

Chairman Klappa called the Board of Building and Zoning Appeals to order on Thursday, January 25, 2007, at 7:31 p.m. Members present: MADES, KELLY, JONES and KLAPPA. Excused: GRACZYK. Also present: Supervisor of Inspections/Zoning Administrator Hankovich and 2<sup>nd</sup> Alternate Decker.

Chairman Klappa called Alternate Jim Decker up to fill the vacant seat. Makes and Decker introduced themselves to the Board. Moved by Kelly and seconded by Jones to approve the minutes of the November 30, 2006 meeting as presented. Motion carried without a negative vote (Makes and Klappa abstaining).

## **PUBLIC HEARING**

***Request for Variance – Lot 25 of The Orchards of Mukwonago – Cheri Neibauer, William Ryan Homes*** – Dave Tanner, MLG Development, represented the appellant for the variance request. William Ryan Homes submitted plans for a home that is 3,058 square feet and includes a side entry garage. Tanner stated that they went with a side entry garage for aesthetic purposes. The plans have gone to various approval agencies at the County and the Wisc DNR has been working with the development for the past five years. The DNR was notified about this meeting. Waukesha County requires that there be a set back of 75 feet from the 100-year floodplain. The County did not submit feedback regarding the issue because the Village has its own zoning and is responsible for regulating zoning issues. The County has known about the floodplain area since the final plat was submitted and approved. The main concern of the Village is the house is two feet above grade of the floodplain and 20 feet away. There will not be an exposed basement, but the customer would like to include a window in the basement. No one appeared for or against.

Moved by Kelly and seconded by Makes to grant a variance to the Waukesha County wetland ordinance of 29.1 feet to Lot 25 of The Orchards of Mukwonago. The reasons for granting the variance are: 1) The aesthetic value of the side entry garage is greater than a front entry garage, 2) The plan that includes the side entry garage requires a greater variance than the front entry garage plan, but it is a minimal amount, 3) This variance is not unique and has been granted by the Board in the past, 4) Granting the variance is for the betterment of the Village, 5) There were no objections, including by the Wisc DNR and Waukesha County. The condition is the plan will be based on the Plat of Survey #7050 done by Hurley Engineering Services which reflects the side entry garage. Motion carried without a negative vote.

Moved by Kelly and seconded by Jones and carried to adjourn the meeting at 8:05 pm.

Steven A. Braatz, Jr.  
Deputy Clerk

Chairman Klappa called the Board of Building and Zoning Appeals to order on Thursday, May 24, 2007, at 7:31 p.m. Members present: GRACZYK, MADES, KELLY, JONES and KLAPPA. Also present: 2<sup>nd</sup> Alternate Decker.

Moved by Kelly and seconded by Jones to approve the minutes of the January 25, 2007 meeting as presented. Motion carried without a negative vote (Graczyk abstaining).

## **PUBLIC HEARING**

***Request for Home Occupation Permit – 103 Apollo Ct. – Dan Houk*** – Dan Houk presented his plan to operate a travel agency for fishermen out of his home located at 103 Apollo Ct. The operation is internet and telephone based. There are four owners of which Houk is the majority owner, managing member and lone employee. There is not intent to put a sign out. Other than receiving mail, there will be no walk-up business. A letter was received from Linda Galkowski, 105 Apollo Ct., in favor of the proposal. Alan Galkowski, 105 Apollo Ct., spoke in favor of the proposal.

Moved by Kelly and seconded by Makes to grant Dan Houk a Home Occupation Conditional Use Permit to operate a travel agency for fishermen from the property located at 103 Apollo Ct. Reasons for granting the permit are: 1) Because the business is telephone and internet based which does not require visiting customers, it is very unobtrusive to the area, 2) A neighbor spoke in favor and a letter from a neighbor wrote in favor and 3) There were no objections. Conditions are: 1) The business will be operated in accordance with the Statement of Operations that was presented at this meeting and 2) If the business requires the addition of another employee, the applicant must either come back to the Board of Building and Zoning Appeals or move into a commercial space. Motion carried without a negative vote.

