

**VILLAGE OF GERMANTOWN
BOARD OF ZONING APPEALS
MEETING MINUTES
July 12, 2017**

CALL TO ORDER: The meeting was called to order at 5:33 p.m.

ROLL CALL: Chairman White, Member Hansen, Member Fritsche, Member Filla, Alternate Member Merry, Member Schleif absent and excused. Village Attorney Sajdak, Community Development Director (CDD)/Village Planner and Zoning Administrator Retzlaff, and Deputy Clerk Bodoh.

APPROVAL OF MINUTES: July 13, 2016 and May 10, 2017

Motion (Fritsche/Hansen) to approve minutes as presented for July 13, 2016 and May 10, 2017. Motion carried.

Chairman White opened the Public Hearing at 5:38 p.m.

PUBLIC HEARING:

Chairman White read the public hearing notice. Hearing is to hear any and all parties, their attorneys or agents, for or against the **APPEAL** as filed by **CHRISTOPHER HESS**, for the following: seeking a variance in order to construct a sunroom addition that encroaches 7 feet into the minimum 35 feet rear yard setback on the property located at **N103 W17689 Whitetail Run, Germantown, WI 53022 GTNV 331-097**

Chairman White swore in CDD Retzlaff.

CDD Retzlaff stated Hess property is .37 acre zoned RS5 single family corner lot. In May 2017, Inspection Office of Community Development Department denied issuing a building permit for a proposed 20' x 20' (400 sq. ft.) sunroom addition to an existing dwelling because proposed addition would extend into 35' rear yard building setback by approximately 7 feet. Owner was issued a building permit in 2004 for 18' x 20' deck on south side of existing dwelling, same side as proposed 20' x 20' sun room addition. Village's Building Inspector at that time, did not consider an attached deck as part of building therefor not subject to applicable 35' rear yard setback.

Member Fritsche asked CDD Retzlaff would you consider an attached deck to follow setback requirement by the current code? CDD Retzlaff stated yes, under today's interpretation of the code, I consider deck additions or attachments to be part of building and setback code.

Chairman White swore in Mr. Hess.

Mr. Hess provided Board with signatures of neighbors in agreement of sunroom addition. Mr. Hess stated he talked to other surrounding neighbors and they are also in agreement. Chairman White asked if he knew of anyone against the addition. Mr. Hess stated no. Mr. Hess stated purpose of sunroom is need for more space, outgrowing home and want to enclose deck to use the room all year round rather than just in summer. Mr. Hess stated he also wants to improve the value of his home.

Chairman White asked; Mr. Hess are you the owner of property? Mr. Hess stated yes. Chairman White asked; how long have you lived there? Mr. Hess stated since 1999. Chairman White asked; does the deck come down or building on top of existing deck? Mr. Hess stated everything will be removed except footings. Member Fritsche asked; were you able to change the shape of the room make it more rectangular with equivalent square footage? Mr. Hess stated bedroom windows would be in the way, sprinkler system and all landscaping would have to be re-done as well as new plans need to be drawn. Member Filla asked; when you came to talk to the inspector did he mention you would need to get a variance? Mr. Hess stated not until he had blueprints and had he known that before he would have worked with builder to make it fit without variance. Member Hansen asked; in order to build the sunroom does it have to violate the setback? Hess stated we were allowed to build the deck in 2004 and want to enclose existing space.

Public Hearing was closed at 6:05 p.m.

DELIBERATION AND ACTION BY THE BOARD:

Discussion of five criteria. All five have to be proven in order to grant request.

Variance:

1. *Variance (will/will not) be contrary to the public interest and (will/will not) be in accord with the spirit of the Zoning Code.* Member Filla stated signed statements from neighbors proves variance will not be contrary to public interest. Chairman White stated because structure is already there this variance is not contrary to spirit of Zoning Code.
2. *There (are/are not) exceptional, extraordinary or unusual conditions or circumstances that apply specifically to this lot or parcel, use, structure or intended use that do not apply generally to other property or uses in the same district.* Member Filla stated there is a structure already there and that is what makes it unique. Member Fritsche stated he agrees with Member Filla and because they were already given the right to build a deck makes it unusual. All agree there are extraordinary circumstances that apply to this lot or parcel.
3. *Variance is not necessary for preservation and enjoyment of substantial property rights.* Chairman White stated ability to use their existing structure to create space for their sunroom and to preserve their property rights therefore the variance is necessary.
4. *Variance (will/will not) create substantial detriment to adjacent property, and (will/will not) be contrary to public safety or interest.* Member Fritsche stated no need for emergency vehicles to enter rear yard. Chairman White stated all agree it will not create a detriment to adjacent property and will not be contrary to public safety or compromise public interest.
5. *A literal enforcement of terms of Zoning Code (would/would not) result in practical difficulty or unnecessary hardship to applicant.* Member Merry stated it would cause hardship due to expense of moving footings and sprinklers and landscaping and recreating plans. Member Filla stated hardship is they were already given right to build existing structure established and now tell them no they can't build on existing footings sounds like a hardship. Member Fritsche stated we are not allowed by law to consider expense of new

footings and landscape as a hardship. Chairman White stated existing deck does make a difference. Member Hansen stated it is close on this one due to existing footings. Chairman White stated practical difficulty would be to tell Mr. Hess to recreate something when they have become accustomed to the 20' x 20' living space and now they have to reduce amount of living space. Member Hansen stated it would not result in practical difficulty due to other options existing to meet the zoning code.

Chairman White stated he will accept a motion.

MOTION (Filla/Merry) moved to grant the variance as shown based on the five (5) Findings of Facts to construct a sunroom addition that encroaches 7 feet into the minimum 35 feet rear yard setback by roll call vote, 3 in favor, 2 opposed (Fritsche and Hansen), carried.

Chairman White stated outcome to appellant.

Chairman White stated next hearing will be August 9, 2017.

MOTION (Fritsche/Hansen) to adjourn meeting at 6:58 p.m., carried.

Cheryl Bodoh, Deputy Clerk