

BOARD OF APPEALS

June 3, 2004

The meeting was called to order at New Berlin City Hall, at 7:00 PM.

On roll call, Chairman McGrath, Messrs. Galke, Goetter, Klappa, Loohauis, and Rath. Also present was Inspection Services Manager Robert Sigrist.

Excused from meeting: Leo Wallner

Chairman McGrath reviewed the procedures for taking testimony for the pending petitions with the persons assembled for the meeting, noting, that if your case was approved, a building permit is required and it can be picked up at the Building Inspection Department. Mr. McGrath also noted that it takes 4 affirmative votes to approve any variance request.

The first petition called was that of Thomas Altmann, Case No. 2472. Mr. McGrath read the petition. It was noted that 45 addresses were notified by mail and that publication had been made on two occasions. Mr. & Mrs. Thomas Altman, homeowners of 16320 W. Marietta Drive and Mr. Robert Heckel of Home Town Building, the contractor for the project hired by the homeowner, came forward to speak in favor of the petition. Mr. Heckel stated that the proposed four-season addition is going to be constructed to blend with the shingles, siding, and brick to match the home. The location of the proposed sunroom addition is off the existing patio door and dining room. It is replacing the existing deck, however, the sunroom will not be as large as the existing deck.

Mr. McGrath noted written communications from several neighbors: Michael & Pam Besch of 4415 S. Longview Dr., Mary Melinski of 16305 W. Marietta Dr., Gary & Karen Dobson of 4405 S. Longview Dr., and Bradford & Susan Yeates of 4400 S. Longview Dr., and Mr. & Mrs. Puff of 16275 W. Marietta stating they have no objections to the construction of the patio room and supporting the requested variance.

At this point the Petitioner presented a picture of his yard to the Board, showing that the area is well protected by mature shrubs and trees and even though the house is on a corner lot, the proposed addition will not be seen from the street because of the shrubs and trees.

Mr. McGrath asked if there was any thing unusual or different about the property that would suggest that there is a problem in building something that not everyone else has that owns a side on corner lot? Mr. Heckel stated the fact that the property is a corner lot makes it subject to larger set backs off of two roads. It puts the building in a spot where there just isn't a lot of space in the back. To maintain the required set back you'd be looking at a room that would be only 6 or 7 feet wide, and it would not be practical to build an addition of that size.

Mr. McGrath stated his concern is that there is nothing unusual about this property; the Petitioner has decided that he would like to make the house even bigger than it is now. Mr. McGrath stated that the Board is supposed to be looking for something unusual about the property that shows you have a hardship that other property owners don't have, and he was having a hard time seeing the hardship. Mr. Altmann stated the house is a great room concept, and they have limited space within the house to entertain. This proposed addition would give them more room in the back and enhance the property to make it more attractive. Mrs. Altmann stated the house is L-shaped, and that it is pushed further back on the lot because of the garage.

Mr. McGrath asked Mr. Sigrist what the side yard set back is in this zoning district? Mr. Sigrist stated the side yard set back is 7 ½ feet, which is a PUD. It was approved with much smaller lots than the typical R-5 district, but they are held to front yard set backs on both streets for corner lots.

There was no one further to speak in favor of the petition, and there was no one to speak in opposition to the petition. Case No. 2472 was declared closed.

The next petition called was that of Jane Crowell, Case #2473. Mr. McGrath read the petition. It was noted that 39 addresses were notified by mail and that publication had been made on two occasions. Jane Crowell,

homeowner of 15925 W Cynthia Drive, and Mr. Robert Heckel of Home Town Building, the contractor for the project hired by the homeowner, came forward to speak in favor of the petition. Ms. Crowell handed a written communication to Mr. McGrath from Anne & George Grbic of 15920 W. Marietta Drive stating they have no objection to the three-season room addition. Mr. McGrath read the communication and then asked the Petitioner to tell the Board why she is requesting the variance. Ms. Crowell stated that most points were covered in the petition that Mr. McGrath just read. The proposed room it self will not extend as far out as current patio does, and the set back requirement is such that she couldn't do anything if she doesn't get the variance.

Mr. McGrath asked the Petitioner if there is something unusual or different about the property that would make it different from any other property owner who says they just want to expand their house? Mr. Heckel came forward with a rebuttal stating that he is unsure of the question. He stated there are many lots (in the City) and the Board must hear this all the time. The only thing that makes them different is the size of the set back and the requirements that all the houses have to meet. After meeting all the setbacks, there is no room for an improvement. Ms. Crowell added that she has made several improvements to the property and this is her last project. She also stated that it makes a major difference if you want to be outdoors and in our climate with the bugs and the weather, you just can't be. She doesn't see this as an unreasonable request.