## **NEW BUSINESS**

***Fence Review – 305 McDivitt Ln. – Anthony & Laura Acompanado*** – Laura and Tony Acompanado presented plans to install a six feet tall fence from the rear of the house to the front of the house on the west lot line. There is already a fence in the rear of the yard, and the new fence would be a continuance from the existing fence. The purpose of the fence is due to continued problems with the neighbor to the west in terms of poor upkeep of the property, not maintaining the lawn, abandoned vehicles that are covered in tarps that are shredded into pieces, a dog that is never on a leash, and piles of rubbish. The Acompanados have small children in the home, of which one daughter's bedroom window faces the aforementioned neighbor's house. Laura presented pictures of the neighbor's property. The new fence is proposed to be one foot in from the lot line, which is what the existing fence is. The previous owner did not want to deal with the neighbor in a lot line dispute. Kelly suggested putting the fence on the lot line to avoid any future lot line disputes.

Moved by Jones and seconded by Graczyk to allow the construction of a fence on the west side of the property located at 305 McDivitt Ln. The fence will be six feet in height, from the rear of the house to the front of the house, and will on the lot line. Motion carried without a negative vote.

Moved by Kelly and seconded by Jones to adjourn the meeting at 7:52 pm.

Steven A. Braatz, Jr.  
Deputy Clerk

Deputy Clerk Braatz called the Board of Building and Zoning Appeals to order on Thursday, June 28, 2007, at 7:31 p.m. Members present: GRACZYK, MADES, KELLY and JONES. Absent: KLAPPA. Also present: 2<sup>nd</sup> Alternate Decker.

Moved by Jones and seconded by Mades to appoint Kelly as acting chair. Motion carried without a negative vote. Kelly called Decker to the Board to fill the vacant seat. Moved by Kelly and seconded by Jones to approve the minutes of the May 24, 2007 meeting as presented. Motion carried without a negative vote.

Kelly called a point of order: The variance request for 116 Gordon Ct. will be first.

**Request for Variance – Rear Yard Setback, Construction of a Deck – 116 Gordon Ct. – Greg Mueller** – Greg Mueller presented plans for a deck that is proposed to be built on the house located at 116 Gordon Ct. in the rear yard. The deck will be 12 feet from the house. A portion of the deck will contain a hot tub and will be an additional six feet from the end of the regular portion of the deck. With the hot tub portion, the deck will be 11'8" from the rear property line at the shortest point. Behind the property line is a common walkway roughly eight feet wide. Behind the walkway is a fence, and behind the fence is the Interstate 43. Mueller stated that he wants to put the deck in for personal reasons. He also stated they he was not aware of the setback rule and lack of backyard when he purchased the home.

Chris O'Connor, 107 Gordon Ct., spoke as a neighbor and the Mukwonago Estates Maintenance Corporation President and spoke in favor.

Hankovich noted that Section 100-808 (3) states, "No variance shall be granted solely on the basis of economic gain or loss. Self imposed hardships shall not be considered as grounds for the granting of a variance." He also stated that a deck is a structure, and if Mueller would put in concrete, then it would not count towards lot coverage. Mueller added that the back of the house is plain and a patio would not work. Because of the grade of the backyard, there is water pooling in which would not be a problem with a deck. Hankovich suggested rearranging the deck setting so it would only be about 18' from the lot line, which would preserve at least two-thirds of the required setback. Kelly stated that he would vote no because it is a self-imposed hardship.

