

**VILLAGE OF THIENSVILLE
PUBLIC HEARING
ZONING BOARD OF APPEALS
MINUTES**

DATE: Thursday, April 21, 2016

LOCATION: 250 Elm Street
Thiensville, WI

TIME: 6:00PM

I. PUBLIC HEARING CALLED TO ORDER

Chairman Trilling called the meeting to order at 6:00PM.

II. ROLL CALL

Chairman:	Neil Trilling	
Members:	William Davis	Andy Match
	James (Tony) Engle (excused)	Randy Pasternak
	Carole Olkowski	Jesse Daily
Administrator:	Dianne Robertson	

III. PUBLIC HEARING WITH REFERENCE TO PROPOSED VARIANCE FOR MICHAEL KOEPKE, 127 SOUTH MAIN STREET. THE APPLICANT IS SEEKING A VARIANCE TO BUILD A DETACHED GARAGE THAT MEASURES SLIGHTLY LARGER THAN 1,200 SQUARE FEET AT A HEIGHT OF 23 FEET HIGH WHICH IS LARGER THAN ZONING ALLOWS, SECTION 17.0603 (F)(1 & 2), REQUIRES DETACHED GARAGES TO NOT EXCEED 625 SQUARE FEET AND SHALL NOT EXCEED TWENTY (20) FEET IN HEIGHT.

A. Clerk or secretary to read notice and explain the requested variance

Administrator Robertson read and explained the request for the variance. The reason for the request for a variance is to allow a 1,200 square foot garage that is 23 feet in height. The notice was sent to all property owners within 300 feet and published in the official newspaper, as required by law.

a. Board reviews particular section of the municipal code

The Zoning Board of Appeals reviewed Village Zoning Ordinance 17.0603(F)(1 & 2), which states "Detached Accessory Buildings 1) shall be placed or erected in the rear yard provided that not more than one (1) detached accessory building is permitted per dwelling unit, no detached accessory building shall exceed 625 square feet in area; no structure shall be closer than 5 feet to the principle structure, no detached accessory building shall exceed (20) feet in height; no accessory building shall be located closer than three (3) feet to any lot line; and all accessory structures combined shall occupy not more than 20 percent of the rear yard area. One detached accessory building is allowed on a residential parcel.

2) Subject to the approval by the Plan Commission, one detached private garage not to exceed 625 square feet in area may be placed in a side yard on any property having a residence without an attached garage provided no such garage structure shall be closer than five (5) feet to the principle structure, no detached garage shall exceed twenty (20) feet in height nor shall it be closer than three (3) feet to any lot line. Detached garages may not be sited in front of an existing residence or in such other location as shall unreasonably affect or adversely impact the beauty and general enjoyment of existing residences or adjoining properties, as determined by the Village of Thiensville Plan Commission.”

b. Applicant or representative presents their position

The applicant Michael Koepke was in attendance to present his position. He stated that this is a small property and he needs the garage for personal vehicles, boxes that are delivered from UPS and it will have an office on the upper level. Mr. Koepke will be residing, roofing, replacing the porch and painting the property. He estimates that demolition of the existing garage will be no more than \$5,000. Member Match thought that he should place money in escrow to ensure that the existing garage will be demolished.

i. Why variance is requested

“We cannot run our business with its current size. We do not have enough space and will be forced to move under the current zoning requirements. The current zoning requirements are one size fits all. Our property does not fit into the current zoning recommendations because it is too small.”

ii. What are the hardships

“Building a garage at 625 square feet does not allow enough space for our business. If the garage was attached to the house, it would not have any size restriction. That makes no sense at all.”

iii. Other possible solutions

“My neighbor to the north has a 4 car garage with a 3 story house with a 12 pitch roof that’s 40 plus feet. My neighbor to the south has multiple storage facilities that are many times as big as what I am proposing.”

c. Comments from anyone present requesting to be heard

Greg Mueller, 121 S. Main Street, who is the neighbor to the north, is in favor of this project. He has lived there for 27 years and has been waiting for improvement to be made to the subject property. He believes there is no negative to this project.

Village Planner Jon Censky provided the report below.

Proposal:

The applicant is proposing a new garage at the far back end of his property located at 127 South Main Street. According to these plans, this garage will stand 22'8" high, measures 32' X 35' for an overall size of 1,120 square feet and will be located 3' from the rear property line and 2'3" from the north and south property lines. According to **Section (F) (1&2) of the Zoning Code, Detached accessory buildings shall be placed in the rear yard. Subject to Plan Commission approval, one detached private garage not to exceed 625 square feet in area may be placed in the side yard on any property having a residence without an attached garage provided no such garage structure shall be closer than five (5) feet to the principle structure, no detached garage shall exceed twenty (20) feet in height nor shall it be closer than three (3) feet to any lot line. Detached garages may not be sited in front of an existing residence or in such other location as shall unreasonably affect or adversely impact the beauty and general enjoyment of existing residence or adjoining properties, as determined by the Village of Thiensville Plan Commission.**

While the plans show an existing garage directly west of his principle structure, the applicant has indicated that the existing garage will be razed as part of this project. He also indicated that the plans will be adjusted to comply with the required 3 foot setback requirement from any property line.

