

ZONING BOARD OF APPEALS MINUTES OF MAY 28, 2013

Meeting called to order by Chairperson Gerl at 5:02 p.m. in the Executive Conference Room, Lower Level, City Hall Plaza.

PRESENT: Ken Bargender, Ed Gerl, Richard Kenyon, 1st Alternate Todd Zieglmeier and Robert Lewerenz (arrived at 5:03 p.m.)

EXCUSED: Dean Markwardt

ALSO PRESENT: Planner/Zoning Administrator Miller, Deputy Clerk Panzer and Wendy Duerr

ZB13-08 Motion by Bargender, second by Kenyon to approve the minutes of May 14, 2013 as submitted.

Motion carried

Deputy Clerk read the variance request from Katie Duerr to allow for the replacement of the existing Manufactured Home with a new one of the same size located at 2407 East Hintz Street, zoned MH-8, Mobile Home Residential Zoning District. Section 18-12 requires Manufactured Homes to be a minimum of 22 feet wide when located outside of a Mobile Home Park. The Applicant is requesting a 6 foot variance to place a 16 foot wide Manufactured Home on the property. Section 18-33(7) requires a minimum 15 foot side yard setback in a Mobile Home Subdivision in the MH-8 District. The Applicant is requesting a 7.5 foot variance to allow a setback of 7.5 feet on the west side of the property, replacing the existing home with a new home at the present setback.

Background

In order to replace the existing manufactured home that is in poor condition and no longer feasible to live in with a new manufactured home of the same size and dimensions (16 feet by 80 feet), in the same location, the Applicant is requesting a variance to allow for a 7.5 feet side yard setback and to allow for the width of the new manufactured home to be 6 feet less than the minimum width of 22 feet, located at 2407 East Hintz Street, zoned "MH-8" Mobile Home Residential District.

The previous code allowed for an 8 foot side yard setback in Mobile Home Subdivisions. As of January 1, 2013 the new zoning codes states the minimum side setback for residential uses in the Mobile Home District is 15 feet. Since this is an increase from the previous code setback it does not allow any existing manufactured homes to be replaced with new manufactured homes in the same location with the same dimensions. Many of the local Manufactured Home Subdivisions would have the same problem as the Applicant.

The Applicants lot is only 64.8 feet wide and the current zoning code requires a 15 feet side yard setback from the property line to a residential dwelling (Section 18-33(7)) and a 6 feet separation between an accessory structure and a residential dwelling (Section 18-65(8)(h)) and a 3 feet side yard setback for any accessory building (Section 18-33(7)). The current lot has a two car detached garage which is approximately 25 feet wide. If the Applicant has to meet the required setbacks, the detached garage would have to be torn down to accommodate to the side yard setbacks and the minimum manufactured home width of 22 feet. Mobile homes are defined as being constructed prior to 1976 and must also be a minimum of 22 feet wide unless located in a mobile home park. The applicant has purchased a manufactured home and is planning on replacing the current manufactured home that is in disrepair.

When the new zoning code was written, the two mobile home districts (Mobile Home Park and Mobile Home Subdivision) were combined. When that happened, the district requirements for a mobile home subdivision weren't incorporated into the new code, making the replacement of any manufactured home outside of a mobile home park difficult if not impossible in most instances. Now that we are aware of the omission, staff does plan on bringing forward a code amendment to address these issues and allow for

smaller manufactured homes in the mobile home subdivisions. Included in the amendment will be a reduction in the setback for mobile home subdivisions.

The variance is needed to allow the Applicant to keep her detached garage and to replace the current Manufactured Home with a new livable Manufactured Home.

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

1. The property is located at 2407 East Hintz Street.
2. The property is zoned 'MH-8' Mobile Home Residential District.
3. The structure is a Manufactured Home.
4. The property consists of one lot 64.8 feet by 139 feet, totaling 9,007.2 square feet in area.
5. Section 18-12 of the zoning code defines manufactured homes to be 22 feet wide, essentially prohibiting any manufactured home less than 22 in the City of Marshfield.
6. The Applicant requests a 7.5 feet variance to the side yard setback to replace the existing manufactured home with a new manufactured home in the same location.
7. Section 18-33(7) requires a minimum side yard setback of 15 feet in the MH-8 district.
8. The Applicant also requests a 6 feet variance to allow the width of the new manufactured home to be 16 feet wide, which is the width of the current home presently on site.
9. The existing structure predates the current code and is considered a 'nonconforming structure'. The structure does not meet the minimum width requirements for this district and according to the new zoning code is too close to the side property line.

Planner/Zoning Administrator Miller explained that there was an oversight in rewriting the zoning code. Before the zoning code was rewritten, we had two separate mobile home districts (Mobile Home Park District and Mobile Home Subdivision District). Staff is reviewing all three sections of the code that pertained to mobile homes and manufactured homes and will be proposing a change to the code to the Common Council that will address manufactured homes in the mobile home subdivisions.

Summary Responses from Applicant

(How will the variance not be contrary to the public interest?) The new home would replace the existing home at the same footprint and not encroach any further into the setback than what is currently there.

(Will substantial justice be done by granting the variance?) Allowing the variance is the only way to allow the replacement of the same size home that is currently there. Disallowing smaller manufactured homes on the narrow lots in the MH-8 district would prohibit many property owners in that district from ever replacing their home in the future.

(Is the variance needed so that the spirit of the ordinance is observed?) These lots were designed for mobile homes/manufactured houses. The ordinance should not prohibit the replacement of manufactured homes in any mobile home district.

(Due to special conditions, will a literal enforcement of the provisions of the zoning ordinance result in unnecessary hardship?) A literal interpretation of the ordinance would prohibit most property owners from replacing the current home with a similar sized home. The intent of the ordinance was to allow manufactured homes that are less than 22 feet wide in the mobile home subdivisions. The way the code was written, they are only allowed in mobile home parks, making a hardship for me to replace my home.

Kenyon suggested putting some kind of automatic grandfathering clause in the code to address this issue in the future for people who are improving, and not changing the footprint, so we don't have to burden people with these \$250.00 fees.

Planner/Zoning Administrator Miller said that accommodations were made in the new code for the replacement of some nonconforming structures but that didn't include manufactured homes which are not permanent structures.

Kenyon also suggested the City refund part of the fee to this applicant if the code is changed.

Bargender said the \$250.00 fee is a total injustice to this applicant.

ZB13-09 Motion by Lewerenz, second by Zieglmeier to grant the variance request from Katie Duerr at 2407 East Hintz Street for a 6 foot variance to place a 16 foot wide Manufactured Home on the property and also a 7.5 foot variance to allow a setback of 7.5 feet on the west side of the property, replacing the existing home with a new home at the present setback.

Motion carried

ZB13-010 Motion by Bargender, second by Kenyon to recommend that City staff refund the \$250.00 fee for this variance request application to Katie Duerr after the zoning code is changed, due to the fact that the zoning code does not properly address manufactured homes.

Motion carried

Motion by Kenyon, second by Lewerenz to adjourn at 5:17 p.m.

Motion carried

Lori A. Panzer
Deputy City Clerk