



**CITY OF NEW BERLIN  
BOARD OF APPEALS - MINUTES  
Thursday, September 1, 2022**

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**Regular Meeting**

**Council Chambers**

**6:00 PM**

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*Please note: Minutes are unofficial until approved by the Board of Appeals at the next regularly scheduled meeting.  
All votes were taken via a voice roll call vote.*

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**CALL MEETING TO ORDER; PLEDGE OF ALLEGIANCE**

Chair Goetter called the meeting to order at 6:01PM

**ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE**

**ITEM:** Present: Chairman Goetter, Board Members Langer, Oldham, Alternate #1 Willoughby and Alternate #2 Stair

Also Present: Code Compliance Specialist Dan Hogan, Lead Inspector Steve Krentz, Administrative Specialist Megan Roche and Deputy City Clerk Sherri Hanson.

**APPROVAL OF MINUTES**

**ITEM:** Approval of the July 7th, 2022 Board of Appeals Minutes

**MOTION:** **Motion to approve the July 7<sup>th</sup> , 2022 Board of Appeals Minutes as presented**

**VOTE:** Motion by: Board Member Stair  
Second by: Board Member Willoughby  
**Motion Passed 5-0**

**NEW BUSINESS**

**ITEM:** BA-22-2665 Petitioner requests to construct a 384 square foot accessory building 5 feet from the rear lot line and 5 feet from the side lot line. The property is zoned R-3 Suburban Single Family Residential and requires a 50 foot rear yard setback and a 15 foot side yard setback. A rear yard variance of 45 feet and a side yard variance of 10 feet are required in order to obtain a building permit.

Chairman Goetter gave an overview of the appeals process. The staff report and variance request were read into the record. Chairman Goetter then swore in the petitioner Linda Kinjerski.

Petitioner Kinjerski read the request to the board stating when they purchased their home that their 19.3 ft. pickup truck does not fit in their 19 ft. garage. The garage does not have enough room to store their lawnmower, snow blower or gardening tools. The petitioner looked into adding an addition to their residential home, but the home is built on a hill and creates an unsafe environment for other

vehicles to drive up and around if there were to add an addition, along with cutting off access to their back yard. The petitioner is also planning on having their parents move in, one of which would require a ramp to be installed for mobility access. This would make the current two car garage only accessible to the one vehicle which needs full capacity for the ramp to be lowered and raised for access.

The property is shaped at an irregular angle that is very short on the north property line, creating the need for a variance request for the rear lot line and the north lot line. Due to the unique shape of the property, the petitioner is requesting a rear lot line and side lot line variance request.

Chairman Goetter thanked Petitioner Kinjerski and opened up the meeting for questions.

Chairman asked if the petitioner knew about the size of the garage and the pickup truck before purchasing the home.

The petitioner stated when they did the quick measurements of the location before purchase, they did not realize that the vehicle was off by .15 inch as the truck is 19.31 ft. and the garage space is 19.16 ft. It was stated that this was an oversight.

Chairman Goetter asked why the garage could not be moved to the other side of the property.

The petitioner stated that the south side of the house goes out about four feet before it reaches the hill. This hill has a border line of trees that leaned over the neighbors property before they were removed by the petitioner. In order to maintain that area of property, there would be a steep angle without the ability to flatten the hill. This would increase the hazard during inclement weather.

Chairman Goetter read three letters that were in opposition of this variance request submitted by neighbors notified in the area. There was no one in attendance to speak in opposition.

Motion was made to grant the variance request by Board Member Oldham, seconded by Board Member Langer.

Board Member Oldham stated the largest issue is the lot which makes it impractical to build within the setbacks. Board Member Oldham also acknowledged the concerns for the parent with mobility assistance requirements having reasonable access to the garage.

Board Member Langer stated he saw no issue with the 45 ft. variance for the rear lot line due to the properties odd shape. Board Member Langer noted he was concerned with the side lot requiring a 15 ft. variance and they were looking for a 10 ft. allowance, leaving only a 5 ft. distance from the edge of the garage to the next lot.

Chairman Goetter noted the hardship of this property is the odd shape of the lot.

Board Member Oldham asked for clarification on the side lot allowance with the 5 ft. variance.

Code Compliance Specialist Dan Hogan stated that there would need to be a firewall that would be installed in the garage that faces the property line, but technically could be built closer and still be within code.