Accordingly, based on my review of the plan a denial letter was sent to the applicant due to the fact that the size and height of the proposed garage exceeds the maximum limits allowed by code. This denial is subject to his commitment to raze the existing garage and to adjust to the building location to meet the required setbacks from all plot lines.

According to Section 17.1007 FINDINGS, No variance or special exceptions to the provisions of the Zoning Code shall be granted by the Board of Appeals unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

A. Preservation of Intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall 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.

B. Exceptional Circumstances. There must be exceptional, extraordinary, or unusual circumstances generally applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and granting of a variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.

C. Economic Hardship and Self-Imposed Hardship Not Grounds for a Variance. No variance shall be granted solely on the basis of economic gain or loss. Self imposed hardships shall not be considered as grounds for the granting of a variance.

D. Preservation of Property Rights. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

E. Absence of Detriment. That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of the Ordinance or public interest.

Planner's Recommendation:

Accordingly, an argument must be made to establish the uniqueness of the applicant's situation that separates it from other similarly zoned properties in order to prevent setting precedent. In this instance, Board Members can consider the following findings:

- *Preservation of Intent.* There is no impact on the intent of the Code with respect to the height of the proposed garage as it will be located in the rear yard adjacent to an existing commercial building to the south that is much higher than the one being proposed and to an existing garage to the north that is similar in height. The use of the area is not changing.
- *Exceptional Circumstances.* The applicant resides in the same structure that their commercial business is located on a site that is zoned commercial wherein garages are permitted accessory uses. The size and height are needed to support both his residential and commercial needs and without the size and height as proposed, the applicant cannot enjoy the benefits of the B-1 Central Business District.
- *Economic hardship and self-Imposed Hardship.* There is no economic or self-imposed hardship as the applicant will otherwise be forced to move his operation and residence from this property.
- *Preservation of Property Rights.* The design of the applicant's garage is similar to the existing garage to the north and without this variance the applicant cannot enjoy the same benefits as does the property owner to the north.
- *Absence of Detriment.* The garage will be located immediately north of a commercial building that is much higher and contains more mass than the proposed garage and is just south of an existing garage similar size and height. Accordingly, this garage is not a change to the character and would not be detrimental to the neighbor.

If Board Members grant approval of the proposed variance it should be subject to the following:

1. The existing garage shall be razed immediately following the construction of the new garage.
2. The proposed garage shall be set back at least 3 feet from any property line.
3. The applicant shall secure Plan Commission approval of the garage prior to the issuance of a building permit.

d. Other communications received

Administrator Robertson stated that there were no written communications received either in favor or opposed to this request.

IV. CLOSE OF PUBLIC HEARING

MOTION by Member Match, **SECONDED** by Member Pasternak to adjourn to close the public hearing 6:11PM. **MOTION CARRIED UNANIMOUSLY.**

V. CLOSED SESSION

No closed session was held.

VI. MOTION AND ROLL CALL VOTE ON APPEAL

MOTION by Member Daily, **SECONDED** by Member Davis to grant a variance to Michael Koepke for the property located at 127 South Main Street as delineated below.

- *Preservation of Intent.* There is no impact on the intent of the Code with respect to the height of the proposed garage as it will be located in the rear yard adjacent to an existing commercial building to the south that is much higher than the one being proposed and to an existing garage to the north that is similar in height. The use of the area is not changing.
- *Exceptional Circumstances.* The applicant resides in the same structure that their commercial business is located on a site that is zoned commercial wherein garages are permitted accessory uses. The size and height are needed to support both his residential and commercial needs and without the size and height as proposed, the applicant cannot enjoy the benefits of the B-1 Central Business District.
- *Economic hardship and self-Imposed Hardship.* There is no economic or self-imposed hardship as the applicant will otherwise be forced to move his operation and residence from this property.
- *Preservation of Property Rights.* The design of the applicant's garage is similar to the existing garage to the north and without this variance the applicant cannot enjoy the same benefits as does the property owner to the north.
- *Absence of Detriment.* The garage will be located immediately north of a commercial building that is much higher and contains more mass than the proposed garage and is just south of an existing garage similar size and height. Accordingly, this garage is not a change to the character and would not be detrimental to the neighbor.

Based on these findings, the Zoning Board of Appeals approves the variance subject to the following:

1. The existing garage shall be razed immediately following the construction of the new garage.
2. The proposed garage shall be set back at least 3 feet from any property line.
3. The applicant shall secure Plan Commission approval of the garage prior to the issuance of a building permit.

Ayes: Members Davis, Olkowski, Match, Pasternak, Daily and Chairman Trilling

Naes: None

MOTION CARRIED.

VII. ADJOURNMENT

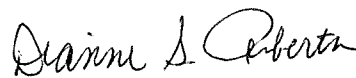
MOTION by Member Match, **SECONDED** by Member Pasternak to adjourn the meeting at 6:15PM. **MOTION CARRIED UNANIMOUSLY.**

Submitted,



Amy L. Langlois
Village Clerk

Approved by,



Dianne S. Robertson
Village Administrator