

# Village of New Berlin

P.O. Box 357  
New Berlin, Illinois 62670  
(217) 488-6312

## NEW BERLIN ZONING BOARD MEETING

NOVEMBER 1, 1993

The New Berlin Zoning Board met on November 1, 93 at 7:30 p.m. with all members answering roll call but Stritzel and Wilson. The purpose of the meeting was to consider petitions for variances for Louis Curtis, Jr. and Paul Suttles.

The reading of the minutes of the last zoning board meeting were waived by Chairman Prince.

The petition for a variance requested by Louis Curtis, Jr. was to place a garage 5 feet off the south boundary line, and more than 35% of lot coverage was read and explained to members by Chairman Prince.

Chairman Prince also read a letter from Attorney Sheehan advising the Board on this matter and clarification of a non-conforming use and zoning lot definition. Also, an explanation was made by Chairman Prince to clarify why a corner lot has two front property lines.

Cantrall asked if the pool could be moved so the garage could be placed back on the property; therefore, no variance needing to be issued. As explained by Curtis, the pool cannot be moved because of it's condition.

After questions and being discussed, Cantrall made the motion to deny the variance for the 5 foot setback to Louis Curtis at 301 N. Cedar, and to make this recommendation to the Village Board. John Frank seconded this motion. Roll call was taken with Cantrall, Frank, Delaney, and Copeland voting in favor of denying this variance. Motion passed.

*Maucha Sweet, Clerk*

Date 10-3-93

ZONING BOARD OF APPEALS  
VILLAGE OF NEW BERLIN, ILLINOIS

I (We) LOUIS D. CURTIS JR. and DEANNA L. CURTIS  
of 301 N. CEDAR NEW BERLIN, IL 62670  
(Address)

respectfully request that a determination be made by the Zoning Board of Appeals on the following appeal:

(Check and complete the applicable appeal)

- 1. An interpretation of Section \_\_\_\_\_ of the Zoning Ordinance.
- 2. An interpretation of a \_\_\_\_\_ District Boundary of the Zoning Map.
- 3. A review by the Board of Appeals to interpret whether a \_\_\_\_\_ shall be permitted in a \_\_\_\_\_ Commercial District,  
(Type of Use)
- 4. A review by the Board of Appeals to interpret and recommend approval or disapproval of the use of a building or premise for an Industrial purpose in an Industrial District.
- 5. A request to amend (or re-zone) a Zoning District from a \_\_\_\_\_ District to a \_\_\_\_\_ District.
- 6. A request to establish, place or erect a \_\_\_\_\_.  
(Type of Use or Variance)
- 7. A variance to the (area) (height) (coverage) (FRONT yard) (COVERAGE (35%)) provisions of the Zoning Ordinance.  
(other)

Describe the appeal being requested more specifically. (i.e. Type of use, type and dimensions of structure, dimension of yard variance, etc.).

FRONT YARD REQUIREMENT VARIANCE TO BUILD GARAGE 5 FT. FROM FRONTAGE LOT LINE. ALSO VARIANCE ON LOT COVERAGE OF MORE THAN 35%. GARAGE FOR STORAGE OF PERSONAL VEHICLES & ACCESSORIES.

PA  
50.00  
10-1-93.

(see reverse side)

The premises are situated at 301 N. CEDAR

in a RESIDENTIAL District.

Lot No. (s) \_\_\_\_\_ of \_\_\_\_\_  
(Addition, subdivision, etc)

Total Property Dimensions: 100 wide 123.32 deep.

Does applicant own the property? YES

What is the approximate cost of the work involved? \$ 4,000.00

Present Property Use PERSONAL GARAGE

(check one)

I hereby request that this appeal be considered at the next regularly scheduled hearing of the Zoning Board of Appeals.  
(NO FEE).

I hereby request that this appeal be considered as promptly as a hearing can be arranged, due notice given and advertisement made. Attached is a check in the amount of \$ 50.00 payable to the Village of New Berlin as payment of the necessary filing fee. (Interpretations-\$20.00. Variations and amendments-\$50.00).

I further state that if this request is granted, I will proceed with the actual construction within one year from the date of approval of this appeal.

Date 10-3-93

Louis D. Carter, Jr.  
(Signature of Applicant)

Telephone No. 488-6367

\_\_\_\_\_  
(Signature of Applicant)

\*\*\*\*\* FOR USE OF ZONING BOARD OF APPEALS ONLY \*\*\*\*\*

Hearing Advertised \_\_\_\_\_, \_\_\_\_\_.

Date of hearing \_\_\_\_\_, \_\_\_\_\_.

Decision of the Zoning Board of Appeals: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

*Law Offices*

**SHEEHAN & SHEEHAN, LAWYERS, P.C.**

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SPRINGFIELD, ILLINOIS 62703-2593

TELEPHONE (217) 544-0701  
FAX (217) 544-0750

JOHN C. SHEEHAN  
(1921-1967)  
WILLIAM P. SHEEHAN  
(1919-1980)

PATRICK J. SHEEHAN  
WILLIAM J. SHEEHAN

October 12, 1993

Village of New Berlin  
New Berlin, IL 62670

Attn: Marsha Sweet  
Village Clerk

Re: Curtis Zoning Question  
Side Yard Requirement, Definition of "Lot", Etc.

Dear Marsha:

The Curtis property consists of two platted lots (Lots 65 and 66 in Yates Addition to the Village of New Berlin). Each platted lot is 50 feet wide and each has a depth of 123.32 feet. Both lots were acquired by Mr. & Mrs. Curtis at the same time by a single deed. The Curtis residence straddles both lots and is located roughly in the middle of the two lots. The garage in question is in the Southwest corner of the property and is roughly on the South property line. The garage is a non-conforming building as contemplated by Article VI of the Zoning Code (Chapter 9 of the Village Code).

If the existing garage were to be demolished by the owners and rebuilt on its existing site (or within 10 feet of the South property line), the new garage would violate the required side yard set forth in Section 9.206(b) of the Village Code. Since each separate lot is 50 feet wide, the provision in Section 9.206(b) permitting a 3-foot side yard for "lots presently platted of a width of less than fifty (50) feet" would not apply.

Even if each separate lot were less than 50 feet, it is my opinion that it is not the individually platted lots which we must look at in determining compliance with yard requirements, but rather the owners' property as a whole. In this case, the two platted lots together, with a combined width of 100 feet, constitute the "zoning lot". This is particularly true in this case where the principal residence straddles the two lots. Also, please see Section 9.104(aa) of the Village Code, which defines "lot".

It is therefore my opinion that, if the existing garage is voluntarily demolished, the required 10-foot side yard set forth in 9.206(b) of the Village Code must be complied with, unless a variance is granted.

Village of New Berlin  
Attn: Marsha Sweet  
Village Clerk  
October 12, 1993  
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If either you, the Mayor, the building inspector or the Zoning Board Chairman have any questions whatsoever on this issue, please give me a call.

Very sincerely,

SHEEHAN & SHEEHAN, LAWYERS, P.C.



Patrick J. Sheehan

PJS/smv

cc: Hon. Don Marr, Mayor  
Don Prince, Zoning Board Chairman  
William Poole, Building Inspector