

**CITY OF GERMANTOWN BOARD OF ZONING APPEALS
MINUTES OF MEETING HELD JULY 11, 2022**

The City of Germantown Board of Zoning Appeals met on July 11, 2022 at 7:00 p.m. at City Hall.

MEMBERS PRESENT: The following members were present at the Call to Order: Mrs. Izor, Mr. Dalton, Mr. Treiber, and Mrs. Spencer.

ALSO PRESENT: Brian Wafzig, City Council Liaison; Keith Brane, City Planner; M. Beth Kuhn, applicant; Ken Conway, Consultant for Germantown; and Lynette Dinkler, City Attorney.

CONSIDER APPROVAL OF THE MINUTES OF THE JUNE 27, 2022 BZA MEETING: On a motion by Mr. Trieber, seconded by Mr. Dalton, it was moved to approve the minutes of the June 27, 2022 meeting as written. On call of the roll: Mr. Treiber yes; Mr. Dalton, yes; Mrs. Izor, yes; and Mrs. Spencer, yes. Motion carried.

VARIANCE APPLICATION V22-03: Chairman Izor said tonight we have one public hearing, Variance Application V22-03 made by M. Beth Kuhn to allow 329 N. Main St. to appeal Section 1129.09, Fences. If the variance is granted it would allow a four foot fence at 329 N. Main in the front yard.

Chairman Izor asked the applicant to come forward and present the request.

Ms. M. Beth Kuhn, 329 N. Main, Germantown, Ohio said the property is a corner lot and my mother put up a split rail fence 40 to 50 years ago. Basically school kids would come out of school and walk across the yard. She didn't want to hide the house or create an obstruction, so she put up the split rail with wire inside. Also the tenants' children could play in the yard and be safe. It has lasted a long time but it is starting to fall down and I just want to replace it. The posts are four feet and the rails are about 3.6 feet.

Mr. Trieber said I drove by and this is basically replacing the existing fence that faces Comstock. Ms. Kuhn said Comstock, a little on N. Main, and on the parking lot.

Mr. Dalton said I assume this was an apartment prior to City Zoning. Ms. Kuhn said my parents bought the property in the late 1950s. Mr. Brane said it was established when the City was a village and is now a nonconforming use; the only problem is the height.

Chairman Izor asked if staff had any additional comments. Mr. Brane said we did not receive any letters from residents for or in opposition to the fence; it is just beyond our scope of our administrative authority to issue the permit. Staff recommends approval.

Chairman Izor opened the public hearing at 7:07 p.m. and asked if there were any proponents wishing to speak. Seeing none, are there any opponents wishing to speak. Seeing none, the public hearing was closed at 7:08 p.m.

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Mrs. Spencer said she didn't see any problems with the four foot fence if that's what it has now. Why is it a big deal?

Mr. Trieber said it doesn't obstruct traffic. I drove by and it stops short of the street significantly and I didn't see a site traffic issue. That was the only thing I thought would have come into play.

On a motion by Mrs. Izor, seconded by Mr. Dalton, it was moved to approve Variance Application V22-03 as proposed. On call of the roll: Mr. Dalton, yes; Mrs. Izor, yes; Mr. Treiber, yes; and Mrs. Spencer, yes. Motion carried.

SHUEY MILL UPDATE: Ken Conway, Consultant for Germantown, said I represent typically on capital improvement projects when they need construction expertise. I got involved with Shuey Mill when we had fire issues, zoning issues, building department issues, nonstop police calls and it was pretty much out of control. The City Manager asked me to come on board so Shuey Mill was dealing with one department, a special zoning counsel. We worked with the previous owners and got things pretty much under control, mainly noise issues.

Mr. Conway said the property sold six to seven months ago and there was an open list of issues from your original ruling that they still hadn't completed as well as some building department issues that the new owner has taken interest in. They were not aware these issues existed. We started with your 2017 letter which came from Mr. Brane.

Mr. Conway said the previous owner came the BZA for a couple of specific issues; one was parking and the other for the paved lot. The BZA determined the use of the facility for a wedding venue didn't fall under any pre-established category you had to work with so the BZA determined they were closest to a bed and breakfast. Then you approved parking based on that and they were required to have 8 parking spaces on site. They were to come up with an agreement offsite for 50 more spaces. There was criteria associated with the agreement that could impact the use of whoever they had the agreement with and the onsite parking was per an approved plan you had at the time. The BZA gave them another variance not to pave the onsite spaces. At that time they were using the mill and not using the carriage house. The BZA approval told them that before they used the carriage house specific zoning and occupancy approval that the structure meets all requirements and is safe to occupy as an alternative seating area. One of the things we fought with the prior owner on was that alternative because they were using it as additional seating and were advertising capacity up to 200 people where the occupancy limit at the mill was 95. The occupancy limit of the carriage house was 99. They received a certificate of occupancy for the carriage house at the same time they got the certificate for the mill in 2018. The prior owners were using it, the city threatened to shut it down and tried to get them to stop using it. The way they were using it wouldn't necessitate them coming back to the BZA and revisiting the whole thing. The BZA evaluated the parking in 2017 based on occupancy limit of 95. If they wanted to have 200 people there you were going to double what you told them they had to have offsite. The new

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owner is not changing the total occupancy of 95 even using both buildings. Other conditions you put on your 2017 approval had to do with requirements of the parking. The parking agreement was actually reviewed by Lynette and Tom (city attorneys) and the agreement was assigned to the new owner.

Mr. Conway said the use being exactly the same and the occupancy being exactly the same as determined by the BZA, the only thing missing was attesting that the building was safe which was accomplished by the certificate of occupancy issued by the building department in 2018. Right now all their inspections are complete for all the work that has been done to date. They are planning some additional work; they want to finish the second and third floor. Currently they only have occupancy certificates for the first floor and the carriage house. Their plan is to use this for bridal party dressing rooms and part of our agreement with them is the total occupancy remains at 95. NIC is aware of this and will not give them additional occupancy. He read the narrative that is attached to the application.

Mr. Dalton said there were some issues with parking on the street but my understanding is the owner is telling newly scheduled weddings will be valet parking only.

Mrs. Izor said that is one of our revered landmarks and I know the city tried to work with them. Were the projects in the carriage house reviewed? Mr. Conway said yes. They added doors on the east side.

Mrs. Spencer asked if the occupancy was 95 for the mill and 95 for the carriage house. Mr. Conway said 95 total. Certificates say the mill is 95 and the carriage house is 99 but all of their approvals were based on a total of 95 patrons, and they have agreed to limit their occupancy to the mill occupancy.

Mr. Dalton asked if the carriage house is behind the mill. Mr. Conway said it is directly west. Mrs. Izor asked if was attached. Mr. Conway said no, it is separate. They opened the area up between the mill and the carriage house and emergency vehicles now have access.

Mrs. Izor said it was unfortunate to hear that was a problematic project. We like our local businesses to expand but they do have to follow the rules. Mr. Conway said the issues were the first group; this second group has committed to working with us. It certainly wasn't our intent to cause anybody to go out of business.

Mrs. Izor said we appreciate you getting involved. Mr. Dalton agreed and said I wasn't on the board back then so it has been helpful to get all this information.

ADJOURNMENT: With no further business, the meeting adjourned at 7:28 p.m.

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Whitney Izor
Chairman, Board of Zoning Appeals

Keith A. Brane
City Planner