

Minutes

BOARD OF APPEALS

September 5, 2002 - 7:00 PM

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

On roll call, Chairman McGrath, Messrs. Goetter, Loohaus, Klappa, and Rath. Also present was Chief Inspector Howard Gyax.

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 Prescott Phillips, Case No. 2437. Mr. McGrath read the petition. It was noted that fourteen people were notified by mail and that publication had been made on two occasions. Prescott Phillips, of 19310 W Highland Drive, came forward to speak in favor of the petition. Mr. Phillips stated that he has lived at this property for two years and that he had some concrete work done when he first moved in. He said at that time a large slab was poured for an accessory building that he wanted to build in the future. Mr. Phillips stated that the size of the building would be 1,500 square feet and that it would be cheaper to construct a pole building instead of a wood frame structure. He said that he needed the proposed building to be 17 feet high to accommodate 10 foot high doors so the trailer that holds his race car could be parked inside of it. Mr. Phillips said that he would also park another trailer and a car inside the proposed building. He noted that he also has a 10 foot by 12 foot shed on the property in addition to an existing attached three car garage. Mr. Phillips stated that he currently parks two cars, an all terrain vehicle, bicycles, and tools inside the attached garage. He said that his property is large enough so that an a 1,740 square foot accessory building would not look out of place for the area. Mr. Phillips stated that there is an extra large accessory building located nearby on Racine Avenue. It was noted that wood frame construction for accessory buildings is more compatible for residential areas, whereas pole frame construction has a more industrial look.

There was no one further to speak in favor of the petition.

Kathy Grzendzielewski, of 19305 W Highland Drive, came forward to speak in opposition to the requests for the variances. She stated that she lives directly across the street from the Petitioner. Ms. Grzendzielewski said that the area of Racine Avenue is a rural area that could easily accommodate the very large sized accessory building that the Petitioner was referring to, but that Highland Drive is in a residential neighborhood and that the proposed accessory building would look out of place here. She stated that the rules set by the City of New Berlin are for a purpose and that the maximum sized accessory building allowed by the city would be big enough for the area. Ms. Grzendzielewski said that the proposed building would be the same size as the existing house, and that it would look like a commercial warehouse. She said that she is also concerned about the future use of the building if the Petitioner were to move. Ms. Grzendzielewski stated that all of the neighbors along Highland Drive are also worried about the increase of traffic along the road due to all of the car repair work that the Petitioner does at his property.

In rebuttal, Mr. Phillips stated that the traffic on Highland Drive has nothing to do with the proposed building.

There was no one further to speak in opposition to the petition. Case No. 2437 was declared closed, and the Board proceeded to the next petition.

The next petition called was that of Dale Nowak, Case No. 2438. Mr. McGrath read the petition. It was noted

that thirty-two people were notified by mail and that publication had been made on two occasions. Dale Nowak, of 13516 W Ferguson Road, came forward to speak in favor of the petition. Mr. Nowak stated that the reason he wants to locate the proposed accessory building closer to the lot line is for appearance of his property. He said that there is a wooded area behind his home with walkways and that the garage located 15 feet from the lot line would block the pathways and would disturb the existing landscaping. He also noted that the proposed garage would be very attractive and that if it were placed 10 feet from the side lot line the garage would be visible from the road. Mr. Nowak said if the garage were placed closer to the lot line, he would be better able to landscape the side lot line area of his property and also that of the neighbor. He noted that he has two collector cars that would be stored in the garage. Mr. Nowak said that no driveway would be needed for the cars and also that no repairs would be done to the vehicles in the garage.

Mr. McGrath read a letter into the record of approval for the variance request from the neighbor most affected by the proposed garage.

There was no one further to speak in favor of the petition.

Jerry Krier, of 13605 W Old Oak Lane, came forward to speak against the petition for a variance. Mr. Krier stated that the Petitioner already has two outbuildings on the property and that he believes that is already too many for a small backyard. He said that he does not have any concerns with locating the proposed accessory building 10 feet from the side lot line.

Mr. McGrath then read a statement of opposition into the record from Nicasia Becker at 13515 W Old Oak Lane. Ms. Becker is the neighbor directly behind the Petitioner.

In rebuttal, Mr. Nowak stated that there is a heavy tree line behind his property and that he can not see the houses and yards of his neighbors to the rear. It was noted that there may not be permits for the two existing outbuildings. Mr. Nowak said that the plan he submitted to the Inspection Department shows a proposed height of 17 ½ feet for the accessory building, which would match the pitch of the house. It was noted that the maximum allowed height would be 15 feet, and Mr. Nowak stated that he understood that if the variance were granted, the building could not be any higher than 15 feet.

There was no one further to speak in opposition to the petition. Case No. 2438 was declared closed, and the Board proceeded to the next petition.

The next petition called was that of Steven Bacovsky, Case No. 2439. Mr. McGrath read the petition. It was noted that seven people were notified by mail and that publication had been made on two occasions. Steven Bacovsky, of 20075 W Lawnsdale Road, came forward to speak in favor of the petition. Mr. Bacovsky stated that he has an existing horse barn on his property that he uses for his horses and for storage of hay. He said that he needs another building in which to store his tractors and trucks. Mr. Bacovsky gave the board members a plot map of his property. He said that the location he chose would not take up any valuable pasture area and that by placing the accessory building in the proposed location he would be better able to see the horse barn from his house and this would provide more security for the horses. It was noted that there is a mound system on his property. Mr. Bacovsky said that Green Acres Nursery is located next to him and the Waukesha County garage is across from the nursery. It was also noted that there is a gravel pit nearby and that the general area around the Petitioner could be described as rural/ commercial.

