

BOARD OF APPEALS
TOWN OF ST. GERMAIN
OFFICE OF THE CLERK
P.O. BOX 7
ST. GERMAIN, WISCONSIN 54558
townofstgermain.org

MINUTES BOARD OF APPEALS: GARY & NANCY PAGEL
VARIANCE REQUEST: OCTOBER 16, 2008

PLEASE TAKE NOTICE, that the Board of Appeals of the Town of St. Germain will meet on Thursday, October 16, 2008 at 5:00 P.M. in meeting room #4 in the Community Center pursuant to Section 1.15(2) of the Town of St. Germain Zoning Ordinance, to consider a variance request for Gary & Nancy Pagel, for their property located at 8138 Rainbow Dr. E., T40N R8E. The variance request is that an 8' x 10' porch has been constructed within 69' of the centerline of the town road.

CERTIFICATION

The undersigned, Thomas E. Martens, certifies as follows: (1) that he is the Clerk of the Town of St. Germain, (2) that this notice was published in the Vilas County News Review on the 7th day of October 2008 and on the 14th day of October 2008, and (3) was posted at the following locations: St. Germain Community Center, St. Germain Post Office, and Camp's Supervalu, and (4) the following were deposited postage paid by U.S. Mail to the following:

Call to Order by Board of Appeals Chairman, Boyd Best at 5:00 P.M. Mr. Best noted that this was a duly called meeting in accordance with the Wisconsin Open Meetings Law.

Present: Boyd Best, Ray Weber, Jim Swenson, Jim Penkalski, Tom Martens, town clerk. Jim Lenz was absent. Gary & Nancy Pagel and five other people were present.

Mr. Best asked Mr. Pagel if a sketch of the porch was on the building permit application. Mr. Pagel stated that it was, but that Zoning Administrator, Tim Ebert, had not seen it on the backside of the application. Mr. Best stated that the Planning & Zoning Committee probably should have taken care of this problem. Mr. Best also explained that under the Fair Housing Act and the American with Disabilities Act, the town could not discriminate against someone with a disability. Mr. Pagel noted that the variance was for the porch and not for a ramp that his wife would probably need in the future.

Mr. Weber asked Mr. Pagel to better explain his situation. Mr. Pagel stated that his lot is 100' wide and 125' deep. His home is setback 78' from the center of Rainbow Drive East. His home is 67' long. One side of his home is 15' from the side lot line, and the other side is 16.5' from the line. Mr. Pagel indicated that he had a permit to construct an 8' by 10' porch on the side of his home facing Rainbow Drive East. The porch encroaches 5' into the town setback, with the overhang of the roof adding another foot. Mr. Pagel had purchased his property two years ago.

Mr. Penkalski added that one of the conditions of granting a variance is that the hardship needed to be unique to the property and not brought on by the property owner. Mr. Penkalski stated that he was of the opinion that the hardship had been brought on by Mr. Pagel.

Mr. Weber asked if the board thought that it should go to measure the property. He stated that he thought that the Planning & Zoning Committee needed to enforce zoning, not the Board of Appeals. Mr. Weber also stated that if a permit had been issued, it should be valid. If Mr. Ebert has a questionable zoning

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application, the Planning & Zoning Committee should review it. Mr. Weber thought that there were two questions. (1) is the permit valid and (2) are the measurements correct. Mr. Weber quoted section 1.72 of the St. Germain Zoning Ordinance, which states that if the violation is 5% or less of the required setback, which in this case would be 3.75 feet, section 1.70 applies and a conditional use permit is required, and not a variance. Mr. Pagel should have been informed about this section before he applied for a variance.

Katherine Rodemeier, a neighbor, asked if the State would have to inspect the porch. She also stated that there were several violations in Holiday Estates and that the Board of Appeals would be granting very many variances.

Neighbors Carol & Gerald Hensen stated that they had asked for a three foot variance for their garage four years ago, and the Planning & Zoning Committee would not even consider it.

Mr. Weber thought that Mr. Pagel should get his money back, or have it applied to an application for a Conditional Use Permit.

It was the consensus of the Board of Appeals that more information was needed from Tim Ebert, zoning administrator. The hearing was tentatively adjourned until Monday, October 20, 2008 at 3:00 P.M. in meeting room #4 of the Community Center. The clerk is to check with the town's attorney to see if it is legal to adjourn a Public Hearing, or if it has to be advertised all over again. Mr. Best will contact Planning & Zoning Chairman, Todd Wiese.

Mr. Weber added that he thought that the Board of Appeals should not be put in the position of hearing cases that are after the fact. He thought that the Planning & Zoning Committee should impose a penalty if work was done without a permit. Then a permit should be applied for, denied, and then come before the Board of Appeals.

There were no other comments.

Mr. Best adjourned the Board of Appeals at 6:14 P.M.

Town Clerk

Chairman

Member

Member

Member

Member