Mr. McGrath asked what is the square footage of the existing house? Ms. Crowell stated it is 1800 square feet, and she doesn't need the three-season room as additional living space. She has nothing that provides the opportunity to be outdoors and be protected. None of the neighbor's object, and the proposed addition meets a need that can't be met anywhere else in the house, and that's the difference.

There was no one further to speak in favor of the petition, and there was no one to speak in opposition to the petition. Case No. 2473 was declared closed.

The next petition called was that of Daryl Dyhr, Case #2474. Mr. McGrath read the petition. It was noted that 18 addresses were notified by mail and that publication had been made on two occasions. Daryl Dyhr homeowner of 5400 S Steven Court came forward to speak in favor of the petition. Mr. Dyhr stated he purchased the house in 1967 and has a nice big back yard. He always wanted to put in a pool but couldn't afford it. Now that his wife is disabled with Arthritis and Loopis, and swimming is about the only exercise she can do, they have decided to put on an addition adding a pool in the building and making the bedroom larger. Mr. Dyhr stated in few years his wife will be in a wheel chair, so he wants to make everything handicapped accessible. With the odd shaped lots on the Court, the only way to get the addition in is to go down the side-line, and that is why he needs the side yard variance. Mr. Dyhr stated he will also be moving the septic system and putting in a mound system if everything is approved.

Mr. McGrath asked if the proposed addition would contain anything other than the pool. The Petitioner stated there would be a hot tub, master bedroom, closet and bathroom. Mr. McGrath then asked what the need is for the additional bedroom? Mr. Dyhr stated they only have two bedrooms in the house now, one will be lost with the addition, and so it will be put back in as part of the proposed addition.

Discussion was held about the size of the lot, and at this point Mr. McGrath asked the Petitioner why he wanted to add an addition of this size, instead of a different addition behind the house that would meet the setbacks? Mr. Dyhr stated that if he had to put the addition behind the house that would make it so small that it wouldn't be worth doing. Mr. McGrath replied that from the paperwork that the Petitioner submitted, he couldn't tell how much available building space he has behind the house that he could build in without needing a variance.

Mr. Dyhr presented written communications from several neighbors: John & Sharon Anderson of 5401 S Steven Ct., Ron Batinic & Helen Watts of 17650 W Steven Dr., James Griffiths of 17550 W Steven Dr., Dan & Sharon Kolinski of 5420 S Steven Ct., Tom Stemo of 5390 S Steven Ct., and Barbara Trutwin of 5380 S Steven Ct. stating that they have no objections to the construction of the proposed addition and supporting the requested variance. Mr. Dyhr also submitted a written communication from his wife's doctor stating that an indoor pool would be beneficial to her health by providing a low impact exercise program.

Mr. McGrath then asked if any of the Board members had any questions. Mr. Goetter asked why the addition couldn't be shifted further away from the side lot? Mr. Dyhr stated it would go then go into the powder room

and in to the existing patio door. The patio door is the only access to the back of the house as there is no back door. Mr. Goetter then asked for further clarification of some items on the drawing submitted by the Petitioner, such as a set of steps and a diving board. Mr. Goetter asked Mr. Dyhr how his wife could use a diving board if she can hardly walk? Mr. Dyhr stated that the diving board isn't for his wife, it's for himself, and his wife would access the pool via the steps. Mr. Goetter stated that this is where he is having the problem. He can agree that the Petitioner's wife has a hardship with her physical condition, and this makes him sympathetic toward granting the variance, but this doesn't look like it's just for his wife. The Petitioner agreed that the addition is not just for his wife, but mainly because of his wife, and that you just don't build a four-foot shallow pool in your house for one thing. Mr. Goetter then reminded Mr. Dyhr that he is using his wife's physical condition as his argument as to why he has a hardship, and that's where he has the problem.

Mr. Loohaus stated he had a couple of concerns. The first, how would you get equipment into the yard to do the excavating without impeding on the neighbor's property? The Petitioner stated his neighbor, Barb Trutwin, has given him permission to go on to her property. The second concern is how would you get the truck back there to pump the mound system? The Petitioner stated the truck pulls into the driveway and pulls the hose around the other side. They have been pumping the septic that way for years.

Mr. Galke asked why the pool couldn't be swung toward the back of the lot rather than extend it the way it is now? The Petitioner said if he swings the pool to the right, it would take away the space for the mound system. Mr. Galke stated the mound could be put where the addition is proposed to go now. Mr. Dyhr stated that there is not enough room from the house to the back of the lot line.

There was no one further to speak in favor of the petition, and there was no one to speak in opposition to the petition. Case No. 2474 was declared closed.

