



BOARD OF APPEALS
Tuesday, May 25, 2016; 6:00 PM

Present: Chairman Reitz; Members Ashmore, Levin, Massey, Stern, Alternate Member Clancy, Deputy Clerk Fochs; City Attorney Sajdak; City Inspector Rakow, Court Reporter J. Steidtmann, Gramann Reporting; and interested public

Also Present: Brian Strachota, general contractor

All parties appearing before the Board of Appeals were sworn.
A complete transcript of the proceedings can be made available upon request.

The meeting was called to order at 6:01 PM.

1. Approve meeting minutes of April 26, 2016

Moved by Member Massey, seconded by Member Levin to approve the meeting minutes of April 26, 2016.

Discussion ensued on whether a correction to the minutes is necessary since further research discovered that there was new information gathered since the last meeting regarding the Weir project. Attorney Sajdak referred to Robert Rules of Order and stated that minutes are the official record of the proceedings of a deliberative assembly and should contain a record of what took place at a meeting. The minutes are on this agenda solely for a discussion of that particular meeting. Review or reconsideration of a completed due process is improper.

The motion passed by roll call vote 4/0.

Favor: Members Ashmore, Levin, Massey, Reitz

Abstain: Alternate Member Clancy

Member Ashmore questioned what contact the City had with the Weirs post-hearing. The Chairman notified the Weirs of the possibility of reconsideration of the original decision. Attorney Sajdak stated case law in Wisconsin that a motion to reconsider, amend, or rescind action taken by a body is appropriate only when that action can be undone without negative affects to a party. The Weirs had already ordered materials and scheduled deliveries. Based on that a motion to reconsider would not be appropriate. It was determined that further discussion of the factual events of the previous hearing and of City staff were inappropriate and were discontinued.

2. Hear evidence concerning; debate, deliberate and decide the request of:

Applicant(s): Mark L. McGraw

Owner: Mark L. McGraw

Appeal: Requesting a variance from Section 58-234 (c)(1)(d) Mequon Code of Ordinances in order to erect a detached garage at 1220 W. Bonniwell Road.

Inspector Rakow summarized the applicant's case. He indicated that the appellant is requesting a variance to build a 26' x 30' accessory structure. Code allows one additional

detached structure; currently the appellant has two such accessory structures. Inspector Rakow indicated he visited the property in preparation for this case.

The appellant's representative, Mr. Strachota, explained that one of the current accessory structures would be eliminated if the variance is granted. The current setback of the existing garage is twenty-three feet off of Bonniwell Road and two feet of the property line. The landscaping/snow plowing businesses at the end of Bonniwell Road are causing traffic and safety problems for the appellant. He fears for his safety and the safety of his grandchildren.

The Board questioned the zoning of the landscaping/snow plowing businesses and staff could not state with certainty the zoning but did state that a landscape contracting business is an approved conditional use. The conditional use will need to be reviewed to see if snow plowing is allowed.

The appellant is not proposing to eliminate the existing garage. If both sheds were torn down he could construct another shed. There would be additional approvals beyond the decision of this Board. It would still need site plan approval to make sure that setbacks are met, size conforms to code, etc. Code allows for a detached garage of a certain size and one accessory structure. If the existing garage is eliminated along with another accessory structure then there is a possibility that the proposed 3 car garage could be built, assuming it passes code.

Moved by Member Massey, seconded by Member Clancy to close the public hearing. The motion passed by voice acclamation 5/0.

The Board deliberated:

- The appellant has a choice to remove other structures to accomplish what he wishes
- Application for permit for new garage would include demolition of the existing garage and another structure
- Code allows a principal detached garage not to exceed 800 square feet; that code may influence the choice of which structures to keep and which to demolish
- This is a self-created hardship
- A variance cannot be self-created and the property owner bears the burden of proving unnecessary hardship

Motion by Member Ashmore, seconded by Member Levin to deny the variance. The motion passed by roll call vote 5/0:

Favor: Members Ashmore, Levin, Massey, Chairman Reitz, Clancy

Oppose: None

Members of the Board suggested a workshop be organized to include Board Members, City staff (Clerk's Office, Inspection Department and Community Development Department), and the City Attorney. Communication between staff and the Board, clarification of the appeals, efficiency and preparation for hearings are lacking and need improvement. One option is to invite the UW-Extension to provide training for Board of Appeals. The scheduling of this workshop is pending.

3. Adjourn

Moved by Member Ashmore, seconded by Member Massey to adjourn the meeting at 7:00 PM. The motion passed by voice acclamation 5/0.

Respectfully submitted,
CITY OF MEQUON BOARD OF APPEALS
Kathy Andrykowski, Administrative Secretary
Approved 8-17-16