

Minutes

BOARD OF APPEALS

AUGUST 2ND, 2001

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

On roll call, Chairman McGrath, Messrs. Boya, Gaulke, Goetter, Loohaus, Klappa and Wallner. 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 TDI Associates, Case No. 2411. Mr. McGrath read the petition. It was noted that fifteen addresses were notified by mail and that publication had been made on two occasions. Bob Williams of TDI Associates, of 1285 Sunny Ridge, Pewaukee, WI, came forward to speak in favor of the petition. Mr. Williams stated that the lot at 13225 W Hawthorne Lane is very shallow in depth, is heavily wooded, and it has drainage problems as determined by the Engineering Department. Mr. Williams said that because many trees will be lost on the front of the property when the utilities are installed, it made more sense to build the house closer to the street so that the trees at the rear of the lot can be preserved. He said that the lot has a lot of large trees and underbrush and is very dense with existing growth. Mr. Williams said that a storm inlet would have to be created at the rear of the property, per the Engineering Department. He said that the neighboring lot has some low areas and there are other wetlands in the area. He noted that a small portion of the house would be in the setback area, but the rest of the house would be beyond the 50 foot front setback area. Mr. Gyax said that the owner had previously submitted plans for the proposed house that met all the setback requirements, however, Doug Davis of the Engineering Department suggested the new proposed placement as a good solution for better drainage on the property. Mr. Williams submitted a letter from the Engineering Department regarding drainage to the Board. He said that many variations were suggested for the location of the house on the lot before this solution was agreed upon. It was noted that due to the curve of the cul-de-sac, some setback footage is lost when the house location is changed even a little bit.

Mr. Williams said that the adjoining neighbor's wall comes all the way down the driveway to the cul de sac and that there is a four foot drop off the wall. Mr. Williams said that if the variance were granted, the owner would like the low area filled in with a storm sewer under it to create a level area between the two driveways. It was noted that an electric transformer is located in the swale area and it would have to be raised if the area were filled in. Mr. Williams said that the proposed house would be approximately 4,000 square feet in size, which is comparable to other homes in the area. It was noted that the minimum square footage for homes in the subdivision is approximately 2,000 square feet. It was also noted that a smaller house could be built on the lot that would meet the required setbacks and engineering concerns.

Dennis Mannino, of 4290 S Coventry Road, came forward to speak on behalf of the variance for his property at 13225 W Hawthorne Drive, New Berlin, WI. Mr. Mannino stated that if the variance were not granted, he may not build at all. He said that when he purchased the lot several years ago, there was no water on the lot at all, but that due to increased building all around him, drainage is now a problem.

At this point, the neighbors met privately with Mr. Mannino and Mr. Williams to discuss the new plans that were drawn up and to have some of their concerns answered regarding the property. Testimony for Case #2411 was scheduled to resume later in the meeting. The Board then proceeded to the next petition.

The next petition called was that of Jeff Soldan, Case No. 2412. Mr. McGrath read the petition. It was noted that people were notified at nine addresses by mail and that publication had been made on two occasions. Jeff Soldan of 15190 W Harcove Drive, came forward to speak in favor of the petition. Mr. Soldan stated that he has lived at the property for eight years and that the house is about 25 years old. He said that he has just recently removed a 15 foot by 30 foot pool from the back yard, along with a pool deck and a chain link fence. Mr. Soldan stated that there is an existing 14 foot by 20 brick patio and that he would like to build the porch the same size. He said that he would like an enclosed room that would extend the living area of his house for most of the year. Mr. Soldan stated that he would be adding gardens and ornamental trees in the back yard, and that the porch in the rear area would be an attractive solution instead of building it at the front of his house. He said that if the variance were denied, he may consider building a gazebo, however, an attached porch would be much more practical and convenient for entertaining.

It was noted that decks can be built up to five feet of the lot lines, provided they are less than four feet high. It was also noted that if the deck has a roof over it, then the setback requirements change because the deck is now considered to be a structure. Mr. Soldan said that the existing house is 2,200 square feet in size and that the extra space the proposed porch could provide would be used for family needs and storage.

Patti Soldan, of 15190 W Harcove Drive, came forward to speak in favor of the variance. She said that the addition is needed for the extra living space and would help to alleviate their storage problems.

