

**TOWN OF SANTA CLAUS
BOARD OF ZONING APPEALS MEETING
October 19, 2020**

PRESENT:

Board members present: Eric Snow, Bob Grundhoefer, Matt Taylor, and Lynn Winkler.

ABSENT:

Board Members absent: Breck Vinson

Also present: Kevin Patmore, Town Attorney
Todd Hays, Building Inspector and Zoning Administrator
Members of public.

Eric Snow, the Chairperson, called the meeting to order at 6:00 p.m. on Monday, October 19, 2020 at the Santa Claus Town Hall. This meeting was a public meeting.

The minutes of the meeting of January 20, 2020 were read. Minutes from the March 26, 2018 were passed out and read. The date of the minutes of the prior meeting was changed to read March 26, 2018 rather than October of 2017. Matt Taylor made a motion to accept the minutes with the correction. The motion was seconded by Bob Grundhoefer and the motion carried 4 to 0.

The draft of the minutes of the meeting of August 17, 2020 were read. Eric Snow made a motion to accept the minutes. The motion was seconded by Bob Grundhoefer and the motion carried 4 to 0.

OLD BUSINESS : None

NEW BUSINESS : Brian and Mary Ward Request Variance From Front Setback Regulation

Brian and Mary Ward are having a home built on lot 284 of January Subdivision in Holiday Village. The builder is Todd Knepp. All 3 persons were in attendance. Town of Santa Claus Comprehensive Plan, paragraph 11.04.044 (3)(c) Minimum Setback Lines requires that the Front Yard setback be 25 feet. A corner of the garage was accidentally placed 30' from the road, believing the setback to be from the road rather than 30' from the property line. This place the corner of the building 14' closer to the road than the Comprehensive Plan allows, but still 30' from the road.

Todd Hays, Santa Claus Zoning Administrator, told the Board in detail how the discrepancy developed. He also stated that he had sent out notices about the Variance Request to adjacent property owners plus a couple of other nearby property owners and had not received negative comments.

Kevin Patmore, Town Attorney, stressed the fact that the building having been partially erected should not be the primary factor in determining whether the variance is issued or not.

The public was asked to respond:

Todd Knepp, the builder, spoke primarily for the Wards and explained how the mix up occurred and how sorry he was that they hadn't come to the Board prior to the building of the home. He explained how the topography of the lot affected the placement and spoke about the different methods of determining setback lines in neighboring communities, which is different from Santa Claus.

The Wards apologized for the discrepancy and stated they would never have violated the rules had they realized.

Ron Smith, a builder in Santa Claus, stated that giving the Wards a variance when he had to abide by the rules, had a negative effect on his business, since he went to greater expense to abide by the rules, and that the value of his properties in Holiday Village might be affected adversely even though none of them were in this neighborhood and allowing people to break the building rules first and ask for a variance later created a bad precedent.

Jeff Stillman, a member of the Advisory Plan Commission, stated that the APC agreed that this Variance would not violate the Comprehensive Plan.

The public meeting was closed.

Matt Taylor, Board Member, stated that he was very concerned about the safety issue of allowing a violation of setback rules. A talk followed that discussed the lot and house's exact setting on both 'Front' and the "Side" areas where the roads converge and whether any site lines would be narrowed. Diagrams of the lot with home and nearby lots and roads were passed out for viewing by the Board. The entire Board decided that the positioning of the home would not affect the safety of passersby and neighbors adversely. No members of the public disagreed.

One member of the Board believes that if the adjacent property owners had believed the value and use of their property would be adversely impacted by granting the variance, that they would have responded to the notices of this meeting either by letter or by coming to this meeting. But that did not happen.

Kevin Patmore reiterated the 3 standards that must be met before granting a Variance of Developmental Standards:

1. The approval of the variance will not be injurious to the public health, safety, morals or general welfare of the community.
2. The use and value of the property in the immediate area to the property on which the variance is requested will not be affected in a substantially adverse manner.
3. The strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.

Lynn Winkler made a motion to allow the variance of 14 feet, and Bob Grundhoefer seconded the motion. The motion carried 4 to 0.

There was no other business. Eric Snow made a motion to adjourn, Bob Grundhoefer seconded the motion, and the motion carried by a vote of 4 to 0. Eric Snow adjourned the meeting at 6:45 pm.

Respectfully submitted,
Lynn Winkler, Secretary

Eric Snow, President

Bob Grundhoefer, Vice President

Lynn Winkler, Secretary

Matt Taylor, Member

Breck Vinson, Member