Moved by Jones and seconded by Decker to grant a variance to the rear yard set back of ten feet to Greg Mueller to construct a deck on the rear yard of the house located at 116 Gordon Ct. The reasons for granting the variance are: 1) There are no problems with the neighbors, and the Mukwonago Estates Maintenance Corporation President spoke in favor, 2) The appellant agreed to cut back the dimension of the deck from 18' to ten feet, leaving 20' of green space, 3) Behind the property is a walkway, a fence and then the freeway, so there would be no problem with people seeing the hot tub, 4) A concrete slab is not conducive to the lot due to the grade and the pooling of water and 5) There were no objections. Motion carried on a vote of 4 ayes and 1 nay (Kelly voting no).

Kelly called a point of order: The variance request for 210 Fox St. will be next, followed by the variance request for 506 Shore Dr.

**Request for Variance – Side Yard Setback, Construction of an Attached Garage – 210 Fox St. – Bill & Joyce Anderson** – Bill and Joyce Anderson presented plans for the construction of an attached garage on the house located at 210 Fox St. Kelly noted that almost all the house on Plank Rd. have detached garages. Hankovich noted that there are a

few homes in the area with attached garages, so it is not uncommon. The lot is a triangle, which is not standard. The proposed garage will be 22' in depth, 28' in width and 30' in height. There is a plan for drainage, which will be absorbed in the backyard. A few neighbors have signed off on the prints.

Peter Tomes, 220 Fox St., spoke in favor of the garage.

Cindy Eggleston, 200 Fox St., had concerns about the size of the garage and the possibility of a basement and noted that the rest of the neighborhood has detached garages that are smaller and in the backyard. She also stated that not having a garage does not hurt resale. She is against the proposal.

Bill Anderson stated that the lot will be under the legal limit for green space. The reason he went 28' in width is to have access to the upstairs and to make it look like it belongs to the house rather than an afterthought addition. Hankovich stated that as an attached garage, the height can go up to 30 feet. Because of the grade of the lot, the basement will be exposed in the rear. Bill Anderson would like to put a workshop in the basement. The only house that would have a view of the exposed basement would be the new house on Plank Rd. The Andersons discussed landscaping in the backyard to dress up the rear of the garage. They will work with the Supervisor of Inspections on landscaping. Jones was concerned about storage in the garage not allowing two vehicles to park in there. Bill Anderson affirmed that is one of the reasons for the second story. The plans were approved by Historic Preservation Commission and Plan Commission.

Moved by Decker and seconded by Mades to grant a variance of nine feet to Section 100-103 (4)a.1.(a) to Bill and Joyce Anderson for the construction of an attached garage on the house located at 210 Fox St. Reasons for granting the variance are: 1) The size, shape, and contour of the lot are unique, 2) One neighbor spoke in favor, and the plans were signed in approval by two other neighbors (Koeffler and Kuehl), 3) The garage meets the 20% lot coverage requirement and the height does not exceed the maximum allowed height of 30 feet, 4) The plans were approved by Historic Preservation Commission and Plan Commission and 5) The garage is similar to some homes in the area. The conditions are: 1) Landscape plans shall be submitted to and approved by the Supervisor of Inspections, 2) The exposed foundation will look older in appearance and shall be approved by the Supervisor of Inspections, 3) The garage shall be built in accordance with the plans approved by the Historic Preservation Commission on May 7 and June 11, 2007 and 4) There shall always be enough room in the garage to park two licensed vehicles. Motion carried without a negative vote.

#### **Request for Variance – Construction of a Detached Garage in Side Yard – 506 Shore Dr.**

– **Kristen Jacobsen** – Kristen Jacobsen presented plans for the construction of a detached garage on the property located at 506 Shore Dr. The current garage is in poor condition and will be torn down and replaced with the new garage, which is slightly bigger than the existing garage. Jones stated that he has seen the existing garage and is happy to see it being replaced. Hankovich stated that if the proposed garage were pushed back into the rear yard, it will exceed the 20% lot coverage requirement. Kelly noted that when the garage was built, the property was located in the Town of Mukwonago, which was not governed by Village rules. Hankovich added that the proposed garage will blend with the house, and it is a standard design. No one spoke for or against.

