

**MINUTES OF THE BOARD OF APPEALS MEETING
4-12-17**

The meeting of the Slinger Board of Appeals was called to order by Chairman Wolf at 300 Slinger Road, Slinger Wisconsin on Wednesday, April 12, 2017 at 5:32 p.m.

I. Roll Call & Notice of Meeting:	<u>Present</u>	<u>Absent</u>
Craig Wolf	x	
Rick Knipfer	x	
Chris Leis		x
Eugene Mueller	x	
Greg Bayer (alternate)	x	
Doug Thiel	x	
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Also Present: Tammy Tennies, Clerk
Greg Darga, Village Building Inspector/Zoning Administrator

Clerk Tennies took the roll call and stated that all posting and publication requirements had been met. Clerk Tennies read the Zoning Board Announcement of Proceedings and the public notice.

Clerk Tennies administered the Oath of Witness to all who wished to speak before the Board at this time. Sworn in were Mitch McGuire of 2299 Hall Rd Hartford, WI 53027, Mike McGuire 7585 Bavarian Lane West Bend, WI 53090 and Zoning Administrator, Greg Darga, 300 Slinger Rd. Slinger, WI 53086.

II. Public Hearing:

A. Petition for Appeal: McGuire Builders, LLC is requesting two variances to allow construction of a new home on a vacant lot located at 2065 Grandview Drive in the Sherman Heights Subdivision.

Variance No. 1: is required to allow the minimum width of the subject lot to be reduced from the zoning code required width of 150 ft. to 140 ft.

Variance No. 2: is required to allow the subject lot for the street yard setback of the new home to be reduced from 65.5 ft. to 42.0 ft. from the right-of-way line of Grandview Drive.

It was noted that both variances would be discussed concurrently.

Chairman Wolf announced that McGuire Builders, LLC are petitioning for two variances to allow construction of a new home on a vacant lot located at 2065 Grandview Drive a/k/a Lot #60 in Sherman Heights Subdivision. It was noted that the existing width of the subject lot is 150 feet and the McGuire's are requesting a width of 140 feet. It was also noted that the existing setback from the right-of-way line of Grandview Drive is 65.5ft. and the McGuire's are requesting a setback of 42ft.

Clerk Tennies stated that staff had received a letter from Jeffrey & Tamara Kottke, 2055 Grandview Dr. The letter was read for the record and it was noted that the Kottke's do not object to the requested variance,

but wrote the letter to ask the Board to thoughtfully consider if the variances fits with the overall aesthetics of the subdivision and what general purpose does the requested variance fulfill.

B. Opening Statement of Petitioner

Mr. Mitch McGuire, builder of the spec home to be located on the subject property 2065 Grandview Drive, appeared before the Board to discuss the variances he is asking for on the property. Mr. McGuire stated that in regards to the lot, he has concerns about where the septic field will be. He stated that water from Lot #59 runs directly onto Lot #60, right through where the house will be and to create a swale the house needs to be at a higher elevation. Mr. Mitch McGuire stated that potential buyers may be deterred from purchasing the house if the house is placed too close to the septic field. He stated that although there is another septic field on the property, it is at the back of the property and septic would have to be pumped another 50ft. if that septic field is used. Mr. Mitch McGuire stated that in regards to the neighbor's concerns about the overall aesthetics of the subdivision, he noted that Lots 61, 62, 63 all have setbacks around 42ft. and that Lot #59 is pie shaped and very unique to have a 100ft setback. He stated that water needs to flow between Lot #60 and Lot #61 in the SW corner and get between the house and septic on Lot #60. Mr. Mitch McGuire stated that he would like to have the septic field at least 40ft. from the house and stated the house would look best built in the center of the lot.

C. Zoning Administrator/Staff Review of Petition

Chairman Wolf asked Zoning Administrator Darga to discuss the Village's position on this petition. Zoning Administrator Darga stated that he went out to Lot #60 and the topography of the land is unusual. He stated that the lot does rapidly drop off approximately 50ft from the road. He stated that it is advantageous to have the house closer to the road, yet for the tapered lots, the intent was to have houses back to transition better. Zoning Administrator Darga states that on Lot #59 the house is where it is supposed to be but there is a concern about Lot #60's setback because of curve on the property line. He stated that the Board may wish to consider averaging the setback rather than granting the 23.5ft variance. Zoning Administrator Darga stated that the neighboring house, Lot #61 has a setback of 42.2ft. He stated that moving the house up to have a setback of 40ft. seems a bite too close to the road even if the neighboring property is a 42.2ft, because Lot #60's lot line is irregular because of the bulb of the road. Zoning Administrator Darga suggested that the house on Lot #60 should line up along a straight line projected from the front of the house on Lot #60 to the front of the house on Lot #61 to allow for a smooth transition around the bulb.

