

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

Henry Bills
Al Johnson
Gerry Maier
Keith Strege
Gerald MacDougall

Absent

Thomas Hoffmann

Also present

Mark Sewell, City Attorney

3. APPROVE MINUTES OF OCTOBER 13TH, 2005 MEETING.

G. MAIER MOTIONED TO APPROVE THE MINUTES FROM THE OCTOBER 13, 2005 MEETING. K. STREGE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

4. NEW BUSINESS

CASE 717 – REQUEST OF BRUCE NEUMILLER (OWNER) FOR A PROPOSED ENLARGEMENT OF HOME OVER AN EXISTING DECK AT 1316 NAGAWICKA ST.

It was noted that the fee had been paid, the proper neighbors were notified, and it was posted in the paper. A letter from the building inspector dated September 26, 2005 denying the building permit due to the structure being nonconforming (west side lot line) was read. The letter from B. Neumiller dated October 4, 2005 was read.

An email from a neighbor, R. Czubkowski, 1325 Nagawicka Street, across the street was received and addressed additional run-off. B. Neumiller was present and stated that he spoke to this neighbor and they have come to an agreement. H. Bills stated that the area was paved and the water run-off would not pertain to this situation. It was clarified that the expansion would replace part of an existing patio.

A. JOHNSON MOTIONED TO GRANT THE VARIANCE. G. MAIER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

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CASE 718 – REQUEST OF RAY STICKLER (OWNER) FOR A PROPOSED NEW DETACHED GARAGE AT 1904 BARK RIVER DR.

It was noted that the fee had been paid, the proper neighbors were notified, and it was posted in the paper. A letter from the building inspector dated September 22, 2005 was read. The building permit was denied due to the minimum front street setback requirement of 50' and the minimum side yard requirement of 15' not being met. The proposed garage only has a setback of 12.3' and a side yard setback of 5'. A letter from Ray Stickler dated October 4, 2005 was read.

R. Stickler was present at the meeting. Discussion took place regarding moving the garage further away from the road. R. Stickler stated that there is a retaining wall by the parking area. The landscape after the retaining wall drops 6'. To go closer to the house would make the garage lower than the road. The parking space for the cars has always been defined in the area where the garage is being proposed and is the ideal location. The pitch makes it difficult to move the garage location closer to the home. Two feet of fill is presently required. He would need to fill 8' if the garage were located closer to the house. Architects have recommended this location. The side yard variance would be needed even if the garage were located closer to the home. The present shed would be eliminated after the garage was constructed. In consideration of the side yard, the location proposed saves trees. Moving the garage to gain a greater side yard would jeopardize trees and greatly disturb the landscaping and would also require moving the garage closer to the house.

There were no neighbors present who wished to speak. No letters were in the file.

G. Maier thought that the proposal made sense and that every option had been explored. It is better to have a garage than not have one. H. Bills clarified that the opening to the garage is on the side and the cars would back up on the property, not the road.

G. MAIER MOTIONED TO APPROVE AS REQUESTED. G. MCDUGALL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

CASE 714 – CONTINUATION FROM 9/22/05 BOARD OF ZONING REQUEST OF TOM & KIM SCHUBERT (OWNERS) AND WADE WEISSMANN, (AGENT) FOR A PROPOSED REBUILDING OF A NEW HOME AT 2022 BAY POINT LANE

Attorney Dean Richards was present representing Mr. & Mrs. Tom Schubert.

H. Bills read a letter from Attorney Hector de la Mora dated October 27, 2005.

A new plot layout was received from the Schubert's architect attempting to address the suggestions from the BOZ.

