



THESE ARE THE MINUTES OF THE **BOARD OF APPEALS** MEETING ON THURSDAY, **JUNE 14, 2018**, AT 7:00 P.M. HELD IN THE COUNCIL CHAMBERS AT CITY HALL, 2000 N. CALHOUN ROAD, BROOKFIELD.

MEMBERS PRESENT: Kevin Bublitz, Robert Buikema, Gordon Rozmus, Frank DeGuire, Rod Carter

MEMBERS ABSENT & EXCUSED: Alderman Ron Balzer (alt.); Alderman Bill Carnell (alt.)

ALSO PRESENT: Zoning & Building Administrator Larry Goudy

Kevin Bublitz called the meeting to order at 7:00 p.m. He stated that the notice of hearing has been duly published pursuant to the State open meetings law and explained the procedure to present the appeals to the Board this evening.

1. **Roll Call**

Mr. Bublitz indicated that a quorum is present and that the request for variances must receive the affirmative vote of three members of the Board in order for a request to be granted.

New Business:

2a. **April 12, 2018, Minutes**

- Frank DeGuire moved approval of the April 12, 2018, Board of Appeals meeting minutes. Seconded by Gordon Rozmus and carried unanimously.

* * * * *

Public Hearing & Consideration of Appeal: *Certain requests for building permits have been submitted to the City of Brookfield and have been denied by the Zoning & Building Administrator because they did not comply with the Zoning, Building or Sign Code of the City of Brookfield. There will be a Public Hearing held before the Board of Appeals on June 14, 2018, at 7:00 pm at the Common Council Chambers for the express purpose of considering the following request(s) for variance. Please note that following the public hearing(s) the Board intends to take action by considering the request indicated:*

3a. **FOS2 LLC, 3065 N. 124th St.: Free Standing Sign**

The next item was the request of FOS2 LLC, Lot 10 Blk 1 Exc E 10 Ft Lynndale Pt NE ¼ Sec 13 T7N R20E, to appeal Section 15.16.190 C to permit a free standing sign at 3065 N. 124th Street. The sign is proposed at 3.87' from the east property line and 2.15' from the north property line. The code requires a minimum of 5' setback from property lines and for the sign to be located in meaningful open space.

Mark Schneider from One Source appeared before the Board. Mr. Goudy stated the Plan Review Board has approved the sign for design and style. It is before the Board of Appeals because of its location. The staff is supportive of this because this property has a significant

parking shortage issue. It is working right now but any change to the location of the sign would further diminish the parking lot allotment. Mr. Schneider stated the dimensions are where the existing sign is now. It is currently nonconforming in size and height, so they are trying to bring things into conformance. They are hoping to keep the sign in the same place as the old one so that they can keep the two parking stalls that it is sitting in. Those spots could be used for compact cars but if they have to comply and move the sign up 3', they would lose those stalls. The existing footings would be used in the same location. Mr. Rozmus stated it doesn't restrict foot traffic in that area. There is not a sidewalk but it has adequate room. The sign wouldn't be an obstruction to the gas station property.

- Kevin Bublitz moved approval of the sign variance given the unique nature of the property. The motion was seconded by Frank DeGuire and carried unanimously.

* * * * *

3b. **Sue and Carl Linnemeier, 3225 Fiebrantz Dr.: Detached Garage**

The next item was the request of Sue and Carl Linnemeier, Lot 18 Blk 2 Fiebrantz Assessment Map 3 Pt W 1/2 SW 1/4 Sec 12 T7N R20E, to appeal Section 17.136.050 to permit a detached garage at 3225 Fiebrantz Drive. The garage is proposed to be 1,088 square feet. The code limits detached garages on lots less than 2 1/2 acres to no more than 550 square feet.

Mr. Goudy stated the applicant is proposing to raze the existing garage and build a new detached garage. The code limits detached garages on less than 2 1/2 acres to no more than 550 square feet. The proposed garage is 34' x 32' or 1,088 square feet. It does not violate any of the setback or offset rules. It is before the Board because of the size. It is almost twice the size of what is allowed by Code. Staff received one call from the neighbor but they declined to make a comment pro or against.