D. Public Comment Period

No comments were made.

E. Closing Statements & Close Hearing

Chairman Wolf asked Mr. Mitch McGuire, Mr. Mike McGuire and Zoning Administrator Darga to present their closing statements.

No further comments were made.

III. Deliberation of Petition:

A. Discussion on required variances:

Variance No. 1: is required to allow the minimum width of the subject lot to be reduced from the zoning code required width of 150 ft. to 140 ft.

Variance No. 2: is required to allow the subject lot for the street yard setback of the new home to be reduced from 65.5 ft. to 42.0 ft. from the right-of-way line of Grandview Drive.

B. Findings of Fact

Chairman Wolf read the findings of fact that are used to make any determination on variance requests as listed in Village of Slinger Zoning Code Section 12.07.

Board members discussed that rather than a 42ft. lot setback from the right-of-way line of Grandview Drive the petitioners would like the front of the house on Lot #60 in line with the front of the house at 2075 Grandview Drive and the setback will be determined from that. It was noted that at this time the distance of the setback at 2075 Grandview Dr. could not be determined from the plat of survey provided.

Chairman Wolf explained that five findings need to be deliberated: Preservation of Intent, Exceptional Circumstances, Economic Hardship and Self-Imposed Hardship, Preservation of Property Rights and Absence of Detriment.

Chairman Wolf stated that in regards to preservation of intent, the variances are consistent with the purpose and intent of the regulations of the district in which the development is located. The variances do not have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district. It was stated that the setback for R-1 zoning has been met in this case because there is at least a 15ft. side setback on either side of the proposed house site.

Regarding exceptional circumstances, discussion was held that there are unusual circumstances or conditions applying to the parcel. It was stated that 50ft. from the street yard property line, the land rapidly drops off, along with the street curving and creating a dip in the property line. Also, it was mentioned that the location of the septic fields and the flow of the water across the property create challenges in the back yard, thus, this property does have exceptional circumstances.

Chairman Wolf stated that in regards to exceptional circumstance, there are exceptional conditions applying to the lot that do not apply generally to other properties in the same district and the granting of the variances would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed. Board members agreed that there are exceptional circumstances due to the elevation change in the front of the house, the location of the septic fields and the lot being located on the bulb of the road.

Discuss was held that the size and the type of house could be different for this lot, and the house could have a setback less than the required 65ft., but 42ft. is too close to the road.

Chairman Wolf stated that in regards to economic hardship and self-imposed hardship, there aren't any hardships for consideration in this case. It was noted that the variances are not based solely on economic gain or loss and that the hardship in this situation is not self-imposed based on the lay of the land which

the developer created with the curve in the road.

Chairman Wolf stated that in regards to preservation of property rights, these variances are necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity. It was stated that in regards to variance #2, the street yard setback of the new home would look out of place in relation to the adjacent home if a variance is not approved. It was noted that the proposed setback of 42ft. will to be too close to the road and a different setback should be considered.

Chairman Wolf stated that in regards to absence of detriment, the variances do not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of the public interest because by moving the house up to be in line with the house at 2075 Grandview Dr. it will maintain the look of the neighborhood.

C. Additional Conditions (if necessary)

No additional conditions were presented.

D. Action to Approve, Modify, or Deny the Requested Variances

Motion Knipfer/Mueller to modify Variance No. 2 to allow the new home to be located no further north than the most northern point of the structure located at 2075 Grandview Dr. In regards to Variance No. 1, the Board modified the request to say the minimum lot width can be reduced. The amount of reduced lot width will be determined based upon the field-measured street yard setback approved in variance No. 2. A roll call vote was taken on this motion with the following results: Yea's: Wolf, Bayer, Mueller, Knipfer and Thiel; Nay's: None. Motion passed.

E. Notice of Appeal Rights

It was stated to the McGuire's that they could proceed with a building permit yet Clerk Tennes did inform them that any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. It was noted that such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Zoning Board of Appeals.

IV. Adjourn Meeting

Motion Knipfer/Thiel to adjourn at 6:34 p.m. Motion passed.

Tammy Tennes, Clerk