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Attorney Richards stated that at the last meeting the Board of Zoning Appeals made several suggestions to the Schuberts. These suggestions were reviewed. He stated that the relocation of the road is not a particularly viable option at this time. The current property and residence is a nonconforming lot with a number of nonconformities on the existing house. The hardship is that they have a nonconforming lot and it is a lot that is split due to the location of Bay Point Lane. The use of the lot is sandwiched between two different setbacks, the street and the lake. They do not have the ability to use their property as other neighbors do since they cannot comply with all of the setbacks. Their proposal does not increase nonconformity, but in fact decreases it. The side yard offsets will now be compliant. The street setback is currently approximately 18' and the current house will not be any more. Because of the elimination of the garage and design of the house, there is a substantial increase in open space; currently there is 24,772 sf of open space; the proposed structure would have 26,621 sf of open space – an increase of 7.5%. The FAR requirement is 20%, the current property is 26.6%. The interior space proposed FAR is 19.92% -- less than the 20% FAR limit, however it was noted that this calculation differs with that of the building inspector who believes that the FAR should include exterior balconies and porches. If they are included, the home will be 23.02% -- still less than the current FAR and would reduce the nonconformity. Section 17.58 and 17.60 were addressed. One encroachment would be eliminated and the others would be reduced with the proposal. Adjoining property purchases have been unsuccessful – discussions have taken place, but no agreement has taken place. He reviewed the adjoining properties and the possibilities of potential purchase of them. The existing house was built around 1970.

Steve Bergum – spoke regarding negotiations for the land. He stated that the Schuberts have not conducted any negotiations. He discussed the size of the proposed house. There is an increase of approximately 29% (including the porches) in the size of the home. He is concerned about the size of the home compared to the lot. If the house was to be built on the same foundation then the variances could be used. He felt that by tearing the existing house down that all variances should come under review. He felt that consideration should be made of the public interest.

Bill Maslowski – He stated that the burden is on the property owner. He felt that the board has ignored the public comments regarding public interest. He stated that the problem is with the size of the house and that what the Board is considering is contrary to public interest.

Steve Bergum – Addressed the location of the road. The road was plotted in 1882. The only way to alter this would be through a Circuit Court action. The City Attorney would have to look into whether the Schuberts could alter the configuration of the road. Attorney Sewell stated that he has not researched the road issue at this point in time. Attorney Richards stated that he was not asking for the road to be moved at this time. At this point in time, no

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discussions regarding moving the road have taken place. Attorney Sewell asked if it were possible if the Schuberts would be willing to move the road. Attorney Richards stated that they would and they will pursue it as possibility, but they cannot hinge it on the current house.

H. Bills stated that this is not an architectural board, but a zoning board. The existing condition is being modified by a new home. The architecture of the home is out of the control of this board.

G. McDougall stated that if the property has a home on it, the same variances should be granted and if a new home is within the present variances, they should be able to build. H. Bills stated that the only place that there is a problem is the offset from the house to Bay Point Lane. He stated that the proposed home has been brought within the proper area. The road and the removal of the barn were some of the previous stipulations requested by the Board of Zoning Appeals. Attorney Sewell stated that this could be set over until the next meeting so that a legal opinion on the road could be obtained. In addition, one of the issues in Attorney de le Mora's letter dealt with the process. Attorney Sewell stressed that reasons for approving or denying variances need to be voiced. One of the things this board needs to do is go through the criteria, such as if there are unique property limitations, if it is a nonconforming lot, if the lot is split by the road, various setbacks, if there is public harm, if this unreasonably prohibits the property owner from using the property, and if it is impractical to eliminate and why. The ability to purchase adjacent lands should be addressed. These criteria need to be considered and talked about by the board.

G. Maier stated that if the building is improved and the nonconformity is being reduced, the Board of Zoning Appeals usually grants the variance. Attorney Sewell stated that the board has the power to grant the variance. However, the Courts may ask to review the reasons. The reasons need to be verbalized.

This will be held over until the November 10 meeting so that legal counsel can determine if the road can be moved.

A. JOHNSON MOTIONED TO HOLD THIS CASE OVER UNTIL THE NOVEMBER 10, 2005 MEETING. G. MAIER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

5. CORRESPONDENCE

None.

6. ADJOURN

G. MAIER MOTIONED TO ADJOURN FROM THE MEETING. K. STREGE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL

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**WERE IN FAVOR. MOTION CARRIED. THE MEETING ADJOURNED AT
8:37 P.M.**

Minutes Prepared By:
Accurate Business Communications, LLC