Mr. Rozmus stated the owner made a statement that they would not be conducting a business in that structure. It was asked to the owner what would be stored in the building. Mr. Carl Linnemeier replied he could finally put his cars inside the garage. The existing house has a concrete crawl space. It doesn't have enough storage. Some of the things that would go in the basement could now go into the new garage. The garage is 18" wider than the existing one and about 10' deeper. The existing structure was built in 1937. It would be a little lower than the existing one. It is about 180 feet from the street. There are privets and hedges on both sides. The lot is 450' deep. Mr. Goudy read a letter of support from Alderman Sutton. Alderman Carnell stated that he is a wonderful neighbor and the home is in excellent condition. The interior is sparkling. There is a renewal on Fiebrantz Drive, the homes are either being renovated or torn down and rebuilt. This is the type of renewal we need in this area. He doesn't see how the garage could be attached. It would block his kitchen windows. The existing garage is close to falling down. He is in favor of this and it won't be a detriment to anyone in the neighborhood. Mr. Linnemeier stated he has not talked to his neighbors but the neighbor who lives across the street is in favor of this. Alderman Carnell stated that homes are being built now have 3 car garages. He hasn't stressed enough the difficulty of no basement and lack of storage. The property has plenty of frontage and depth.

Mr. Goudy explained why detached garages have a size limit. The code was changed

10-15 years ago that made it much more difficult to build. If you have an existing garage, you may replace it. If you are in a neighborhood that predominately has detached garages, the Plan Commission may grant approval of the detached garage. The ordinance was put into place to discourage construction of detached garages and to encourage attached garages. For attached garages the rule is you can go up to 50% of the square footage of the principle dwelling up to a max of 1,400 square feet. It is 550 square feet for detached garage. A great deal of the older homes have detached garages. It is certainly a neighborhood where we wouldn't hesitate to allow detached garage.

It was asked about running a business out of the garage. Mr. Goudy replied the Code is written that you can have a business out of your home, but can't run retail or a large shop and only 15% of dwelling may be used for business. There isn't a business permit for that type of use. Mr. Linnemeier added that he is a retired carpenter. He is 69 1/2 years old and he is not interested in running a business.

Kevin Bublitz stated that given the unique nature of the property, the depth that the property has that would accommodate the garage of this size, the street view would not be affected by the new garage, there is no public objection and is not contrary to the public interest, there is support of the 1st District Aldermen and would bring the garage into compliance with the setback requirements, he would be in favor of granting the variance. It is not allowed to be used for commercial purposes.

- Kevin Bublitz moved approval of the variance for the reasons stated above and it would not be used for commercial purposes. The motion was seconded by Rob Buikema and carried unanimously.

* * * * *

3c. **Marie Schmid, 18350 Surrey Ln.: Attached Garage**

The next item was the request of Marie Schmid, Lot 16 Blk 6 Carriage Hill Addn 1 Pt NW 1/4 Sec 21 T7N R20E, to appeal Section 17.32.020 to permit an attached garage at 18350 Surrey Lane. The garage is proposed at 12.7' from the west property line. The code requires a minimum of 20' offset from the property line.

Mr. Goudy stated this is a request to build a garage addition onto an existing garage. The addition of the garage is 30'8" by 18'9". It will bring the total garage space to approximately 1,000 sq. feet. It is within the code for square footage. The only issue facing the Board is the location which is 12.7' from the west property line rather than 20'. Staff received a letter representing a large number of people in the neighborhood. The neighborhood has a mix of side and front yard garages. They currently have a side yard entry. The proposal would be a front entry garage. On this section of Surrey Lane, there are a total of 11 garages with side entry and eight with front entries.

Marie Schmid and Frank DePaso appeared before the Board. Ms. Schmid stated on the current attached garage, the fireplace is built into the garage space. Both her and her husband both have SUV's which won't fit into the existing garage. She felt extra room was needed for a bench for tools and equipment rather than build a shed. She said basically she would like to fit

their cars into the garage. She looked at different options to look for the least amount of exceptions. She tried to push it into the back of the yard but the bathroom, coat closet and laundry with a mudroom would be compromised. That is the only bathroom on the first floor. The house appeals to them because of the mudroom and there is a crawl space underneath there. Also looked at moving the garage to the kitty corner but that didn't work out either. This proposal had the least issues with the variance. Her minivan is 21' long and her husband has a truck. She hasn't moved into the home yet. She felt the property value would not decrease as the letter mentioned. It would raise the property value. It would not be an AirBnB as someone suggested in the letter. It is currently rented, but she wants to move in but can't until she can fit the cars in the garage. The current renters have one car in the garage and one in the driveway. It was asked if there are Deed Restrictions that would prohibit cars from being parked in the driveway. Mr. Goudy replied he doubts if there were any and if they would still be in place. A homeowners association would enforce those. He is not aware of any associations that don't allow parking of cars in the driveway, maybe except for Still Point.

