

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

ZONING BOARD OF APPEALS HEARING

Monday, October 28, 2019

Chairperson Peg Pollitt called the Hearing of the Village of Fontana Zoning Board of Appeals to order at 4:33 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Board of Appeals members present: Roll call vote: Jim Feeney, Peg Pollitt, Alternate Scott Ripkey
Board of Appeals member absent: Kim Hirn, Derek D’Auria, John O’Neill

Also present: Kevin Day, James Duquette, Theresa Loomer, Trustee Petersen, John Sorenson, Stephanie Smith, Cheryl Smith, Steve Smith, Dale Thorpe

Business

Consider Action: Adopt New Rules of Procedure per Wis. Stats. Section 62.23(7)(e)4

An Amended Rules of Procedure document was distributed and Attorney Thorpe explained that it had been updated to reflect recent statute changes.

Feeney/Ripkey 2nd made a MOTION to adopt Resolution 102819-01 Adopting the Amended Rules of Procedure for the Board of Appeals, and the MOTION carried without negative vote.

Public Hearing for Building Permit Application Filed by Steven and Cheryl Smith for 270 Sylvan Lane, Fontana, WI 53125 to construct a new single-family residence in the SR-5 Village Residential Zoning District, Parcel No. SBV 00007, and denied by the Village of Fontana Zoning Administrator on August 28, 2019 due to noncompliance of zoning ordinance section 18-83(c).

The public hearing was opened at 4:36 pm. The case was introduced by Attorney Thorpe. Attorney Duquette, who represents the petitioner, described the variance request as an ‘area variance’ and stated the request is to build closer to the sanitary sewer utility than is allowed by zoning code section 18-83(c). The application filed for the variance was labeled as Appellant Exhibit No. 1. Referring to an architectural site plan included in the application, Attorney Duquette established the location of the proposed house, the lot, and where the sanitary sewer line runs through the lot in the side yard and then makes a turn and runs parallel to the street throughout the remainder of the lot. He stated the single-family residence is in the SR-5 District, but the legal nonconforming is less than 7,000 square feet. He said in addition to the sewer line running through the lot, his client also must contend with a substandard lot size and the topography of being a lakefront lot with a steep slope. He said the corner of the porch of the proposed new house is located five feet from the sewer line and his client is asking for an exemption from section 18-83(c) which requires any building to be set back ten feet from any public utility. Attorney Duquette said that the purpose of the ordinance is to establish enough room for repairs or replacement of the sewer line, however, the closest point of the house to the sewer line is five feet and then the distance between the sewer line and house become wider from that point. He stated because the sewer line is underground, there is nothing visible to neighbors and does not cause any public harm. He stated that while money is not a consideration in granting a variance, the applicant has spent considerable resources in surveying, attending meetings and developing plans. He also pointed out that while there is an easement on the property, it was not accurately recorded, which is neither the applicants nor the Villages fault. Attorney Duquette read a

letter of support submitted by Nancy Voss which was labeled as Appellant Exhibit No. 2 and a second letter of support from Rick Dousman labeled as Appellant Exhibit No. 3. Applicant Steve Smith stated the house is over 100 years old and is failing which is why they made the decision to tear down and rebuild the home. He stated he has been confused by the approval process because after months of working with the builder and the Village, the difficulty with the sewer line setback only came up a few months ago. There was a question regarding whether only the porch would be five feet away from the lot line or if the entire structure would be five feet from the lot line. Attorney Duquette confirmed the exact measurement of the corner would be 5.07 feet away from the lot line and porch would be tied in to the three stories of the house and the basement. Attorney Thorpe asked if it would be possible to add an additional five feet to the opposite side of the sewer main if approved. In response to a question, Public Works Director Kevin Day stated the sewer main is an 8-inch pipe. Zoning Administrator Bonnie Schaeffer stated the building permit was denied due to not complying with village ordinance section 18-83(c) and the written denial letter was marked as Village Exhibit No. 1. She stated after several months of reviewing plans, a letter submitted by the Village engineer after reviewing stormwater and drainage plans alerted her to the existence of a sanitary sewer line running through the parcel. Schaeffer said the applicant had two options – to amend the building plans or to apply for a variance. Schaeffer went over the findings in her staff review which was labeled as Village Exhibit No. 2. She stated the applicant faces the hardship of a sanitary sewer line running through the lot without a properly recorded easement. Attorney Duquette referenced an email from Village Engineer Terry Tavera, labeled Appellant Exhibit No. 4, from July 25, 2019 in which Tavera recommends a 20 foot permanent easement but writes that the easement may need to be smaller in the area where the existing and proposed house is less than 10 feet away from the sewer. In response to a question, Day stated the sewer line is about 12 feet deep and said the sewer could likely be repaired at the 5 foot distance from the house, but was unsure if it could be replaced at that distance without causing a disturbance to the new residence.

Announcement for Board to Consider Going Into Closed Session

Feeney/Ripkey 2nd made a MOTION to go into closed session at 5:14 pm to deliberate concerning the evidence presented regarding the application to appear before the Zoning Board of Appeals filed by Steve and Cheryl Smith for 270 Sylvan Lane, SBV 00007, and the Roll Call vote followed:

Feeney – Aye

Ripkey – Aye

Pollitt – Aye

The MOTION carried on a 3-0 vote.

Pollitt/Ripkey 2nd made a MOTION to adjourn the closed session and to reconvene in open session at 5:29 pm, and the MOTION carried without negative vote.

Reconvene into Open Session

Feeney/Ripkey 2nd made a MOTION to grant a variance for the property located at 270 Sylvan Lane, Fontana, WI, Tax Parcel No. SBV 00007, with the conditions that the existing sewer line and manhole be documented in a recorded easement and that the easement be enlarged by an additional 5 feet opposite the building location up to the property line per addendum “B” in the Facts and Findings and that the building into the ten foot sewer line setback per Section 18-83(c) shall be permitted as depicted in Addendum “B” in the Facts and Findings up to the five foot setback granted by this variance.

The Roll Call vote was as follows:

Feeney – Aye

Ripkey – Aye

Pollitt – Nay

The MOTION carried on a 2-1 vote.

Adjournment

Feeney/Ripkey 2nd made a MOTION to adjourn the Zoning Board of Appeals hearing at 5:29 pm, and the MOTION carried without negative vote.

Minutes prepared by: Theresa Loomer Village Administrator/Clerk

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: _____