

## ZONING BOARD OF APPEALS MINUTES OF SEPTEMBER 14, 2004

Meeting called to order by Chairman Zimmermann at 4:45 p.m. in the Executive Conference Room, City Hall Plaza.

**PRESENT:** Harry Blackwood, Dean Markwardt, Wallace Reek, Don Wink and Karl Zimmermann

**Also Present:** Planner/Zoning Administrator Curtiss, Building Services Supervisor Donath, Deputy Clerk Panzer, Karlene Sordahl, Larry Stutzriem, Paul Meier and Theresa Yakovlev (arrived at 4:52 p.m.)

Deputy Clerk read the variance request from Karlene Sordahl to construct an 8' x 12' deck onto the front of the house located at 506 S. Ash Avenue, in the 'R-5' Medium Low Density Residential District. Section 18-04 (5)(g) of the Municipal Code allows a 22.5' front setback for the dwelling based on the 'averaging clause.' Section 18-62(6)(f) requires a 7.5' side setback. Applicant is requesting a 1' front yard variance and a 4' side yard variance in order to attach the deck 21.5' from the front lot line and 3.5' from the side lot line.

Planner/Zoning Administrator Curtiss presented a statement of facts regarding the variance request.

**ZB04-016** Motion by Reek, second by Wink to grant a 1' front yard variance and a 4' side yard variance in order to attach the deck 21.5' from the front lot line and 3.5' from the side lot line. All Ayes.

**Motion carried**

The Zoning Board of Appeals considered the following issues in granting the variances.

1. The request involves variances from two separate area requirements of the zoning code. While the 1' front yard setback variance is minimal, the side yard variance is sizeable, over half of the required yard area.
2. The house is an existing nonconforming structure with only 3.5' setback to the north side lot line. The addition of the proposed deck would alter the home and increase the degree of nonconformity in the north side yard area. The zoning code does not allow a nonconforming structure to be enlarged or altered in anyway which increases its nonconformity, except as permitted by the Zoning Board of Appeals.
3. The deck is not a solid part of the structure and would have less of a visual impact in the side yard area than would a solid 'building addition.'

Theresa Yakovlev arrived at 4:52 p.m.

Deputy Clerk read the variance request from Mark Hastreiter to construct a detached 2-car garage for the new 3-unit apartment building located at 316 W. Ives Street in the 'R-6' Medium High Density Residential District. Section 18-02 of the Municipal Code defines 'front yard' across the full width of the 'backlot'. Section 18-04(2)(c) prohibits accessory structures in front yards and Section 18-62(7)(f) requires a 25' front yard setback. Applicant is requesting a 15' variance to allow construction of the garage in the front yard area, setback only 10' to the north lot line.

Planner/Zoning Administrator Curtiss presented a statement of facts regarding the variance request.

**ZB04-017** Motion by Markwardt, second by Blackwood to grant a 15' variance to allow construction of the garage in the front yard area, setback only 10' to the north lot line. All Ayes.

**Motion carried**

The Zoning Board of Appeals considered the following issues in granting the variance.

1. This is an unusual circumstance, because, in addition to being defined as a 'back lot', the subject property is also classified as a 'double frontage lot' with two front yard requirements. Essentially, fifty (50) feet of the property is prohibited for location of accessory structures.
2. If Harrison Street were open and vacant lots to the west were developed, the proposed garage would be located with respect to the rear yard areas of these adjacent lots.
3. The applicant is requesting a 15' variance in order to locate the garage 10' from the north lot line. This north lot line is shared by the rear yard of 404 W. Ives Street. A 10' setback is almost three times the minimum rear yard required for an accessory structure; if the property had been developed from Harrison Street as intended by the layout of the original plat.
4. Neighbors have been notified of this request. To date, there have been no objections to this variance request.
5. The developer is required by the conditional use in completing the screening requirements. A fence will buffer the development from the adjoining property owners.

Deputy Clerk read the variance request from Alexander Yakovlev for a storage building and dog kennel constructed in the front yard area of Adams Avenue on the corner lot located at 1015 W. 6<sup>th</sup> Street, in the 'R-2' Single-family Residential District. Section 18-04(2)(c) prohibits accessory structures in front yards and Section 18-62(3)(f) requires a 30' front yard setback. Applicant is requesting a 17' variance to allow the building to remain in the front yard area, setback a distance of only 13' from the S. Adams Avenue frontage.

