

ZONING BOARD OF APPEALS MINUTES OF MAY 4, 2011

Meeting called to order by Deputy Clerk Panzer at 5:05 p.m. in the 1st Floor Conference Room, Suite 108, City Hall Plaza.

PRESENT: Kenneth Bargender, Richard Kenyon, Robert Lewerenz and Dean Markwardt

ABSENT: Ed Gerl

ALSO PRESENT: Planner/Zoning Administrator Miller, Deputy Clerk Panzer and James Walgenbach

Mayor Meyer by duty of statute appointed Ed Gerl as Chairman for the Zoning Board of Appeals at the Common Council meeting of April 26, 2011.

Nominations were held for Vice Chairperson.

Bargender nominated Kenyon.

There being no further nominations:

ZB11-03 Motion by Bargender, second by Markwardt to close the nominations and cast a unanimous ballot for Kenyon for Vice Chairperson.

Motion Carried

ZB11-04 Motion by Markwardt, second by Bargender to approve the minutes of March 8, 2011 as submitted.

Motion carried

Planner/Zoning Administrator Miller mentioned that Wisconsin Central Ltd. found an alternative site outside the three mile radius for their communication antenna tower.

Deputy Clerk read the variance request from James Walgenbach for property located at 302 N. Cedar Avenue, zoned "R-5" Medium Density Single- and Two-Family Residential District to place a handicapped accessible ramp at the front entry of the home. Section 18-62 (6) (f) of the Municipal Code requires a 25-foot front yard setback and a 7.5-foot side yard setback. The applicant requested a 25-foot variance to the required front yard setback to place the ramp zero feet from the front yard lot line and a 5.5-foot variance to the required side yard setback to place the ramp 2 feet from the side yard property line to the north.

Background

The property owner wished to add a handicapped accessible ramp to the front entrance of his home at 302 North Cedar Avenue to be able to utilize a motorized scooter recently acquired from the VA. The front portion of the home is already within the front yard setback and the side entrance has steps that lead down to the door on the inside of the home making it impossible to have a ramp at that location. The proposed configuration for the ramp is the least invasive design that the contractor could come up with while still meeting the 12:1 slope standards for the VA. A development permit request has been administratively denied because the proposed ramp would encroach into the front and side yard setbacks.

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

1. The property is located at 302 N. Cedar Ave.
2. The lot is an interior lot with an area of 6,908 sq. ft. in size and dimensions of 44-ft x 157-ft.
3. The property is zoned "R-5" Medium density single- and two-family district where the minimum lot size is 6,000 sq. ft. and the minimum lot width is 40 ft.
4. The lot does meet the minimum lot dimension requirements of the "R-5" District for a single-

family home.

5. This residence was built in 1948.
6. Section 18-62 (6) f. of the Municipal Code requires a minimum 25-ft front yard setback; the house is currently located 20 feet from the front property line.
7. Section 18-62 (6) f. of the Municipal Code requires a minimum 7.5-ft side yard setback; the house is currently located approximately 11 feet from the north side yard property line.
8. The proposed handicapped accessible ramp would extend approximately 6 feet from the front of the home with the slope going parallel to the home to the north, leading to a 5-ft x 5-ft landing. The ramp would then extend 90 degrees to the east leading to the sidewalk.
9. Due to the required slope, size of the lot, and location of the home, any ramp configuration would require a front yard and side yard variance.
10. The tree on the north side of the front yard will have to be removed.
11. 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) "Mr. Walgenbach recently received a motorized scooter from the VA in order to get around. Without the ramp, he would not be able to utilize the scooter and using the steps can be difficult." Because of the location of the home on the property, access cannot be provided without constructing a ramp within the required setbacks.

(Unique Property Circumstances) "The house is currently setback only 20 feet from the property line. In addition, 44' wide lots are usually too narrow to provide enough space to place a ramp outside the setback."

(No Harm to Public Interests) "Although located near the sidewalk, it would not provide any vision obstruction issues as the nearest driveway is on the north side of the property to the north."

Planner/Zoning Administrator Miller said he spoke with the neighbor to the north and they don't have an issue with the proposed ramp, but requested that the ramp be removed if it is discontinued either in use or for purpose.

Planner/Zoning Administrator Miller said there are a few other ramps that go directly out to the sidewalk.

Planner/Zoning Administrator Miller said he has a public hearing date set for May 17th for a review of the code to allow for these types of structures within the setback. There would be some provisions, so people couldn't make their whole front yard a ramp.

Markwardt expressed concerns about the ramp being too close to the sidewalk. He felt it could be a hazard to pedestrians. He wondered if there was an alternative.

Planner/Zoning Administrator Miller explained that Mr. Walgenbach wants to keep his current landing with steps, because the ramp would be a temporary situation. Otherwise he would then need a 10' wide ramp or two platforms and it would be a larger intrusion into the front yard. It would take additional lumber as well.

James Walgenbach said this is the only way we could come up with that would meet the VA's stipulations.

ZB11-05 Motion by Markwardt, second by Lewerenz to grant the variance requests from James Walgenbach for a 25-foot front yard setback along the front line and a 5.5-foot side yard setback to place a handicapped accessible ramp at a setback of 2 feet from the north property line and 0 feet from the sidewalk.

Motion carried

Planner/Zoning Administrator Miller summarized the 2010 Zoning Board of Appeals decisions.

Bargender said he would like to see a better definition of a snow fence in our ordinance.

Planner/Zoning Administrator Miller suggested we could explore that when we amend the code in the next two years.

Markwardt asked if anyone was pursuing the tower farm notion.

Planner/Zoning Administrator Miller said we have not investigated that option at this point, but may in the future. Miller didn't feel a single location would meet the needs of all of them. They have to engineer their specific frequency for their specific location. He plans to do some more research on this to see if it is feasible. It is a nice idea in theory, but in practice with the line of sight issues, the frequency issues and different needs one specific site may not work for all future towers.

Motion by Markwardt, second by Bargender to adjourn at 5:41 p.m.

Motion carried

Lori A. Panzer
Deputy City Clerk