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. 2412 was declared closed, and the Board proceeded to the next petition.

The next petition called was that of James Arndt, Case No. 2413. Mr. McGrath read the petition. It was noted that people from fifteen addresses were notified by mail and that publication had been made on two occasions. James Arndt of 3455 S Wehr Road, came forward to speak in favor of the petition. Mr. Arndt said that the house is located on an odd angle on the lot and it is very difficult to add onto the house without encroaching into the setback areas. He stated that if the variance were granted, the size of the dining room would be increased, and he would be adding a bedroom, bathroom, and a sunroom, and would also be increasing the garage storage area. It was noted that the house was built with a 15 foot side setback, however since that time, the zoning has changed for the property. The house is now considered to be a legal non-conforming structure. Mr. Arndt said that when he drew up the plans he did not know that setbacks were measured from the overhangs. He said that the foundation of the addition meets the setback requirements, however, the overhangs do not. Mr. Arndt said that the existing house is approximately 1,700 square feet in size and that the proposed additions would increase the size to 2,200 square feet.

Mr. Arndt stated that there is a patio, pool, and deck located at the back of the house that would limit the areas that the addition could be built. He said that the plans were drawn up to create a separation between the master bedroom and the children's bedrooms. It was noted that the septic system was located at the rear of the property and that it would soon be replaced with a mound system. It was noted that if the addition were placed in the area where the existing patio is now located, there would be a problem with the roof line tie-in. It was also noted that other living areas would be sacrificed if the addition were moved to another location.

Mr. McGrath read a letter into the file that was signed by six neighbors who are in favor of granting the variance.

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. 2413 was declared closed.

At this point, petition #2411 was called again. Michael Mullihan, of 5775 Golden Rain, came forward to speak. He stated that he has no opposition to the variance if the rear setback will be 50 feet.

Michael Wilber, of 13245 Hawthorne Lane, came forward to speak in opposition to the variance. Mr. Wilber stated that he is opposed to moving his retaining wall along the driveway as it was very expensive to build. He said that the proposed house would be the only house on the street that does not meet the front setback requirements and that it would look odd and out of place. Mr. Wilber said that the Petitioner knew all of the setback requirements when the lot was purchased and that the requirements have not changed since that time. He said that the lot is large enough to build a house that would meet the minimum size requirements of the subdivision and that would also meet the Engineering Department's concerns. Mr. Wilber said the proposed house was not designed for this particular lot.

Mr. Williams came forward to speak. He stated that if the variance were granted, and the neighbor's wall was removed, the neighbor would be compensated for the wall. Mr. Williams said that Mr. Mannino would be financially responsible for the storm and sewer utilities required for his property.

Mr. McGrath read 2 letters into the record from the Engineering Department dated January 10th, 2001 and April 16th, 2001 regarding the drainage concerns.

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. 2411 was declared closed. The Board then made the final decisions regarding the following cases.

The first petition considered by the Board was that of TDI Associates, Case No. 2411.

Mr. McGrath made a motion to grant the petition, and, Mr. Wallner seconded the motion.

Mr. McGrath, Mr. Wallner, and Mr. Gaulke voted in favor of granting the petition. Mr. Goetter and Ms. Boya voted to deny the petition. The motion to grant the petition fails by a three to two vote. The petition is denied.

The next petition considered by the Board was that of Jeff Soldan, Case No. 2412.

Mr. McGrath made a motion to grant the petition, and, Mr. Gaulke seconded the motion.

Mr. Wallner, Mr. Gaulke and Ms. Boya voted to grant the petition. Mr. Goetter and Mr. McGrath voted to deny the petition. The Motion to approve the variance fails by a three to two vote. The Petition is denied.

The next petition considered by the Board was that of James Arndt, Case No. 2413.

Mr. Klappa made a motion to grant the petition, and, Mr. McGrath seconded the motion.

All members voted in favor of granting the petition. The Petition is passed by a unanimous vote.

There being no further matters to be discussed in front of the Board of Appeals, the said meeting was adjourned at 8:30 PM.

BOARD OF APPEALS

CITY OF NEW BERLIN

Brian McGrath, Chairman