

Minutes

BOARD OF APPEALS

December 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. Gaulke, Goetter, Loohaus, Rath and Wallner. Also present was Inspection Services Manager Robert Sigrist.

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 Alex Pharris, Case No. 2447. Mr. McGrath noted that this case was tabled from the last meeting on November 7th, 2002. He then read the communication into the record from Robert Sigrist, Manager of Inspection Services. Mr. Sigrist stated in his memorandum that as a result of his inspection of the Petitioner's property and due to the absence of complaints in the files regarding the property, it was his determination that Mr. Pharris was not operating a car repair business at his home.

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

Gerald Schenker, 13300 W Glendale Drive came forward to speak in opposition to the request for variances. He stated that he lives in back of Mr. Pharris and has lived there for 18 years. In those 18 years he has never seen Mr. Pharris park his vehicles in the garage. He has had a pickup truck that he has been rebuilding for 18 years in the garage and using it for storage. Mr. Schenker stated that his concern is that the garage is being used as a storage area and adding to it will allow more storage area that is a fire hazard to the side of his house that is his sleeping area. Mr. Schenker also stated that he would not be opposed to Mr. Pharris adding on if he could meet the side yard setbacks. Noise after 10 p.m. is also another concern of Mr. Schenker's if the variance is allowed.

There was no one further to speak in opposition to the petition.

Mr. McGrath read a statement of opposition into the record from Dr. and Mrs. Steven Jagemann at 13205 W Glendale Drive. Dr. & Mrs. Jagemann lived across the street from the Petitioner.

In rebuttal, Mr. Pharris stated that the vehicle he has in the garage has been there since 1991. Case No. 2447 was declared closed, and the Board proceeded to the next petition.

The next petition called was that of Brian Felda, Case No. 2448. Mr. McGrath read the petition. It was noted that 12 people were notified by mail and that publication had been made on two occasions. Brian Felda of 3280 S Wehr Road, came forward to speak in favor of the petition. Mr. Felda handed out an information packet to each Board member. He stated that what Mr. McGrath read was correct as far as asking for a garage at this address. Mr. Felda stated that he doesn't want to go closer to the road or house from what he is requesting. There are 5 large trees on the property that act as a buffer so you would not be able to see the garage from the road because of the trees. Mr. Felda stated the property has a gravel driveway where he now parks his two cars. That would be where the garage would start. He doesn't want to go too far back on the lot because it would infringe upon another set of trees in the rear. The septic line to the rear of the lot also poses a hardship for garage placement. Mr. Felda is requesting a

variance of 24 square feet in size to keep the look of the garage consistent with the look of the house, which was built about 1858.

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. 2448 was declared closed, and the Board proceeded to the next petition.

The next petition called was that of Tim Hensel, Case No. 2449. Mr. McGrath read the petition. It was noted that 25 people were notified by mail and that publication had been made on two occasions. Tim Hensel of 18403 W Beloit Road, came forward to speak in favor of the petition. Mr. Hensel stated that a variance was approved at the September, 2002 Board of Appeals meeting for him to replace an existing garage. The builder came in and knocked down the existing garage. The surveyor came out to stake out the new garage and at that time determined the survey that Mr. Hensel had is wrong, it is off by two and a half feet. The city inspectors came back to look at the property and told Mr. Hensel that the survey he had was a legal document and to go ahead and build the garage. The builder would not build the garage unless the inspection department signed off on it. The builder was told by the inspection department to have it resurveyed and then Mr. Hensel would have to reapply for another variance. The garage will be built on the same spot but 2 feet further to the west. Mr. Hensel then stated that his neighbor, Elroy Wilm of 18455 W Beloit Rd, agreed to the request for a variance and again signed off for it. Right now there is no safe access to the house. There currently is ice-covered plywood on the ground to get into the house, and he is worried as his wife is 8 months pregnant and this is not safe to walk on. Additionally, at the suggestion of Shari in the inspection department, Mr. Hensel is requesting a refund of his second application fee of \$109 due to the fact that the survey was wrong which is not his fault.

