

**TOWN OF CEDARBURG
ZONING BOARD OF APPEALS MINUTES
July 26, 2017**

Present: Dennis Rickard
Robert Schroeder
Jim Lovering
Sharon Nieman-Koebert
Mike Cherveney

Brad Hoeft, Town Attorney
Eric Ryer, Assistant Administrator/Clerk

1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE:

Chairman Rickard called the meeting to order and took roll call at 5:30pm. The meeting began with the Pledge of Allegiance.

2. PUBLIC HEARING

- a. **Public hearing to take comment on a petition to acquire one zoning variance for the property located at 10191 Flagstone Drive from the 15 foot maximum accessory structure height in the R-2 district, allowing for an accessory structure height of 20 feet [Petitioner: Charlie and Kathy Bucholz, zoned R-2, 1.435 acres, NW ¼ of Sec.8]**

Chairman Rickard summarized the meeting tonight is to consider a request to acquire one zoning variance for the property located at 10191 Flagstone Drive from the 15 foot maximum accessory structure height in the R-2 district, allowing for an accessory structure height of 20 feet.

Kathy Bucholz and her husband Charlie spoke. Mrs. Bucholz noted they are long-time Cedarburg residents with a walk-out ranch home. They would like to construct an outbuilding for storage of personal property. They also have a 20-year-old son that likes to work on vehicles. They have purchased a car lift that would require a taller building than allowed by Code. They currently have a three-car garage which is not large enough to store all their equipment. She noted they appeared before the Plan Commission to have the accessory structure ordinance amended to allow for additional height, as the ordinance allows for 15 feet in height for a ranch like the Bucholz home. The Commission did not recommend the ordinance be amended, but rather suggested they apply for a variance. It was clarified that the height of the accessory structure would not exceed the height of the home due to slope in the rear for the walk-out and the pitch of the roof.

Ken Schmidt of 10208 Flagstone Drive noted the Bucholz's do have quite a bit of personal property and that the building would not be visible from the street, and that he would recommend approval.

Asst. Administrator/Clerk Ryer noted there was no comment received from the public.

With no other comment from the public, Chairman Rickard closed the public hearing.

3. OLD BUSINESS

None

4. NEW BUSINESS

- a. **Discussion and possible motion on a petition to acquire one zoning variance for the property located at 10191 Flagstone Drive from the 15 foot maximum accessory structure height in the R-2 district, allowing for an accessory structure height of 20 feet [Petitioner: Charlie and Kathy Bucholz, zoned R-2, 1.435 acres, NW ¼ of Sec.8]**

Jim Lovering asked if the lift was a four post lift. Charlie Bucholz noted it is a two post lift that bolts into the floor. Board member Lovering noted that if they would purchase a specific type of lift it would be able to pivot toward the peak of the building allowing for better use of building height.

Mrs. Bucholz noted they have all trucks and SUVs that impact the height of the lift needed. They also noted this would be for hobby use.

Bob Schroeder noted there were wetlands near the rear of the property. Mr. Bucholz noted the building location would be outside of the wet area.

Chairman Rickard confirmed the length of the building would be 38 feet. He suggested a flat roof building, and asked if they had explored other options. Mr. Bucholz noted he thought it would look odd if there was a flat roofed building. Mrs. Bucholz noted they would like to build it to look nice with wainscoting. Chairman Rickard noted they would be allowed a good sized outbuilding for storage, but was trying to think of options to allow them storage without needing a variance. He noted it would be convenient to have a lift, but asked the Bucholz's if not having the lift would diminish the value of the property. The Bucholz's noted that would not be the case. Board member Lovering noted the variance was needed only due to the preference to have a lift. The Bucholz's agreed with that statement. Charlie Bucholz noted that when their son moves out of the home, he would likely take the lift with him.

Jim Lovering noted they have a concrete driveway and asked what they would put down to access the new building. Charlie Bucholz noted they planned on using reclaimed blacktop.

Bob Schroeder pointed out this was for personal use, but the building and lift would be used for mechanical purposes. He wanted to make sure they were aware it could not be used for business purpose and be mindful of the noise while working on engines.

Following discussion, Bob Schroeder made a motion to grant the variance. Mike Cherveney seconded. Chairman Rickard then noted the Zoning Board of Appeals must deliberate on the findings as listed below in regards to the variance in question as required by Section 320-135 D. (1)-(5), of the Town Code while deciding whether to grant the variance:

- (1) Denial of the variation may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions 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 the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.
- (2) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and 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.
- (3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
- (4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
- (5) The proposed variation will not undermine the spirit and general and specific purposes of the Zoning Code.

The motion then carried 4-1, with Chairman Rickard voting naye. He noted the reasons for his naye vote included he did not believe there was a hardship present, that the property could be enjoyed as intended, and the purpose of the lift was for personal enjoyment and the lift may be removed when the Bucholz's son moves out of their home. He also noted the Town Board recently addressed

accessory structures, establishing a 15 foot height maximum height for a single story home accessory structure.

5. ADJOURNMENT

Robert Schroeder then moved to close the meeting. Jim Lovering seconded, the motion passed unanimously, and the meeting was adjourned at 5:52 p.m.

Respectfully Submitted,

Eric Ryer
Asst. Administrator/Clerk