

**City of Merrill
Zoning Board of Appeals
Thursday, January 24, 2013 at 6:00 P.M.
City Hall Common Council Chambers, 1004 East First Street**

Members Present: Pete Lokemoen (Chairperson), Bill Schneider, Dean Haas, James Koebe, Mark Peterson and Ron Burrow (Alternate).

Others Present: City Administrator Dave Johnson, Building Inspector/Zoning Administrator Darin Pagel, Lawrence Duginski, Nancy Lehman, Mary Duginski, Sherry Heath, Jeffrey Heath, Tammy Gruling, Gayle Oberg, David Oberg, Susan Locke, Moriah Locke, Robert Locke, Keith Lunders, Amy Hein, Wendi Weinkauff, Marianne Bunge, Jane Kleinhans, Brian Woller, Matthew Kleinhans, Carlie Kleinhans, Gerald Kleinhans, Lynne Voelz, Andrea Krueger, Patricia Stewart, Theresa Holt, Richard Ruge, David Sukow, Judy Hull, Richard Hull, Joan Kleinschmidt, Loyd Kleinschmidt, Todd Trapp, Ken Albers, Bob Opsahl, Virginia Zastrow, Eddy Woody and City Clerk Bill Heideman.

Call to order and roll call

Chairperson Lokemoen called the meeting to order at 6:00 P.M. City Clerk Heideman called the roll.

Minutes of November 27th, 2012 meeting

Motion (Koebe/Schneider) to approve, as submitted, the minutes of the November 27th, 2012 meeting. Carried.

Public Hearing – Variance request from Gerald Kleinhans – 108 S. Foster Street

Information was in the meeting packet. Building Inspector/Zoning Administrator Pagel explained the variance request.

Gerald and Jane Kleinhans, 611 N. Prospect Street, are requesting a variance for property at 108 South Foster Street. Per City of Merrill Code of Ordinances Section 105-148, it is a blighted influence on the neighborhood and has been ordered to be removed by April 1st, 2013. Also, City of Merrill Code of Ordinances Section 105-48 prohibits alternation to existing nonconforming buildings when the cost exceeds 50% of the assessed value of the property.

Building Inspector/Zoning Administrator Pagel has submitted a letter stating that he does not believe that building rehabilitation is a viable alternative. The letter addresses concerns related to siding, windows, roof, porch, foundation and the accessory building.

Motion (Schneider/Koebe) to open the public hearing. Carried.

Sixth District Alderperson Dave Sukow, 1901 Webster Street, spoke against the variance. He reported that the Committee of the Whole has mandated that the ordinances related to conditions of buildings should be strictly enforced.

Matthew Kleinhans, 1412 E. Tenth Street, spoke in favor of the variance. He stated that Gerald Kleinhans is not ignoring necessary improvements. He suggested that the City should seek to provide more opportunity.

Susan Locke, 108 S. Prospect Street, stated that she strongly agrees with Matthew Kleinhans. It is her opinion that the house is structurally sound.

Andrea Krueger, 404 N. Genesee Street, spoke in favor of the variance and suggested that the City consider ways to assist Gerald Kleinhans.

Gerald Kleinhans questioned Building Inspector/Zoning Administrator Pagel's conclusion that the accessory building is beyond repair. He stated that the building does need a new roof, but that he would like to keep that building if possible.

Matthew Kleinhans stated that there are currently several pole buildings in the site being discussed, and he thinks that they are more unsightly than the property that was condemned.

Motion (Haas/Schneider) to close the public hearing. Carried.

Ron Burrow asked Gerald Kleinhans how often he visited the tenants renting the properties that Mr. Kleinhans owns. Gerald Kleinhans responded that he does monitor the residences from the outside, but that he wants to provide privacy to his tenants.

Building Inspector/Zoning Administrator Pagel stated that he would agree to any timeline for improvements established by the Zoning Board of Appeals, but he asked that the granting of any variance with a timeline be very specific as to what must be completed by the deadline.