Moved by Jones and seconded by Decker to grant a variance to Section 100-453 (5) to Kristen Jacobsen for the construction of a garage in the side yard of the property located at 506 Shore Dr. Reasons for granting the variance are: 1) If the garage were pushed back into the rear

yard, it would exceed the 20% lot coverage requirement, 2) The proposed garage will be replacing the existing garage at the same location, 3) When the garage was built, the property was located in the Town of Mukwonago and 4) There were no objections. The condition is the garage shall be built in accordance to the plans as presented. Motion carried without a negative vote.

Kelly stated that the public hearings for the variance requests for 1338 Cider Ci. And 1354 Cider Ci. Will be held after the fence review for 508 Lake St.

**Fence Review – 508 Lake St. – James Kyler** – James Kyler stated that he would like to put up a fence along the front of his property located at 508 Lake St. It will be a split-rail fence that will extend from his driveway to the lake for about 45 to 50 feet. The reason he wants to construct the fence is to dress up the property and to take care of the problem with snowmobilers driving through his property. Hankovich stated that the fence will be two feet from the easement. Lake Street ends about eight feet past the driveway, and there is no sidewalk, so vision concerns are not an issue.

Moved by Mades and seconded by Jones to approve the construction of a fence across the front of the property located at 508 Lake St. The street ends about 8 feet past the driveway, so there are no traffic and safety concerns to deal with. The fence will be two feet inside the property line. Motion carried without a negative vote.

**Request for Variance – Floodplain/Shoreland Setback, Construction of a Residence – 1338 Cider Ci. – Cheri Neibauer, William Ryan Homes** – Hankovich stated that this is a procedural request. The Board has granted others in the past. The plans meet the Village requirement but not the Waukesha County Shoreland/Floodplain set back requirement of 75' from the 100-year floodplain. A letter was received from David Tanner, MLG Commercial, in favor of the variance request.

Moved by Jones and seconded by Decker to approve a variance of 5'2" to the Waukesha County Shoreland/Floodplain set back requirement of 75' from the 100-year floodplain to William Ryan Homes for the construction of a residence on the property located at 1338 Cider Circle. The reasons for granting the variance are: 1) A letter was received from David Tanner, MLG Commercial, in favor of the variance request, 2) This was filed in the subdivision Final Plat which was approved by the Village Board, 3) The lots were pregraded to be at least two feet above the 100-year floodplain and 4) There were no objections. Motion carried without a negative vote.

**Request for Variance – Floodplain/Shoreland Setback, Construction of a Residence – 1354 Cider Ci. – Cheri Neibauer, William Ryan Homes** – Hankovich stated that this is a procedural request. The Board has granted others in the past. The plans meet the Village requirement but not the Waukesha County Shoreland/Floodplain set back requirement of 75' from the 100-year floodplain. A letter was received from David Tanner, MLG Commercial, in favor of the variance request.

Moved by Jones and seconded by Decker to approve a variance of 39'6" to the Waukesha County Shoreland/Floodplain set back requirement of 75' from the 100-year floodplain to William Ryan Homes for the construction of a residence on the property located at 1354 Cider Circle. The reasons for granting the variance are: 1) A letter was received from David Tanner,

MLG Commercial, in favor of the variance request, 2) This was filed in the subdivision Final Plat which was approved by the Village Board, 3) The lots were pre-graded to be at least two feet above the 100-year floodplain and 4) There were no objections. Motion carried without a negative vote.

Moved by Decker and seconded by Mades to adjourn the meeting at 9:40 pm.

Steven A. Braatz, Jr.  
Deputy Clerk

The Board of Building and Zoning Appeals was called to order by Chairman Klappa on July 26, 2007 at 7:30pm. Members present: KLAPPA and MADES. Also present: Supervisor of Inspections/Zoning Administrator HANKOVICH and Alternates SOMERS and DECKER. Excused: GRACZYK, KELLY and JONES.

