

# VILLAGE OF EPHRAIM

FOUNDED 1853



## **EPHRAIM BOARD OF APPEALS MINUTES Tuesday, January 5, 2016, 5:00 p.m. Village of Ephraim Office – 10005 Norway**

Present: Chair-Karen McMurtry, Debbie Eckert, Diane Kirkland, Eric Kordon, Sara Glenn  
Absent: Eric Kordon  
Staff: Brent Bristol-Administrator, Andrea Collak-Clerk/Treasurer  
Guests: Brad Russell, Paul Wilson, Tim Nelson, Michael McCutcheon, Walt Fisher, Mike McCarthy-Village Green

1. **Call to Order:** Meeting called to order by chair McMurtry at 5:00 P.M.
2. **Quorum:** A quorum of the Ephraim Board of Appeals is present for this meeting.
3. **Compliance with open meeting law and public notice requirements**  
Bristol confirmed that the agenda was posted in accordance with open meeting law and that public notice requirements have been met.
4. **Changes in Agenda:** None.
5. **Announcement of Proceedings:**

### **Chair McMurtry read the Announcement of Proceedings Role of the Board**

The Village Board of Appeals is an appellate board required by state law in any municipality that has adopted a zoning ordinance. The board does not have authority to amend or repeal any provision of the zoning ordinance. Its authority is limited to appeals regarding interpretations of ordinance provisions, and considerations of variances. The board functions like a court. Its purpose is to give a full and fair hearing to any person whose property interests are affected by these matters. Its job is to apply the zoning ordinance and appropriate legal standards to the facts of each case. The board meeting and public hearings are open to the public. A taped recording is being made of the proceedings.

### **Appeal of the Board Decisions**

A decision of the board may be appealed by commencing an action in the circuit for this county within 30 days after the date of filing of the decision in the office of the board.

### **Instructions for Witnesses**

Anyone wishing to speak should wait until called upon as a witness; address your comments and questions to the chair and state: Your name and place of residence, your

qualifications to speak on this matter, the source of your information, and whether you favor, oppose, or are only providing information in this matter and your concerns.

**6. Brad & Amy Russell – 10006 Water St – Variances from 40' rear and 15' side setbacks**

Public Hearing opened by Chair McMurtry. The notice was read into the record.

This is case number 140, notices were sent out December 21, 2015 and the hearing date is January 5, 2016.

The subject property, parcel #121-24-0038A, is owned by Brad & Amy Russell and located at 10006 Water Street. The property is zoned C-C, the lot is approximately 0.33 Acres in size.

The building in question is legally nonconforming as it does not meet the 40 foot front or rear setbacks or the 15 foot side yard setback per 17.25(4) of the village code of ordinances. The building existed in its current location before the adoption of the ordinance in question. The proposed addition/alternation to this structure is considered new construction and is subject to the current setbacks. The proposed work will not result in increased footprint but will increase the total living space. The project is subject to the setbacks restriction because it is a physical projection from the principle structure.

A regular zoning permit cannot be issued because the proposed construction is not in compliance with the village ordinance as it applies to dimensional standards for setbacks.

The Russell's are requesting a 26 foot variance from 17.25(4) to encroach on the 40 foot rear setback and an 8 foot variance from 17.25(4) to encroach on the 15 foot side setback.

**There was clarification that there were no site inspections.**

**Statement by the Applicant**

Russell explained that he was respectfully seeking an area variance from the Village of Ephraim in order to raise the back roof line by 5 feet to match the existing roof line. By raising the roof line by 5 feet, interior improvements/renovations can be made to the cottage by adding a bedroom and bathroom so that they can continue to rent the first floor to guests and having the upstairs for their personal use.

The roof raised by 5 feet would accommodate the height needed to add a bathroom and kitchenette on the second floor. The proposed bathroom would be located over the existing kitchen/adjacent bath where all water pipes are currently located. If another bathroom were to be added downstairs rather than upstairs, a plumber would have to blast through bedrock and tear up original floor boards through four rooms to run water/sewer pipes. Russell pointed out that some sort of insulation solution would need to be developed to protect additional pipes from freezing in the winter months as well as a solution for the 'gradation' needed for the water and sewer pipes to drain properly. All these considerations would result in exorbitant costs, concluded Russell.

**Correspondence:**

Bristol read in correspondence from Paul and Mandy Miller, owners of the property at 3064 Church Street. They are in favor of the project in question but concerned about clarity of the proposal, orientation of the proposed windows in regard to privacy of neighboring properties, extremely low budget given the complexity of what is being requested, no plans to add kitchen, color schemes for siding, roofing and windows as well as potential greater number of short-term occupants and increase in the frequency of after-hours disturbances in the neighborhood.