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. 2449 was declared closed, and the Board proceeded to the next petition.

The next petition called was that of Modern Designs, Case No. 2450. Mr. McGrath read the petition. It was noted that 22 people were notified by mail and that publication had been made on two occasions. Mark Wille of Modern Designs, came forward to speak in favor of the petition. The lot is a curb and gutter lot verses a ditch lot. The house could have been moved forward almost ten feet when it was built. A drainage creek for the subdivision runs right behind the lot. The survey shows that the centerline of the creek actually established the Lavinio's lot. The fact that the home was placed significantly further back on the lot than need be when built reduces the rear yard and creates a hardship for adding additional space.

Dan and Lori Lavinio of 3860 S Pohl Drive came forward to speak in favor of the petition. Mrs. Lavinio stated the family room that they now have is rather small and that this addition is an extension of the family room and dinette and that it is designed to look more like one large room. It will be used for entertaining, a multifunctional room. Mrs. Lavinio stated that because of the distance between the houses they don't feel they will be encroaching upon their neighbor's privacy by building this addition. Mr. Lavinio stated that because of the extensive creek area he doesn't believe that any one would notice a 4-foot difference from 12 to 16 feet.

6th District Alderman, Jack Chiovatero, of 3485 S Long Acre Drive, came forward in favor of the petition. Mr. Chiovatero stated the reason he is involved is because of the creek issue. He said the Lavinio's have been very active in maintaining the creek and its natural surroundings. The 30-foot easement from the centerline of the creek to the Lavinio's lot line is causing a hardship for them to do any reasonable additions to their home.

Mr. McGrath stated there were 3 written communications from neighbors on each side and in the rear of the home in favor of the petition along with a written communication from Alderman Chiovatero that is consistent to what he just said as well.

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. 2450 was declared closed, and the Board proceeded to the next petition.

The next petition called was that of Lawrence Egofske, Case No. 2451. Mr. McGrath read the petition. It was noted that 30 people were notified by mail and that publication had been made on two occasions. Lawrence Egofske of 4221 S Church Drive, came forward to speak in favor of the petition. Mr. Egofske stated his is a life long resident and that his grandfather and father built the house 50 years ago. A 10 by 30 foot addition was added to the two existing bedrooms, and a master bath was added to one bedroom. The existing doors were kept. During the final inspection it was discovered that the 30 inch entrance door did not meet the present code which requires a 32 inch minimum entrance way to a full bathroom. There is no room on either side of the existing entrance to widen it to add a 32-inch door.

Discussion followed as to when the requirements changed. Mr. Sigrist stated the change was in 1980 with the implementation of the ADA.

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. 2451 was declared closed.

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

The first petition considered by the Board was that of Alex Pharris, Case No. 2447. Mr. Rath made a motion to deny the petition, and, Mr. Galke seconded the motion. All members voted to deny the petition for variances as requested.

The next petition considered by the Board was that of Brian Felda, Case No. 2448. Mr. McGrath made a motion to grant the petition for front setback but to deny the petition of 24 square feet in size, and, Mr. Wallner seconded the motion. All members voted in favor of granting the petition as amended.

The next petition considered by the Board was that of Tim Hensel, Case No. 2449. Mr. Loohuis made a motion to grant the petition and to refund the \$109 fee paid on 10/30/2002, and, Mr. Rath seconded the motion. All members voted in favor of granting the petition and refunding the \$109 fee.

The next petition considered by the Board was that of Modern Designs, Case No. 2450. Mr. Galke made a motion to grant the petition, and, Mr. Loohuis seconded the motion. All members voted in favor of granting the petition.

The next petition considered by the Board was that of Lawrence Egofske, Case No. 2451. Mr. Goetter made a motion to grant the petition, and, Mr. Galke seconded the motion. Mr. Wallner voted to deny the petition. 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 8:38 PM.

**BOARD OF APPEALS
CITY OF NEW BERLIN**

Brian McGrath, Chairman