Planner/Zoning Administrator Curtiss presented a statement of facts regarding the variance request.

Reek was concerned with the fact that the building was built before the variance request.

Discussion took place as to how this occurred.

Building Services Supervisor Donath explained that he has not issued building permits for dog kennels in the past. The location of a dog kennel is also not subject to the code as he thinks of a dog kennel, which is a fence with a doghouse in it. This building is obviously more than a dog kennel.

Blackwood stated that if you were driving over 25 mph, you would never notice it. It is fenced in on the side and in the back and the lots are large.

Wink stated that he doesn't like situations like this one where the builder goes ahead and builds with the thinking that after it is built it will be ok. He said that he doesn't want this to be a practice.

Theresa Yakovlev said that that was not her intent. She feels that she was misled by the builder. She stated that she had been to the office several times to ask and tried to work with the City of Marshfield.

Theresa Yakovlev added that she was out of the country for a month and when she returned she did not know that the stop work order had been ordered and her builder did not contact her.

**ZB04-018** Motion by Blackwood, second by Wink to grant a 17' variance to allow the building to remain in the front yard area, setback a distance of only 13' from the S. Adams Avenue frontage. All Ayes.

**Motion carried**

The Zoning Board of Appeals considered the following issues in granting the variance.

1. This is a sizeable variance request for over half of the required setback.
2. Apparently, the contractor did not communicate complete information to the Building Inspector prior to starting construction. A 'dog house' or 'dog kennel' as a standalone object is exempted from permit requirements. A 'dog kennel' attached as part of a new storage building is subject to permit approval. Through the permit process, the accessory building could have been located outside of any required yard areas.
3. This is a large residential lot with a large rear yard. There are several mature trees on the lot; however, not a primary limiting factor for the location of the structure. These large trees may, however, lessen the visual impact of the storage building at the current location.
4. Large, deep lots with mature trees characterize the neighborhood. Most of the detached accessory structures are not visible from the street due to the large, deep wooded lots.
5. The structure is located at the northwest corner of the lot and would not interfere with corner vision at the street intersection. The adjoining property to the north does not access from Adams; therefore, no conflicts with corner vision at driveway intersections.
6. Neighbors have been notified of this request. To date, there have been no objections to this variance request.

Deputy Clerk read the variance request from LHM Real Estate, LLC to construct a two-story addition onto the commercial building located at 108 W. 9<sup>th</sup> Street, in the 'B-4' General Commercial District. Section 18-63 (5)(f) of the Municipal Code requires a 20' front yard setback. Applicant is requesting a 20' setback variance in order to build the addition at a 0' setback to the front lot line.

Planner/Zoning Administrator Curtiss presented a statement of facts regarding the variance request.

**ZB04-019** Motion by Markwardt, second by Reek to grant a 20' setback variance in order to build the addition at a 0' setback to the front lot line. All Ayes. (Zimmermann abstained from voting, because he is an abutting property owner.)

**Motion carried**

The Zoning Board of Appeals considered the following issues in granting the variance.

1. While the 'B-4' zoning designation on the lot would require a 20' front setback, the lot is developed more typical to the characteristics of the 'B-5' downtown district north of the site.
2. The existing structure is nonconforming with a zero front setback. Alteration or extension of a nonconforming structure, as proposed, requires Zoning Board approval.
3. The applicant is proposing the addition in order to provide safe access to the second floor and to preserve the historic integrity and exterior architecture of the existing building.
4. The addition should not impact vision clearance from the driveway entrance onto Ninth Street, based on the proposed design of the site plan.
5. The proposed addition would decrease the size of the off-street parking area available to the site; however, the parking area is already substandard for the proposed use of the property. The property owners are currently exploring other 'joint use' parking options identified in the Municipal Code.

There are conditions for such 'joint use' parking and Plan Commission must approve through a 'conditional use permit'.

6. Neighbors have been notified of this request. To date, there have been no objections to this variance request.

Motion by Reek, second by Wink to adjourn at 5:13 p.m.

**Motion carried**

Lori A. Panzer  
Deputy City Clerk