Russell clarified that number of potential tenants is not going to change and there are plans for small kitchenette upstairs, small window facing south and rear window at the back. He added that there are tall cedar trees as well as nice, stable shed with a new roof blocking the view from neighboring properties. Raising the back roof line will not change the historic front of the property nor is noticeable from the front, stated Russell. Russell also explained that it was hard to get estimate from builders on the project not approved by the Board of Appeals. The project will cost roughly \$35,000 more from estimated \$10,000.

**It was confirmed that there was no ex parte communication.**

Kirkland and Glenn asked about the size and orientation of the proposed windows. Russell assured that there is going to be rear window at the back and very small window facing south.

Kirkland clarified that Board of Appeal is standalone entity and does not go by precedence but rather case by case.

McMurtry questioned if number of parking spaces designated for this property would accommodate residence and a single unit. Bristol confirmed that it should and added that Planning Committee will take this issue up. Kirkland mentioned the property in question was being used for different purposes throughout the last thirty years and believes that somewhere along the line there might have been request to the Planning Committee for the relaxation of the rules for parking.

**Witness or Visitor Statements:**

Nelson explained that he was asked by the Russell's how to accomplish their goal of creating a separate living quarters in the structure. The material beneath the structure is mostly rock, making excavation from the hatch area impractical at best, and most likely impossible. Another bath and kitchen facility on the ground floor would become very expensive, and would not provide a practical layout of living spaces for owners and renters. Nelson thinks the most practical alternative is to consider the Russell's proposal of adding a bath and kitchen above existing utility room and kitchen areas. The change to the exterior would be minimal and it could be done at a much more reasonable cost and would include improvements such as code compliant vent pump to the support of the whole structure.

Mike McCarthy, the owner of the Village Green Lodge is in favor of the project in question and came to show his support.

Fisher, owner of the property on 3052 Spruce Street and a member of Planning Committee reiterated that not a single inch of lot coverage is being increased by this proposal, renovation would be done within existing footprint and roof line would not change. It is very important not only for the homeowners but also for the Village to be able to retain these buildings, added Fisher.

Glenn asked the applicant if he was aware of the setbacks at the time of purchasing the property. Russell had no idea about exact setbacks.

McMurtry questioned if Russell plans to rent upstairs. Russell stated that his intent is to move to Ephraim to maintain the property and wants to keep upstairs as private living quarters only.

Wilson, owner of the property 2965 County Q, questioned if there is enough square footage upstairs to meet minimum requirements for residents. Bristol confirmed that 816 square feet meet the minimum requirements for residents.

Bristol concluded that in the event this will be approved for variance by Board of Appeals it will go to the Planning Committee for design review. He added that Paul and Mandy Miller correspondence with questions regarding design will be forwarded to Planning Committee so they can hear all the concerns as well.

### **Public Hearing Closed by Chair McMurtry**

#### **Findings of Fact:**

The Zoning Administrator Bristol filled in the statistics of the property on the findings of fact form. This is an area variance under section 17.25(4) of the ordinance.

#### **Conclusions of Law:**

##### **Unnecessary Hardship:**

Kirkland believes that it has been met and feels that unnecessary hardship would be to put bathroom anywhere else but upstairs or not to have bathroom at all. By placing it upstairs they would maintain the integrity of the historic building. The building has both permitted uses; residence and rental and at some point in the ordinance it should have an on-site manager who should be entitled to a bathroom, added Kirkland.

Eckert feels that the unnecessary hardship has been proven.

Glenn agreed with Kirkland's statement. Glenn feels that unnecessary hardship is self-created by how the owner wants to use the property. Because of where the property is located and because it is historic, highest and best use of the property some sort of commercial component, benefits outweigh the detriments, concluded Glenn.

McMurtry believes that the unnecessary hardship comes from how else the owner would solve the plumbing issue. There are not blocking the view and they are maintaining the integrity of the building in the historic district. It would be unnecessary hardship to tear

the building down and start over as the integrity of the building would be lost, added McMurtry.

Board of Appeals unanimously agreed that unnecessary hardship is present in that a literal enforcement of the terms of the Ordinance would be unnecessary burdensome to the applicant because of the location of the plumbing and condition of the crawl space as well as best use of the historic building for commercial use.

Members of the Board of Appeals stated that the hardship is due to physical limitations of the property rather than the circumstances of the appellant because it is on the non-conforming lot that is very small as half of the lot is across the street and cannot be moved due to its historic integrity.

Board of Appeals unanimously concluded that variance will not be contrary to the public interest and will observe the spirit of the ordinance, secure public safety and welfare and substantial justice because it maintains the integrity of the historical building, does not impact the lot coverage or footprint, has no increase in occupancy and has low visual impact with only 21 feet.

Motion per Kirkland to grant the requested variance without any conditions/mitigations from the Board of Appeals, seconded by Glenn; Kirkland – aye, Glenn – aye, Eckert - aye, and McMurtry -aye.

## **7. Adjournment**

Motion per McMurtry to adjourn the Board of Appeals meeting at 5:45 P. M., seconded by Kirkland, and motion carried.

Recorded by,  
Andrea Collak - Clerk/Treasurer