

**VILLAGE OF FONTANA ON GENEVA LAKE**  
**WALWORTH COUNTY, WISCONSIN**  
(Official Minutes)

ZONING BOARD OF APPEALS HEARING

**Tuesday, June 23, 2020**

Chairperson Peg Pollitt called the Hearing of the Village of Fontana Zoning Board of Appeals to order at 4:01 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

**Board of Appeals members present:** Roll call vote: Derek D’Auria, Peg Pollitt, Jim Feeney, Curtiss Behrens

**Board of Appeals member absent:** John O’Neill

**Also present:** Steven Ban, Timothy Brovold, Christina Green, Joe Haughey, Bridget Krieger, Thomas Krieger, Tara Ramljak, Bonnie Schaeffer, Stephanie Smith, John Tracy

**Business**

**Public Hearing for Zoning Permit Application Filed by Thomas Krieger, 9607 Hideaway Lane, Richmond, IL 60071 for approval of an addition and remodel at 321 Spring Street, Fontana, WI, Parcel No. SBV 00047, and was denied by the Village of Fontana Zoning Administrator on February 3, 2020 due to noncompliance of zoning ordinance section 18-92(b)(3)(b)5.**

The public hearing was opened at 4:04 pm. Thomas Krieger stated he is requesting a variance to construct a seven-foot by sixteen-foot addition to the existing structure located 7.6-feet from the west lot line. Krieger explained he recently sold his home in Illinois and plans to move to Fontana permanently. The home is a “summer cottage” that was built in 1905 prior to the establishment of property lines. Krieger stated he is looking to extend the home another seven feet and enlarge the basement and back bedroom on the southwest corner, in addition to adding a three-season room. The home currently has no access to the basement from inside the home. Krieger explained the neighbors have seen the plans and are not opposed. Bridget Krieger stated the cottage has been in the family for 67 years and they plan to keep the cottage look and simply want to add a small addition. Joe Haughey, 315 Spring Street, stated his home is located to the west of Krieger’s and they are looking to transform the cottage into a year-round home. Haughey stated Buena Vista Association is in full support of Krieger’s application. In her letter written on February 3, 2020, Zoning Administrator Bonnie Schaeffer states the building permit application was denied due to non-compliance with Village Ordinance Section 18-92(b)(3)(b)5. She stated after a review was conducted by the Department of Building and Zoning it was noted the proposed addition is located within the side yard setback. Schaeffer stated the applicant was advised of their three options which were to do nothing and abandon the proposed construction, resubmit proposed construction that meets all the requirements of the zoning district, or apply for a variance. Schaeffer went over the findings in her staff review dated June 17, 2020. She stated the hardship is not peculiar to the subject property, the proposed addition will result in a structure similar to the development of surrounding properties, the adjoining neighbor has written a letter of support for the proposed construction, and the building existed prior to the current effective zoning ordinance regulations. The letter of support submitted by Joseph Haughey, 315 Spring Street, was read into the record by Bonnie Schaeffer. Chairman Peg Pollitt questioned if there is anything peculiar about this case that makes it different. Schaeffer stated it is a non-conforming house on a non-conforming lot and they do have room in the

rear of the lot to add on. It is the design of the proposed construction that has prompted the variance.

**Announcement for Board to Consider Going Into Closed Session**

Feeney/D’Auria 2<sup>nd</sup> made a MOTION to go into closed session at 4:24 pm to deliberate concerning the evidence presented regarding the application to appear before the Zoning Board of Appeals filed by Thomas Krieger for 321 Spring Street, SBV 00047, and the Roll Call vote was as follows:

Feeney – Aye

Pollitt – Aye

D’Auria – Aye

Behrens – Aye

The MOTION carried on a 4-0 vote.

Pollitt/D’Auria 2<sup>nd</sup> made a MOTION to adjourn the closed session and to reconvene in open session at 4:43 pm, and the MOTION carried without negative vote.

