H. Bills stated that these concerns should have immediately been

**CITY OF DELAFIELD BOARD OF ZONING MINUTES**

brought to the attention of the building inspector. He discussed the boathouse and process. Gregory Meyers and Mary Fitzpatrick were present at this meeting.

The letter dated August 22, 2006 from John and Lori Petersen was read. They felt that an independent third party should survey the property and validate their concerns so that all parties affected may come to a resolution before proceeding with the project and/or any revision of Variance #715. They did not support the granting of the variance unless the people that own the adjoining property, immediately to the south, approve the granting of this latest variance request. H. Bills stated that the initial hearing requested that the home be sized down and that it be located in such a position so as to not block the view from the neighbor's home. All of this was done. The owners of the house next door came to the second meeting on Variance #715 and approved of the plans. The main issue tonight is the four inch offset to the south. John and Lori Petersen were present at this meeting.

A letter dated August 24, 2006 from Pam Reetz and Jeff Snopek was read. They had a survey done which showed that the newly constructed house is 10 inches over the agreed upon variance of 8 feet. They also had no knowledge of the southern wall being exposed with brick. Their concern is that this change was never recorded with the city. Other issues included completion of the landscaping without the use of retaining walls, access to the sewer easement, being closer to the sewer easement than the 12.5 foot limit, building the boat house without any notification to them, and using their yard as access. Pam Reetz and Jeff Snopek were present at this meeting.

A letter dated August 24, 2006 from Steven and Megan Petersen was read. They felt that the owner of the property to the south had been drastically affected by the apparent disregard for the original Variance #715. Section 14.02 of the Delafield Municipal Code was referenced in their letter. They asked why the regulations and specifications of the Board of Appeals were not enforced when the infraction was known; why work was allowed to continue when a violation existed; and why a reputable builder would continue after knowing they were in violation. The writers of the letter did not feel that there should be any revisions to Variance #715. Steve and Megan Petersen were present at this meeting.

Jim Hammas, Attorney representing Regency Builders, Julie Newcomer, Scott Zimmerman of Metropolitan Engineering, and Greg Maniaci, Regency Builders, were present at the meeting. Attorney Hammas reviewed the process that Regency Builders and Metropolitan Engineering took. It was not until July, 2006 when the issue with the adjoining property's survey showed the encroachment that the builder was first made aware of the shift of the walls to the south. Metropolitan Engineering resurveyed the property on July 27, 2006 which showed the shifting of four inches. It was not exactly known why this shift occurred. He stated that the standard of 20' setback is still met. Most of

**CITY OF DELAFIELD BOARD OF ZONING MINUTES**

the concerns don't really relate to this, but to other issues. There is not an encroachment into the sanitary sewer easement.

H. Bills asked if the four inch was being used for fascia brick. Attorney Hammas stated that it was. G. Maniaci stated that he did not add four inches onto the length of the building. Attorney Hammas stated that there was a four inch shift of the entire building. He also stated that there was not an encroachment in the sanitary sewer easement. G. Maier stated that he did not have a problem with the four inches, but he did have concerns about the other issues addressed in the letter. The other board members stated that this board really only needed to deal with the four inches. T. Hoffmann thought that there were a lot of unanswered questions. G. Maier would like to see the other issues resolved before proceeding. T. Hoffmann would like the building inspector to say that everything else is okay except for the four inches. G. Maier stated that he could vote with a contingency on a motion.

M. Herbrand, Attorney for Pam Reetz and Jeff Snopek stated that there are other issues that are important and deserve answers. They felt that there was a lot line question. He cautioned about a possible encroachment into the sanitary easement with the building of a retaining wall. He stated that his client had never agreed to a landscape plan.

Attorney Hammas stated that the landscape plan will be submitted to the Plan Commission.

R. Lieblang stated that this board deals with zoning and the issue before the board dealt with the four inches.

Attorney Hammas stated that it is the same survey being worked on now as was presented previously during Case #715. They have acted in good faith.

Attorney Herbrand stated that time should be taken to make sure this is being done correctly. He proposed that this be denied tonight and asked for an additional 30 days.

H. Bills stated that a variance had previously been granted on both lot lines. The home was sized down as asked. However, now there is an additional four inches on one side. The main issue before this board is should the four inches be granted. It was stated that other than the four inches, none of the other issues had to deal with the Board of Zoning Appeals.

Pam Reetz stated that if the footings were certified, that is fine, but the brick was added. The City should have known. Attorney Hammas stated that this is not the case; the whole structure shifted four inches. Attorney Herbrand stated that hardships cannot be self-created. He asked for time to look into this for better understanding.

**CITY OF DELAFIELD BOARD OF ZONING MINUTES**

G. Maier stated that if the only issue is the four inches that is facing this board, he would be inclined to grant the variance. G. MacDougall asked if the variance was granted and the other survey was shown to be correct, if they would be back for another variance. Attorney Hammas asked that the survey of this property which was originally submitted on this property be used and that a variance of four inches be considered.

R. Lieblang did not think anything would be gained by waiting 30 days.

A resident referred to a previous variance granted by this board that was similar; it, however, did not have anyone opposed to it. This one does.

**R. LIEBLANG MOTIONED THAT SINCE THE BUILDING IS NOT ANY LARGER THAN ON THE ORIGINAL SURVEY AND SINCE IT IS STILL THE SAME DIMENSION SHIFTED OVER FOUR INCHES, TO GRANT A VARIANCE. G. MAIER SECONDED THE MOTION. H. BILLS STATED THAT THE NEWCOMER'S SURVEY IS THE ONE THAT IS BEING USED. ALL WERE IN FAVOR. MOTION CARRIED.**

5. CORRESPONDENCE

See above.

6. ADJOURN

**G. MAC DOUGALL MOTIONED TO ADJOURN FROM THE MEETING. T. HOFFMANN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING ADJOURNED AT 8:35 P.M.**

Minutes Prepared By:

Accurate Business Communications, LLC