Motion (Koebe/Schneider) to grant Gerald Kleinhans a variance until October 31st, 2013, to complete the improvements at 108 South Foster Street. The necessary improvements are specified in the letter submitted by Building Inspector/Zoning Administrator Pagel to the Zoning Board of Appeals and presented to Gerald Kleinhans. If the improvements are not completed to the satisfaction of the City of Merrill Building Inspector by October 31st, 2013, the condemnation orders at 108 South Foster Street will proceed. Carried, with one "No" vote.

Public Hearing – Variance request from Jeffrey Heath – 2707 Crescent Drive

Information was in the meeting packet. Building Inspector/Zoning Administrator Pagel explained the variance request.

Jeffrey Heath, 2401 W. Jackson Street (Apt. 55), is requesting a variance for the property at 2707 Crescent Drive. Per City of Merrill Code of Ordinances Section 113-317, an accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Currently, the only structure on the property is a garage.

Motion (Koebe/Haas) to open the public hearing. Carried.

Ken Albers, 2705 Crescent Drive, asked what the consequences would be if a variance is not granted. Pete Lokemoen responded that, if a variance is not granted, the property will be considered non-conforming. Ken Albers stated his concerns that, if a variance is granted, precedence will be set.

Nancy Lehman, 2712 Glen Drive, owns property within 100 feet of the property being discussed. She stated that the building on the property creates an unsightly appearance and lowers the property values of the surrounding properties. She is not in favor of the variance and asked that the law be upheld.

Richard Hull, 2710 Crescent Drive, spoke against the variance.

Richard Ruge, 2715 Crescent Drive, said that although he was not in favor of granting the variance, he did feel empathy for the current property owner.

Keith Lunders, 2709 Crescent Drive, agreed with Nancy Lehman, although he can understand Mr. Heath's predicament.

Bob Opsahl, 2721 Glen Drive, stated that several residents in that neighborhood have stated their hope that the variance request be declined.

Virginia Zastrow, 2708 Crescent Drive, stated that she agree with Nancy Lehman.

Matthew Kleinhans asked whether the property could be rejoined, or whether there might be another alternate solution.

Lynn Voelz, 2301 W. Jackson Street (Apt. 78), spoke in favor of the variance. She was the party who sold the property to Jeffrey Heath. She stated that, at the time of the sale, she was unaware of any zoning restrictions associated with the property.

Andrea Krueger spoke in favor of the variance. She stated that it is difficult for people to know all the zoning ordinances.

Jeff Heath spoke in favor of the variance. He stated that he bought the building to be used for storage. He reported that he applied for all the necessary permits when he worked on the building.

Sherry Heath, 2401 W. Jackson Street (Apt. 55) spoke in favor of the variance. She stated that improvements have been made to the building since her and her husband (Jeffrey Heath) purchased the building.

Ken Albers stated that, in the past, he was involved in a similar situation. He stated that he lost money as a result, but he stated his conviction that the law must be upheld.

Andrea Krueger stated that there are other instances of unattached garages in the City, and therefore approving the variance would not be setting a precedence.

Matthew Kleinhans spoke in favor of the variance.

Eddy Woody, 1010 East Ninth Street, stated that he was in a similar situation, and was told that he could do the same thing Mr. Heath has done.

Motion (Koebe/Haas) to close the public hearing. Carried.

Mark Peterson noted that the Zoning Board of Appeals duty is to rule on the variance alone, without considering the other circumstances mentioned earlier.

Dean Haas asked whether a title search had been done on the property. He was told that a title search had been done, and that nothing unusual was brought to light at that time.

Motion (Peterson/Haas) to decline the variance request, due to lack of criteria per City of Merrill Code of Ordinances Section 113-461. Carried, with one "No" vote.

Next meeting date

The next meeting will be at the call of the Chairperson.

Public Comment

None.

Adjournment

Motion (Peterson/Schneider) to adjourn. Carried. Adjourned at 7:03 P.M.

Minutes prepared and submitted by:

William N. Heideman, WCMC
City Clerk