Mr. McGrath then read a letter of approval for the variance into the record from KASCO LLP, owners of Green Acres.

Mr. Bacovsky then showed the board members pictures of the neighborhood and also pictures of where he would like to locate the accessory building. It was noted that the building would meet the size requirements that the zoning of the property allows. Mr. Bacovsky said that for safety reasons he does not want to store his tractors and trucks in the same barn as the horses and hay. He stated that for ease of access it would be better if the proposed garage were located near the existing driveway and that if the drive were moved, it

would be difficult to maneuver the tractor and trailer. In addition, it would be more practical if the building were closer to the barn instead of the house. Mr. Bacovsky said the ground is sloped behind the barn and not that easy to build on. He said that valuable pasture land is located behind the barn, and further, if the driveway were moved to the east, pasture area would again be lost. It was noted that the property is 5 acres in size.

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. 2439 was declared closed, and the Board proceeded to the next petition.

The next petition called was that of Tim Hensel, Case No. 2440. Mr. McGrath read the petition. It was noted that twenty-three people were notified by mail and that publication had been made on two occasions. Mr. Hensel, of 18403 W Beloit Road, came forward to speak in favor of the petition. Mr. Hensel stated that he would like to replace the existing 50 year old garage because it is in a dilapidated condition. He said that he would like to make the garage 2 feet wider and that he would also like to add a breezeway between the garage and the house in the future. It was noted that the existing detached garage is 20 feet wide by 22 feet long, that the garage is 12 feet from the lot line, and that it is considered to be legal non-conforming. Mr. Hensel said that the proposed garage would be located in the same place as the existing garage, which would be next to the adjoining neighbor's garage. He stated that he would like the proposed garage to be 10 feet from the garage to the house so that patio doors could be built in the breezeway to access a deck. Mr. Hensel said that if the garage were moved closer to the house, the existing driveway would have to be moved.

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. 2440 was declared closed, and the Board proceeded to the next petition.

The next petition called was that of Russell & Christine Jack, Case No. 2441. Mr. McGrath read the petition. It was noted that six people were notified by mail and that publication had been made on two occasions. Mr. Jack, of 15255 W Glenora Court, came forward to speak in favor of the petition. Mr. Jack stated that his home is set back on the lot and has only six feet to the rear setback line. He said that the size of his home is 1,650 square feet and that he would like to build a 12 foot by 20 foot heated all seasons room. Mr. Jack showed pictures of his property to the board members. He said that there are no other practical locations for the addition that would not require a variance and that the only sized addition that could be built without a variance would be 5 feet by 14 feet in size. It was noted that the Petitioner has lived at this property for five years. Mr. Jack said that they could locate the addition closer to the side, however, the kitchen window would then be covered over, and the rear concrete patio would also have to be removed. He said that the proposed addition would match the current roof line. Mr. Jack stated that the addition would add value to the home, would provide enjoyment for the family, and there would also be enough space for a hot tub that is needed for his knee surgery recuperation.

Mr. McGrath then read letters of approval for the variance into the record from three neighbors. It was noted that one of the neighbors lives across the street, one neighbor lives directly to the west of the Petitioner, and one of the neighbors lives three houses away.

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. 2441 was declared closed.

The first petition considered by the Board was that of Prescott Phillips, Case No. 2437. Mr. Goetter made a motion to deny the petition, and, Mr. Rath seconded the motion. All members voted to deny the petition for the variances as requested.

The next petition considered by the Board was that of Dale Nowak, Case No. 2438. Mr. Loohaus made a motion to deny the petition, and, Mr. Goetter seconded the motion. Mr. McGrath, Mr. Klappa, Mr. Loohaus and Mr. Goetter voted to deny the petition. Mr. Rath voted against denying the petition. The petition for a

variance was denied by a four to one vote.

The next petition considered by the Board was that of Steven Bacovsky, Case No. 2439. Mr. Klappa made a motion to grant the petition, and, Mr. Rath seconded the motion. Mr. Klappa, Mr. Rath, Mr. McGrath, and Mr. Loohaus voted to approve the petition. Mr. Goetter voted to deny the petition. The petition for a variance was passed by a four to one vote.

The next petition considered by the Board was that of Tim Hensel, Case No. 2440. Mr. Klappa made a motion to grant the petition, and, Mr. Goetter seconded the motion. All members voted in favor of granting the petition.

The next petition considered by the Board was that of Russel & Christine Jack, Case No. 2441. Mr. Klappa made a motion to grant the petition, and, Mr. McGrath seconded the motion.

Mr. Klappa, Mr. Goetter, Mr. Loohaus and Mr. Rath voted to approve the petition. Mr. McGrath voted to deny the petition. The motion to grant the petition for a variance was passed by a four to one vote.

There being no further matters to be discussed in front of the Board of Appeals, the said meeting was adjourned at 9 PM.

**BOARD OF APPEALS
CITY OF NEW BERLIN**

Brian McGrath, Chairman