

## ZONING BOARD OF APPEALS MINUTES OF NOVEMBER 9, 2010

Meeting called to order by Chairman Markwardt at 5:05 p.m. in the 1<sup>st</sup> Floor Conference Room, Suite 108, City Hall Plaza.

**PRESENT:** Ed Gerl, Richard Kenyon, Dean Markwardt and Kenneth Bargender

**EXCUSED:** 1<sup>st</sup> Alternate Scott Noble

**ALSO PRESENT:** Planner/Zoning Administrator Miller, Deputy Clerk Panzer and Thomas Shilts (arrived at 5:21 p.m.)

Kenyon pointed out that the word “hand” in paragraph 7 on page 10 should be “HAM”.

**ZB10-013** Motion by Gerl, second by Kenyon to approve the minutes of October 12, 2010 as corrected.  
**Motion carried**

Deputy Clerk read the variance request from Thomas Shilts for property located at 814 East 6<sup>th</sup> Street, zoned “R-4” Residential (Low Density Single and Two-family District). Section 18-62 (5) f. of the Municipal Code requires a minimum 25-foot front yard setback. The Applicant requests a 10-foot variance to the front yard setback along the front lot line to place a handicapped accessible ramp for an Adult Family Home at the front entry of the home.

### Background

The property owners wished to add a handicapped accessible ramp to the front entrance of their home at 814 East 6<sup>th</sup> Street. Currently, there are two entrances that face the front yard and the front edge of the home is already within the front yard setback. A development permit request had been administratively denied because the proposed ramp would encroach into the front yard setback.

Planner/Zoning Administrator’s statement of facts regarding the variance request:

1. The property is located at 814 East 6<sup>th</sup> Street.
2. The Lot is a corner lot with an area of 10,675 sq. ft. in size and dimensions of 70-ft x 152.5-ft.
3. The property is zoned “R-4” Low density single- and two-family district where the minimum lot size is 8,700 sq. ft. and the minimum lot width is 60 ft. for a single family home.
4. The minimum lot width is 80 ft. and the minimum lot size is 12,000 sq. ft. for other uses.
5. The Lot does not meet the minimum lot dimension requirements of the “R-4” District for other uses.
6. This residence was built in 1946.
7. Section 18-62 (5) f. of the Municipal Code requires a minimum 25-ft front yard setback; the house is currently located 22 feet from the front property line.
8. The proposed handicapped accessible ramp would extend approximately 7 feet from the front of the home with the slope paralleling the home, leading to the driveway.
9. The State does require the residents of a state licensed Adult Family Home to have the appropriate access.
10. The Fair Housing Act and Wisconsin’s Fair Housing Law requires local governments make “reasonable accommodations” to provide equal access to housing for persons with disabilities.

### Summary Responses from Applicant

**(Unnecessary Hardship)** “The residents at this property which is a state licensed Adult Family Home need to have access. Even the use of a walker, access is much easier and safer with a ramp.” Access is required by the State for the residents of a state licensed Adult Family Home.

**(Unique Property Circumstances)** “The current steps and concrete landing comes out 7 feet from the wall of the home. The handicapped ramp will actually come out less than that.” Because of the location

of the home on the property, access cannot be provided without constructing a ramp within the required setbacks.

**(No Harm to Public Interests)** “If the ramp is run parallel to the home it will look nice and blend in well with the home.” Also, the variance needed will be less. The plan for the ramp is to run it parallel to the home.

Deliberations were held.

This home became an adult family home in 1997.

Gerl asked if the State requirement to have access was a new regulation.

Thomas Shilts arrived at 5:21 p.m.

Thomas Shilts explained that the regulation is one that the State is increasingly asking for and it depends on if the adult family home has clients that use a walker. If the adult family home has clients that use a walker, the State will say that two ramps are needed for access. If the adult family home doesn't have clients that use a walker the State will leave you alone.

Mr. Shilts does have clients that use a walker.

Planner/Zoning Administrator Miller pointed out that in the original notice and the information that he sent out at the time, he believed the distance to be 7' from the wall and since then the Building Inspector reviewed the application and has determined that the distance really should be 9 ½' from the wall, because the original drawing didn't account for the 5' platform. Right now our notice has been posted for a 10' variance ultimately what is needed is a 12 ½' variance to comply with ADA building code standards.

The option of tabling this request until next month was discussed.

It was decided not to table this request, because Zoning Board members didn't want to charge the applicant another \$200.00 just to ask for another 2.5', there were no objections from any of the neighbors and the fact that in another month the ground could freeze up.

Planner/Zoning Administrator Miller said City staff plans on proposing an ordinance amendment to exempt these homes with certain conditions from the setback requirements.

Kenyon suggested rewriting the zoning laws to say that any ramp that is literally a conforming handicap accessibility ramp would be treated as sidewalk rather than a deck for the purpose of the setback requirements, because there are no setbacks for sidewalk.

**ZB10-014** Motion by Kenyon, second by Gerl to grant a variance for a minimum front yard setback to Thomas Shilts for the purpose of building a handicap ramp that meets the minimal requirements per the Americans with Disability Act.

Reasons given for being in favor of approving this variance request:

- 1) It would be an unnecessary hardship to the individuals who require the use of a ramp to deny the variance.
- 2) Since the front of the house already sits within the required setback any addition to the building including a ramp or steps would fall within the required setback.

- 3) The ramp should not be detrimental aesthetically to the neighborhood.
- 4) There were no objections from the neighbors.
- 5) It does not constitute a vision triangle hazard.

Vote on motion **ZB10-014**; All Ayes.

**Motion carried**

Motion by Gerl, second by Bargender to adjourn at 5:47 p.m.

**Motion carried**

Lori A. Panzer  
Deputy City Clerk