**Reconvene into Open Session**

D’Auria/Pollitt 2<sup>nd</sup> made a MOTION to consider approval of the requested variance for the property located at 321 Spring Street, Fontana, WI, Tax Parcel No. SBV 00047.

The Roll Call vote was as follows:

Feeney – Aye

Pollitt – Nay

D’Auria – Aye

Behrens – Nay

The MOTION failed on a 2-2 vote, due to lack of majority.

**Public Hearing for Zoning Permit Application Filed by Mary Kay Brandt, 1006 Briarwood Drive, Fontana, WI 53125 for construction of a single-story residence at 204 Abbey Springs Drive, Parcel No. SCDB 500204, and was denied by the Village of Fontana Zoning Administrator on January 13, 2020 due to noncompliance with setbacks in ordinance section No. 12-15-04-01.**

Chairperson Pollitt opened the public hearing at 4:49 pm. Attorney Green, who represents the petitioner, described the variance request, and stated the request is to build a single-family ranch home in Abbey Springs. The variance requested is for a five-foot rear setback for approximately 29-feet of the property width and a ten-foot rear setback for approximately 40-feet of the property width. Green stated applicant Mary Kay Brandt is a widow and has a disability, so she is no longer able to go up and down stairs and requires a single-story ranch home. Brandt has lived in Abbey Springs for 31 years and would like to be able to build her new home in the same community. Green explained the proposed lot is the best lot available in Abbey Springs but is not conducive for building a ranch home. Abbey Springs has approved the variance request and there are 12 letters of support from neighboring property owners in Abbey Springs. Green stated they are requesting the minimum amount of variance to accommodate her disability. Builder John Tracy from the Tracy Group stated he tried remodeling Brandt’s existing condo to accommodate her needs and it did not work out. Tracy stated that Abbey Springs is Brandt’s livelihood, support, and security. Attorney Brovold provided a handout to all Committee members and stated according to the ADA, FFHA and Wisconsin Case Law the Village’s Zoning Board of Appeals must first determine if the applicant is disabled. Brovold stated there needs to be evidence that this variance would accommodate the applicant’s disability. Green noted some of the key features of the home that would help accommodate Brant such as a one-car garage that would have a ramp and plenty of room to unload, first floor laundry, pantry versus cabinets, open floor plan, and two additional rooms for caregivers in

the future. These features would allow Brandt to enjoy her home in the same manner as someone without a disability. Brovold stated not knowing the disability of the applicant it is hard to connect the dots and according to the Tenth Circuit Court there needs to be evidence of the applicant's disability. Green stated that doctor notes can be obtained as well as Brandt's handicap parking card to prove her disability. Steve Ban, 205 Abbey Springs Drive, stated he would like to withdraw his letter of support. He stated a letter was sent out stating Abbey Springs had approved the variance and did not include any details of the variance. Ban explained he is against the variance for a few reasons. Several years ago, Ban stated he had requested a variance of six-feet in the rear of his property and he was told a variance into farmland is not permitted. He stated that if the variance is approved, he will be looking out of his sun room at a wall which will affect his view and value of his property and stated he hopes the board carefully considers what is detrimental and what is not because a variance is for the life of the home. Chairman Pollitt stated she would entertain a motion to table the application till the necessary documentation could be obtained.

Feeney/D'Auria 2<sup>nd</sup> made a MOTION to table the application filed by Mary Kay Brandt for 204 Abbey Spring Drive, SCDB 500204, and continue the public hearing at the next available date, and the MOTION carried without negative vote.

#### **Adjournment**

Feeney/D'Auria 2<sup>nd</sup> made a MOTION to adjourn the Zoning Board of Appeals hearing at 5:30 pm, and the MOTION carried without negative vote.

Minutes prepared by: Stephanie Smith Deputy Clerk/Treasurer

Note: These minutes are subject to further editing. Once approved by the Zoning Board of Appeals, the official minutes will be on file at the Village Hall.

**Approved: 11/17/2020**