**MOTION:**    **Motion to approve the variance request.**

**VOTE:**        Motion by: Board Member Oldham  
                  Second by: Board Member Langer  
                  **Motion Passed 5-0**

**ITEM:**        BA-22-2666 Petitioner requests to construct a 1,440 square foot accessory building in addition to an existing 571 square foot accessory building. The property is zoned R-5 Medium-Density Single Family Residential and requires a maximum accessory square footage of 840 square feet combined between 2 accessory structures. A square footage variance of 1,171square feet is required in order to obtain a building permit.

Chairman Goetter gave an overview of the appeals process. The staff report and variance request were read into the record. Chair Goetter then swore in the petitioner Sarah Tyrell.

Petitioner Tyrell read the request to the board stating their house is a 689 square foot 1 bedroom ranch with a 571 square foot detached garage. The property has unique limitations which prevents them from attaching a garage to their home. There is a sanitary easement that runs between the home and the detached garage and nothing can be built over the easement. The house sits on the north property line and the west and south sides of the home are located in a flood plain; therefore, they are not able to build an attached garage in those areas either.

Due to these same unique property limitations the petitioner is not able to expand their homes footprint.

The request is to build a 2<sup>nd</sup> detached garage to improve storage needs. It would be used as a residential garage, workshop and shed. There is no intent to build an upper floor in the garage.

The property is located on a dead end out of view from the interstate, W. College Avenue and neighboring properties. The addition would be surrounded by heavily treed areas on the north and east sides and located in a secluded area behind their house.

The Petition provided signatures from 18 surrounding neighbors who support the variance. A total of 49 nearby property owners were notified of the Appeal. There was not one in attendance to speak against the petition.

Chairman Goetter thanked Petitioner Tyrell and opened up the meeting for questions.

Board Member Oldham asked what was going to be put in the garage as the variance request is twice the square footage of their residential home.

The petitioner stated they have a pick-up truck, a personal vehicle, two work vehicles, a boat, a camper, a UTV, and a project car that are sitting outside currently, creating an eye-sore. They would like to put these vehicles inside the garage. There will also be a small work space in the garage area for tools.

Board Member Willoughby asked if this petition was for the same location as the previous request.

The petitioner stated, yes. The changes made for this petition was removing the request for a height variance.

Chairman Goetter asked Code Compliance Specialist Dan Hogan about the four comparable garages that the petitioner had attached to the petition and if variances had been granted in the past for these properties.

Code Compliance Specialist, Dan Hogan, stated that comparable #1 has a building permit from 1963 for a main building and may have been commercial at one point. He stated it can be speculated that the area was re-zoned to residential and if the building was ever torn down. It would not be able to be considered commercial, but as an illegal nonconforming building. For comparable #2, the home was built in 1836 and may have been the original farmstead for that area and the accessory building was utilized as a barn. If the barn would be torn down, it would not be allowed to be rebuilt to the original size, it would need to follow all of the current restrictions. The barn would be non-conforming. Comparable #3, they did receive a variance in 1989 for the setback. There was no note of the two detached structures being an issue within the code. Comparable #4 is an attached 3,600 sq. ft. residential garage. As long as the set back is met, there are no restrictions for an attached garage.

Motion made by Board Member Langer to approve the variance, seconded by Board Member Stair.

Board Member Langer commented on the petitioner coming back and adjusting their petition to address the previous concerns the Board had with the original petition. Board Member Langer also pointed out that there is no opposition from neighbors who were notified and had 18 signatures of support. He also stated, under the circumstances, he believes this property meets the definition of a hardship given now the property is laid out.

Chairman Goetter stated, given the definition in the handbook, he would qualify this as a self-imposed hardship. The concern being, if the petitioner were to obtain another vehicle or item needing storage, there would be a need for additional square footage for those items while the size variance is already beyond what the code would normally allow.

Board Member Stair stated if petitioner were able to attach the garage to the existing house, they would. And then there would be no need to request permission on the variance size and that it could be as large as they wanted. Due to the floodplain and the easement however, they are unable to do so and need to request this variance. Board Member Stair stated in his opinion this would be considered a hardship.

**MOTION: Motion to approve the variance request**

**VOTE:** Motion by: Board Member Langer  
Second by: Board Member Stair  
**Motion Passed 4-1 with Chairman Goetter opposing.**

**ADJOURN Motion to Adjourn at 7:04 PM**

**VOTE:** Motion by: Board Member Stair  
Seconded by: Board Member Oldham  
**Motion Passed 5-0.**

*Respectfully Submitted,*

*Sherri L Hanson  
Deputy City Clerk*