Somers and Decker filled the vacant spots. Moved by Decker, seconded by Mades to approve the June 28, 2007 minutes. Motion carried without a negative vote.

## **NEW BUSINESS**

DR. MARK DAVIS – 603 N. ROCHESTER ST. – REQUESTING AN UNSPECIFIED/CONDITIONAL USE PERMIT- Dr. Mark Davis's wife, Jolie Davis, appeared on her husband's behalf. Dr. Davis entered later in the meeting. She explained that her husband has a chiropractic office at 121 Wolf Run Ste 1. They would like to move to 603 N. Rochester Street where the Mukwonago Family Dentistry was located. To be able to move they need an Unspecified Use Permit. She stated that they would be leasing from Dr. Connors. Hankovich stated that the building site is zoned R-3. The present ordinance Section 100-103 does not list professional offices as a conditional use only home occupation and professional home offices. The previous ordinance allowed a professional office as a conditional use under section 9.38. Michael F. Connor, DDS was granted a conditional use permit for the Mukwonago Family Dentistry and subsequently granted three additional expansions for his business. Klappa replied that he didn't know that Dr. Connors was a conditional use and wanted to know why. Hankovich said the zoning on this site has been R-3 since he came to the Village. Changing the zoning from R-3 to a business zoning would be spot zoning since the areas around this site are P-1 for the cemetery, R-3 for Ashlyn Village and R-2 for the other residents around this lot. Mades asked if there are other uses of the property under the R-3 zoning. Hankovich said with the present zoning single-family and duplexes are permitted uses or multi-family which is a conditional use. The professional space has been omitted as a conditional use. Mrs. Davis said there would be one doctor, a front desk manager and herself in the office, and next year her brother would be joining them. The dentist office had 4 dentists. There were twenty parking spaces plus a handicap space. Hankovich said we really need a plan of operation which will also address the operation being limited to the existing parking spaces. Somers wanted to make clear that there is no room to grow bigger and expand. Dr. Davis said he understood that and he did submit a letter with the hours of operation which will be 8am to 8pm, Monday through Saturday. Dr. Davis said he sees about 100 patients a week, 20 a day, about 6 hrs. in a day. There would be about 4 or 5 patients in the office at one time. Hankovich said they shouldn't schedule so everyone shows up in a 2 or 3 hour time frame so parking becomes a problem. There is no parking on Hwy 83 now from Mukwonago Family Dentistry so we want to keep it that way. Hankovich stated that if parking becomes a problem that they would have to bring it back to the Board. He recommends an unspecified use permit with numerous conditions. He also noted that signage must be approved by the Plan Commission. A temporary sign maybe allowed after review by the Zoning Administrator.

Ralph and Mary Jo Anzivino, owners of Ashlyn Village Apartments – Do not oppose. Submitted a letter with concerns about patients and staff potentially parking on Michaels Court since it is a privately owned road. Hankovich suggested they erect "No Parking" and "Private Driveway" signs. The clerk's office received a call from Doug Vollmer, representing the Oak Knoll Cemetery stating they did not have a problem with the chiropractic office moving into the former dentist office. He said he would send a letter stating their approval; however, the clerk's office has not received the letter at this time.

Moved by Decker, seconded by Mades to grant the unspecified use permit to operate a chiropractic office at the 603 N. Rochester St. with the following conditions: 1) Parking on 603 N. Rochester is to be used by both patients and staff, 2) If complaints of off street parking occur this issue would have to come back to the Board, 3) Business Property has been in use since 1977 and has had 3 additions approved, 4) Hours of operation will be 8am to 8pm Monday through Saturday, 6 days a week, 5) Location is slightly unique in that there is no adjacent Single Family Residence, 6) Apartment property owners do not have objections. Motion carried without a negative vote.

Moved by Decker, seconded by Mades, and carried to adjourn at 8:06 pm.

