

## BOARD OF APPEALS

August 7, 2003

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

On roll call, Messrs. Galke, Goetter, Loohaus, Klappa, McGrath and Wallner. Also present was Inspection Services Manager Robert Sigrist.

Mr. 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 Tim & Andrea Schmidt, Case No. 2459. Mr. McGrath read the petition. It was noted that sixteen people were notified by mail and that publication had been made on two occasions. Tim Schmidt of 19560 Pheasant Run Dr. came forward to speak in favor of the petition. Mr. Schmidt stated that in 1997 they built an agricultural building of 2592 square feet for the purpose of having horses. They do farm 3 acres of the 11 acre property. At this time they do not have any horses on the property, and the building is being used to store 3 tractors, a plow, a front-end loader and miscellaneous farm equipment. Mr. Schmidt stated that he is working on the garage so he is temporarily storing his camper, snowmobiles, a motorcycle and other things in the agricultural building. A city Inspector was at the property making an inspection on a hot tub and noticed the building was not being used for the agricultural purposes in which it had been permitted. The Inspector advised Mr. Schmidt that he couldn't store anything in this building except agricultural equipment. Mr. Schmidt also stated that he doesn't know the exact rule as to how many agricultural pieces of equipment must be stored in the building vs. storing things like a camper or a car. He said that his contractor advised him to request the change in classification to an accessory building rather than worry about having horses. At this point Mr. McGrath asked Mr. Sigrist for clarification. Mr. Sigrist stated that early in 1997 this building came before the Board of Appeals for a variance. At that time the code requirement was a maximum of 720 square feet for a frame building, 1200 square feet for masonry structure. It came before the board asking for 2592 square feet of a pole building type structure and was denied as an accessory building at that size. At that time the applicant changed to an agricultural building stating he was going to use it for that purpose anyway. He came back and applied for an agricultural building of 2592 square feet, which by code, as long as he had the acreage and had an agricultural demonstrated use for the building and property, he did not have to abide by the 720 square foot frame or 1200 square foot masonry so he could legally build a 2592 square foot building.

Mr. Sigrist also stated that personal items such as snowmobiles, cars, vans, and boats cannot be stored in an agricultural structure, but can be stored in an accessory building. Mr. McGrath then asked Mr. Sigrist if the code states what can and cannot be stored in an agricultural building. Mr. Sigrist replied that the code primarily states that agricultural buildings can be used for demonstrated agricultural uses. It doesn't say that you can't have personal items, but those are not demonstrated agricultural uses.

There was further discussion on the size and use of agricultural buildings as stated in the code. During this discussion it was also determined that Mr. Schmidt has a small wood working shop in the building which is not a permitted use for an agricultural building. Mr.

Schmidt stated the original plan shows a shop. He has mechanical tools, welders, and some wood working tools in the building.

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. 2459 was declared closed.

The next petition called was that of Kevin Hofmann, Case No. 2460. Mr. McGrath read the petition. It was noted that nine people were notified by mail and that publication had been made on two occasions. Mr. Hofmann of 4848 S Calhoun Rd. came forward to speak in favor of the petition. Mr. Hofmann stated he would like to store his cars and everything all in one area. He currently has 4 vehicle stored in Jefferson County, 2 vehicles stored at his place of employment, 2 vehicles in his garage and a 23 foot boat that sits in his driveway along with snowmobile trailers, lawn mowers and a car trailer. Mr. Hofmann would like to store all of these inside a building. Mr. McGrath asked what is stored in the 2 other buildings on the property Mr. Hofmann stated one is a well house and the other is a shed with 2 bicycles, chain saws and stuff like that. There is also a four-car garage. He stores 2 vehicles on his side and the 3 tenants that rent the downstairs flat use the other half. Mr. Hofmann also parks 2 other vehicles outside.

Paul from New Berlin Building Systems spoke in favor of the petition. He stated that the type of building Mr. Hofmann wants to build is because most of the cars he wants to store in it are worth money. Paul also stated that the building would be in an area where no one would see it.

There was no one further to speak in favor of the petition, there was no one to speak in opposition to the petition. Case No. 2460 was declared closed.

The next petition called was that of Derek Jochims, Case No. 2461. Mr. McGrath read the petition. It was noted that fourteen people were notified by mail and that publication had been made on two occasions. Mr. Jochims of 13315 W Forest Drive came forward to speak in favor of the petition. Mr. Jochims stated that when he applied for the variance for the new garage he had no idea that the existing shed was going to be an issue. The picture that was submitted at that time shows the shed, however it wasn't mentioned at the appeal meeting for the variance for the garage. The shed is 14' x 16' and is used to store his push mower, a snow blower, fertilizer spreader, wheel barrel, chipper, portable heater, rot tiller, bicycles and lawn chairs. Without the shed he has no idea where he is going to store all of these things. Mr. Jochims stated the shed is not visible from the street or the driveway.

Mr. McGrath asked when the variance for the garage was granted. Mr. Sigrist replied that it was on May 1, 2003. Mr. McGrath then asked if there was any reason why the shed was not caught at that time. Mr. Sigrist said the submittal items that came in didn't show the shed on the site plan. The only time it would have been caught was that evening at the meeting when the pictures were submitted. Mr. Jochims stated that when he first read through the rules he thought that it was 120 sq. foot for a shed and 820 sq. foot for the garage. He didn't know that both were combined. He also stated that he wasn't trying to hide the shed as it was included in one of the pictures.

Holly Jochims of 13315 W Forest Dr. spoke in favor of the petition stating she does not want to see all the items that are currently stored in the shed in the yard if the variance is not

granted.

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. 2461 was declared closed.

At this point 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 Tim & Andrea Schmidt, Case No. 2459. Mr. Goetter made a motion to table the petition until the September 4, 2003 Board of Appeals meeting for the purpose of seeking an opinion from the City Attorney on whether somebody that has a demonstrated agricultural use can store non-agricultural items in an agricultural building (section 275-42 of the Municipal Code), and, Mr. McGrath seconded the motion. All members voted in favor of tabling the petition.

The next petition considered by the Board was that of Kevin Hofmann, Case No. 2460. Mr. Goetter made a motion to deny the petition, and, Mr. McGrath seconded the motion. All members voted to deny the petition for the variance as requested.

The next petition considered by the Board was that of Derek Jochims, Case No. 2461. Mr. Wallner made a motion to grant the petition, and, Mr. McGrath seconded the motion. All members voted in favor of granting the petition.

There being no further matters to be discussed in front of the Board of Appeals, the said meeting was adjourned at 8:20 PM.

BOARD OF APPEALS  
CITY OF NEW BERLIN

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Brian McGrath, Chairman