

**CITY OF NEW BERLIN
PROCEEDINGS OF THE BOARD OF APPEALS
Thursday, January 6, 2011**

Please note: Minutes are unofficial until approved by the Board of Appeals at their next regular scheduled meeting.

ROLL CALL: Chairman Brian McGrath called the meeting to order at 7:03 PM. Present were Board Members Perry Grutza, Dennis Bohen, Brian Loohaus, and James Klappa. Also present were Department of Community Development Associate Planner; Amy Bennett and Transportation Project Engineer; Tammy Simonson. Board Members John Goetter and Milton Galke were absent.

This meeting was noticed on December 10, 2010 in accordance with the Open Meetings Law.

APPROVAL OF MINUTES

Motion by James Klappa to approve the December 02, 2010 minutes. Seconded by Dennis Bohen and carried unanimously.

Chairman Brian 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 Derek Boyce, of 12713 Water Point Blvd, in Windermere Florida, Case No. # 2593. Mr. McGrath read the petition. It was noted that 25 addresses were notified by mail and that publication had been made on two occasions.

Derek Boyce came forward to speak. He explained that he originally purchased 10 acres at 17445 W. Observatory Road and that his intention when he purchased the property was to build a home on it. However, he has moved to Florida and would like to sell the 10 acres as two 5 acre lots, with one of the lots having road access on Observatory and the other having road access on Horizon Drive. Mr. Boyce is requesting a permit to construct a driveway at a permanent dead-end. The property is zoned R-1/R-2, Rural Conservation Single-Family Residential, C-1, Upland Resource Conservancy District, and C-2, Shoreland Wetland District and located at a permanent dead-end. Current City Code requires a cul-de-sac. A variance from the Code to allow a driveway to be constructed at the dead-end of a street (Horizon Drive) without constructing a cul-de-sac to City standards is required in order to obtain a Building Permit. Mr. McGrath asked the applicant if he has considered all of his options and whether or not he had considered building a cul-de-sac. Mr. Boyce responded that constructing a cul-de-sac for a 2 lot land division is too costly and decreases the lot sizes and property values. Mr. Boyce commented that a shared driveway has been considered and that it may be an issue for the parties who purchase the properties and this option would also decrease the lot sizes and property values. Mr. McGrath explained to the applicant that a variance cannot be granted on the basis of economic gain or loss.

Alderman Dave Ament of 18330 W. Lynette Lane who represents the residents of this subdivision came forward to speak in opposition of the petition. Mr. Ament also submitted to the Committee a letter addressing the reasons for the opposition. The concerns that were addressed before the board are also noted in his letter to the Board of Appeals. Mr. Ament addressed concerns regarding the safe access of emergency vehicles and adequate room for snow plowing and clearing for resident's vehicles and emergency vehicles. Mr. Ament also informed the Board that Staff has advised the applicant that our codes do not allow the construction of a driveway to a dead-end street. The Plan Commission agreed with the Staffs analysis and approved the land division with the condition that the applicant will not be allowed to construct a driveway at the dead-end street of Horizon Drive and that the applicant should construct a shared driveway to Observatory Road.

Peter and Erika Milosevich of 3530 S. Russel Road came forward to speak in favor of the petition. Mr. and Mrs. Milosevich are considering purchasing one of these divided lots.

Mr. Ken Albreht of 17300 W. Horizon Drive came forward to speak in opposition of the petition. Mr. Albreht addressed his concerns regarding snow plowing, placement of septic system and where the water run off will be if the grading is changed.

Mr. Buckley Meade of 17331 W. Horizon Drive came forward to speak in opposition of the petition. Mr. Meade states the reasons he purchased his home at 17331 W. Horizon Drive was mainly because of the serenity and privacy, he goes on to further say that adding a driveway will change the aesthetics.

Chairman Brian McGrath read a letter from Milton Pelisek of 17330 W. Horizon Drive opposing the applicant's request. Mr. Pelisek states in his letter that he built his home at 17330 W. Horizon Drive some 43 years ago because of the permanent dead-end street and further states in his letter addressed to the Board of Appeals that he would never consider selling any of his property to help make feasible any extension of it. Mr. Pelisek states in his letter that he also owns the lot directly to the north of him.

There was no one further to speak in opposition to the petition, and there was no one further to speak in favor of the petition. The evidence in Case No. # 2593 was declared closed.

The sole petition considered by the Board was that of Derek Boyce, Case No. # 2593. Mr. Bohem made a motion to deny the request for a permit to construct a driveway at a permanent dead-end street and Mr. McGrath seconded the motion.

The motion to deny the variance passed, 5 to 0.

There being no further matters to be discussed in front of the Board of Appeals, the said meeting was adjourned at 8:15 PM.

Respectfully Submitted,

Donna Cox
Community Relations / City Clerk's Office