Judith Taubert  
Clerk/Typist



The Board of Building and Zoning Appeals was called to order by Chairman Klappa on October 25, 2007 at 7:31 pm. Members present: GRACZYK, KELLY, MADES, and KLAPPA. Excused: JONES. Also present: Supervisor of Inspections/Zoning Administrator HANKOVICH and Alternate DECKER.

Decker filled the vacant spot. Moved by Decker and seconded by Makes to approve the July 26, 2007 minutes. Motion carried without a negative vote Kelly abstained).

## **PUBLIC HEARING**

**Request for Variance to the Zoning Ordinance – Construction of a Driveway Approach – Vacant Lot North of Culvers Restaurant – Gregory Landon, D&G Enterprises, LLC of Wisconsin** – Public Hearing started at 7:33 pm. Greg Landon presented plans for the expansion of the parking lot for the property located at 1090 N. Rochester St. Lot 1 of the Black Bear CSM was purchased for the purpose of expanding the Culvers parking lot so it will have an entrance on Marsh View Dr. The reason for the expansion is to accommodate truck traffic and have a positive flow of traffic throughout the entire parking lot. Hankovich stated the lot was zoned B-3 when the Black Bear lots were set up, but Lot 1 was changed to B-2 by the Village Board at the meeting on October 16 to match the zoning for the existing Culvers property. Deliveries are early in the morning before the restaurant opens, and the new directional islands will make turns more difficult for trucks. With the additional parking lot, trucks will use the Marsh View Rd. entrance. The landscape plan was discussed; it was approved by the Plan Commission.

Moved by Decker and seconded by Kelly to grant a variance of 8' to Section 100-404(2) of the zoning ordinance. Reasons to approve are: 1) The driveway approach conforms to other approaches on Marsh View Dr., 2) This will create a safer traffic flow throughout the parking lot, 3) There were no objections, and 4) The Plan Commission and Village Board approved the site and landscape plans. Motion carried without a negative vote.

Moved by Decker, seconded by Makes, and carried to adjourn at 8:05 pm.

Steven A. Braatz, Jr.  
Deputy Clerk

The Board of Building and Zoning Appeals was called to order by Deputy Clerk Braatz on November 29, 2007 at 7:30 pm. Members present: GRACZYK, MADES, KELLY and JONES. Excused: KLAPPA. Also present: Alternate DECKER.

Decker filled the vacant spot. Moved by Kelly and seconded by Mades to approve the October 25, 2007 minutes. Motion carried without a negative vote. Moved by Jones and seconded by Mades to appoint Kelly as acting chair. Motion carried without a negative vote.

## **PUBLIC HEARING**

**Request for Conditional Use – Construction of a Dugouts – 605 W. School Rd. – Toby Ackerman, Mukwonago High School** – Public Hearing started at 7:33 pm. Toby Ackerman, Mukwonago High School Athletic Department, presented plans to construct dugouts on the varsity baseball. Presently, there are chain-link dugouts. Two parent groups will supply the labor. Some of the materials have been donated to this point. The school would like to start in the spring when the frost is out of the ground. The new dugouts will provide overhead protection. They will be 24” below the ground and will have drain tiles to take care of any water that would go into the dugouts. The distance from the grade to the roof will be six feet, and the exits will be steps from the sides. The field is secured during the off season, but not during the season. The dugouts are being modeled after Arrowhead’s dugouts.

Moved by Jones and seconded by Mades to grant an expansion to the conditional use permit for the Mukwonago High School, pursuant to Section 100-251 (b)(5), for the construction of dugouts on the property located at 605 W. School Rd. The reasons for the approval are: 1) The High School has been granted a number of other times for other requests, and there have been no problems, 2) The materials and labor will be donated, 3) The issue of water drainage in the dugouts has been address, 4) Title 9 rules were considered, and 5) There were no objections. Motion carried without a negative vote.

Moved by Jones, seconded by Graczyk, and carried to adjourn at 7:45 pm.

Steven A. Braatz, Jr.  
Deputy Clerk