Lynn Gauger, 18390 Surrey Ln., stated she would be the most affected. Others wanted to sign the letter but were out of town. She has lived there for 37 years. She has been considering downsizing but she loves the neighborhood. If this is approved, it would be 12.7' of her property line. She felt it would be an eyesore. She added that the roof would be 1-1/2 to 2 stories high as well. She entertains on that side of the house too. The previous owners who lived there for 50 years had two cars in the garage, ladders, and equipment. She doesn't see how that would be a problem.

Janet Lehman, 18320 Surrey Ln., stated she lived there for 47 years. The subdivision is unique because of the size of the lots and green space. She would hate to see additions taking up green space.

Marie Schmid stated she positioned the garage so she wouldn't intrude on green space. Rather, the proposed garage is using up paved driveway space. It will not disturb any trees.

It was asked how long she has owned the property. She replied 2-1/2 to 3 years. It was owned in the family. The reason they haven't moved in is because of the lack of garage space. It has been rented out for two years.

Paula Hienz, 18275 Surrey Ln., stated she has lived there for 28 years. If people are allowed to impact open space and setbacks, it sets precedence for others. It may negatively affect property values.

Gina Collins, Marie Schmid's mother and a real estate broker since 1980, stated anytime there is an improvement like this, property values will go up. Property values never decline. She isn't taking away any green space. She felt there wouldn't be much of a difference.

Laurie O'Shea, 18425 Surrey Ln., asked if there had been any variance requests in her subdivision. Mr. Goudy replied, no, at least not in the last 20 years. At a point, she had five cars in her driveway, two were in the garage and three were parked on the driveway. It can be done without violating the code. She felt it would be a major change in the neighborhood.

Diana Dusing, 18385 Elm Terrace, clarified the term "green space". The owners will

primarily use the driveway space but the green space is above it. Her view from her lot is seeing diagonally down the driveway. With the addition, it will eliminate any of the "green space" through to Surrey Lane. It will be a solid mass of house.

Karen Parks, 18345 Elm Terrace, stated she lives behind them. She stated that she noticed that every house has an addition put on the back. She realized from that, that people like the neighborhood. Recently, they did an addition and was thinking of a variance but decided against it. She felt it was a slippery slope because these lots do have space. Currently, she has four cars with a two car garage. If this is approved, maybe they might look into it too.

Mr. Bublitz reviewed the standards for granting a variance. Some standards are unique features that would cause unnecessary hardship, unreasonable impact, usability of lot, the affect impact on neighborhood, and owner must prove hardship. The hardship must not be self-created.

Mr. Buikema stated that he understands the importance of not eliminating the closet, mudroom and bathroom but asked if there was anything else that would make it unique. Mrs. Schmid also thought of extending the current garage forward, but the front of the house is exactly at 50'. She didn't think it would be attractive. There is plenty of space in the back, but that's where the green space is. She tried to make it as nice as possible without further violations.

Mr. Buikema stated in observation, the members of the Board have been together for 10 years and have heard a lot of requests. The Board is very sensitive to neighbors and the public interest. It is very unique to have a lot of neighbors opposed to it. Having this many neighbors opposed to this is a big influence for him. Mr. Carter stated he doesn't see the uniqueness. He is balancing what the neighbors say. He is hearing that there is uniformity in this subdivision and is seeing a self-created hardship. She bought the biggest vehicle on the market. She could put up a shed but that would eat up more green space.

Mr. Bublitz stated he is very familiar with the house. He drove past it today and if extended, it would be very close to the adjoining property line. He felt there was nothing unique enough to grant a variance, it is a problem that is self-created, and there is an effect on the neighborhood and the larger public interest which creates a problem.

Mrs. Schmid asked if she abides by all the offsets and setbacks, can she do whatever she wants and put up a shed. Mr. Bublitz stated yes, and clarified there are permits and ordinances for sheds as well. Mr. Goudy stated you could build an addition that extends 11.7' from the current garage and still remain in the Code. There isn't a regulation regarding distance from the driveway to the lot line.

- Rob Buikema moved to deny the variance based on lack of uniqueness, respectively the issues are self-created, and the negative public interest. The motion was seconded by Rod Carter and carried unanimously.
- Frank DeGuire moved to adjourn. Seconded by Kevin Bublitz and carried unanimously. Meeting ended at 7:51 p.m.