The next petition called was that of Isabelle Lindhorst, Case #2475. Mr. McGrath read the petition. It was noted that 16 addresses were notified by mail and that publication had been made on two occasions. Duane Lindhorst, the son of the Petitioner, Isabelle Lindhorst of 6210 S Racine PI came forward to speak in favor of the petition. Mr. Lindhorst stated they purchased the property in 1950. The existing garage is the original garage and is leaning to the south. This past winter, you couldn't open the overhead door and Mr. Lindhorst had to put in a support pipe to keep the garage from falling over.

Mr. McGrath asked why the proposed garage couldn't be built 10 feet off of the lot line? Mr. Lindhorst presented a picture of the lot to the Board and explained that the sewer lateral and clean out prevents him from moving the proposed garage over and back. The existing garage is 3 feet from the lot line. The proposed garage will be moved over 2 feet, as far as it can reasonably be from the lot line because of the sewer clean out. If the variance were not granted, the sewer would have to be torn up and relocated. Mr. McGrath then asked if the proposed garage could be moved further back on the lot? Mr. Lindhorst said no, again because of the sewer. Further discussion took place about other options of where the proposed garage could be placed on the lot. Mr. McGrath then asked what the sizes of the existing and proposed garages are? Mr. Lindhorst stated the existing garage is about 700 square feet, and the proposed garage will be about 720 square feet.

Mr. Galke asked who owned the vacant lot next door? Mr. Lindhorst said they do. Mr. Galke asked why the proposed garage couldn't be moved over on to that lot? Mr. Lindhorst stated because it's a separate lot.

Mr. McGrath noted a written communication signed by 7 neighbors; Lawrence Lennox of 6220 S Racine PI, Timothy Heaton of 6204 S Racine PI, Helen Degner of 6200 S Racine PI, Gary Lang of 6180 S Racine PI, Charles Wilm of 6190 S Racine PI, Theresa Sturm of 6205 S Racine PI, and Brian Schill of 6186 S Racine PI, all having no objections to the Petitioner obtaining a variance to build the proposed garage five feet off of the lot line.

There was no one further to speak in favor of the petition, and there was no one to speak in opposition to the petition. Case No. 2475 was declared closed.

The next petition called was that of Robert Felker, Case #2476. Mr. McGrath read the petition. It was noted that 19 addresses were notified by mail and that publication had been made on two occasions. Robert Felker, homeowner of 2401 S Meadowmere Parkway came forward to speak in favor of the petition. Mr. Felker

explained that when he purchased the home it had an existing rec room. After checking, the Petitioner found that some of the existing permits that were pulled for the rec room were not closed out. When they went to close them out, some items had not been addressed. They made the corrections to the electrical and plumbing items. When the City Inspector came through, they discovered that the distance between the bottom of the metal girder and the concrete floor is 5' 10". When the house was built, it was 2 inches too short. The City issued the permits years ago for the rec room to be built, and now they discovered it's not up to code, so they now have a rec room they can't use. Mr. Felker is not asking to do any work as the work is all done; he just wants to close out the permits. Mr. McGrath then asked when the Petitioner purchased the house. Mr. Felker replied about 4 months ago.

Mr. Loohauis asked the Petitioner if he opened up the ceiling at any point to see if there was a clearance? Mr. Felker stated it's at the beam; there is no space between the ceiling and the beam.

There was no one further to speak in favor of the petition, and there was no one to speak in opposition to the petition. Case No. 2476 was declared closed.

Mr. McGrath declared the evidentiary portion of the meeting completed, and the Board made the following decisions.

The first petition considered by the Board was that of Thomas Altmann, Case No. 2472. Mr. Galke made a motion to approve the petition and, Mr. Loohauis seconded the motion. The petition for a variance was approved by a four to one vote with Mr. Goetter voting no.

The second petition considered by the Board was that of Jane Crowell, Case #2473. Mr. Goetter made a motion to deny the request and Mr. McGrath seconded the request. The petition for a variance was denied by a four to one vote with Mr. Galke voting no.

The third petition considered by the Board was that of Daryl Dyhr, Case #2474. Mr. Goetter made a motion to deny the request and Mr. Galke seconded the request. The petition for a variance was denied by a five to zero vote.

The fourth petition considered by the Board was that of Isabelle Lindhorst, Case #2475. Mr. Klappa made a motion to approve the request and Mr. Goetter seconded the request. The petition for a variance passed by a five to zero vote.

The fifth petition considered by the Board was that of Robert Felker, Case #2476. Mr. Loohauis made a motion to approve the request and Mr. Klappa seconded the request. The petition for a variance passed by a five to zero vote.

There being no further matters to be discussed in front of the Board of Appeals, the said meeting was adjourned at 8:40 PM.

BOARD OF APPEALS
CITY OF NEW BERLIN

Brian McGrath, Chairman