

MINUTES
TOWN OF POLK, WASHINGTON COUNTY
BOARD OF ZONING APPEALS
Thursday, April 28, 2016 6:30PM

Approved 6-23-2016

I. Meeting Called to Order at 3747 Cedar Creek Road at 6:30PM

- A. **Official Meeting Notification** was read by the Zoning Secretary. Notice was posted at Polk Town Hall Roskopf RV Center, and Cedar Lake Hills bulletin boards and copied to Hartford Times Press, Milwaukee Journal, West Bend News, WBKV, WTKM, Interested Parties were notified
- B. **Roll Call.** Present were Chairman Patrick Fehring, Members Rodney Bartlow, Karen Reiter, Marilyn Mayer. Excused absence, Mary Franz and Alternate Robert Anderson.
- C. **Approval of Agenda.** Marilyn Mayer moved to approve the agenda. Rodney Bartlow seconded the motion. All voted in favor and the motion carried.
- D. **Approval of Minutes March 24, 2016.** A minor spelling error was noted. Karen Reiter moved to accept the Minutes as corrected. Rodney Bartlow seconded the motion. All voted in favor and the motion carried.

II. Unfinished Business

A. Consideration of Variance Request Kevin and Amy Zimmer DBA GCAM-CC, LLC. to Section 3.07(3) of the Zoning Ordinance, Title X of the Municipal Code of the Town of Polk to allow a variance of forty nine feet (49') to the minimum front yard setback of sixty feet (60') from the property line on a B-1 Business District parcel to place an existing seating gazebo. Kevin and Amy Zimmer DBA GCAM-CC, LLC, Property Owners. *Property is described as: Tax Key# T9-0567. PT of NE NE Doc 1363363. Section 15. Town 10 North. Range 19 East, Town of Polk, Washington County, Wisconsin. Property Address, 3747 Cedar Creek Road.*

The Zoning Board of Appeals (ZBA) convened at the property site. The public hearing and consideration of the variance were heard March 24, 2016. The request was tabled to allow the applicant the opportunity to provide additional evidence to the ZBA. Zoning Secretary Groth stated that Mary Franz cannot be in attendance at this evening's meeting. In a conversation with the Zoning Secretary, she mentioned that it might be helpful to tonight's proceedings if the Secretary shared the Plan Commission's thought process in approving the gazebo for the site.

Zoning Secretary: At the time of application to Plan Commission, the building was a non-conforming use. In considering the application to place the gazebo, the Commission could not allow a structure that in effect would expand the non-conforming use. The applicant and the Commission viewed this gazebo as an "interesting ornamental architectural element and not a service area". The Commission appreciated the historical value of the gazebo and liked that it was being re-homed in the Town of Polk.

Chairman Fehring commented that at the previous meeting regarding this variance, the Board was having difficulty determining the hardship involved given the information that was provided by the applicant. The site plan information provided to the Board indicated that sufficient parking was available so that some parking area could be eliminated to site the gazebo. The applicant has provided a site plan which indicates more accurately the number of parking spaces available on the site.

Kevin Zimmer commented that the previous site plan presented to the Board indicated a "hopeful" version of the parking lot expansion someday in the future. The site plan presented for this meeting is an actual reflection of the parking spaces available today as calculated by Gremmer and Associates (engineering and surveying company). Karen Reiter asked if the site plan (Alternate No. 5) provided would be presented to the Plan Commission. Zimmer commented that there are no changes to the parking. "This is how I received the

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property". There are thirty nine

thirty nine (39) parking spaces indicated on the map; the Town requires a minimum of thirty eight (38) [for the subject building and use]. Zimmer went on to comment that he would agree to move the gazebo five feet (5 ft) closer to the parking lot as it would look better there, be more level, and not impede deliveries.

The ZBA went to their findings:

Preservation of Intent:

The structure is a permitted use in the district.

Exceptional Circumstances:

There are just enough parking spaces to meet the minimum required stalls per Town Ordinance [Section 5.03(4)]. To move the structure elsewhere would necessitate the elimination of needed parking spaces.

Economic Hardship and Self-Imposed Hardship Not Grounds for Variance:

The hardship is not self-imposed. The hardship imposed by the shape and substandard nature of the lot, not a self-imposed hardship.

Preservation of Property Rights: The Town approved the siting of gazebo on the property [the approved site was within required setbacks.] Under the Town Zoning Ordinance, accessory structures are a permitted use in the district. The ZBA generally agreed that the gazebo is an accessory structure.

Absence of Detriment:

The structure is not detrimental in nature.

Rodney Bartlow moved to approve a variance of 44 feet to the minimum street yard setback of sixty feet (60 ft.). Marilyn Mayer seconded the motion. All voted in favor and the motion carried.

III. New Business. None.

IV. Adjournment

Karen Reiter moved to the adjourn the meeting. Marilyn Mayer seconded the motion . All voted in favor and the motion carried. The meeting adjourned at 6:43 PM.

Respectfully submitted,

Tracy Groth Zoning Secretary