



City of Madison

City of Madison
Madison, WI 53703
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Meeting Minutes - Approved ZONING BOARD OF APPEALS

Thursday, August 16, 2018

5:00 PM

210 Martin Luther King, Jr. Blvd.
Room 354(City-County Building)

CALL TO ORDER / ROLL CALL

Collins, acting chair, called the meeting to order at 5:07 pm and explained the appeals process.

Staff Present: Jacob Moskowitz and Cary Perzan

Present: 3 - Agnes (Allie) B. Berenyi; Patrick W. Heck and Winn S. Collins

Excused: 3 - Peter A. Ostlind; Dina M. Corigliano and Jessica Klehr

APPROVAL OF MINUTES

A motion was made by Berenyi to approve the July 19, 2018 minutes with amendments, seconded by Heck.

The motion passed (2-0) by voice vote/other with Collins abstaining.

DISCLOSURES AND RECUSALS

There were no disclosures or recusals.

PETITION FOR VARIANCE

1. [52722](#) Lewana J. Skeans, owner of property at 121 S. Marquette St., requests a variance to construct a two-story addition to the side of the existing two-story single-family house. Alder District #6

Moskowitz explained that the property in question had been zoned TR-V1 and is in the northeast section of the Atwood neighborhood by Fair Oaks. The setback is 4 ft. or 10% of the lot width. The applicant is proposing to convert the home to be 3 bedrooms and 2 bathrooms, and is requesting a 6 in. variance to the setback to be 3 ft. 6 in. to help facilitate construction of the addition.

Laura Sparks, representative of the applicant, Lewana Jill Skeans, noted that the addition was to help accommodate a growing family and the need for storage. The addition was designed to be built in a cost-effective manner that matches the 1940's style of the original home. The applicant has improved condition of property since purchase in 2015 with other renovations and general maintenance.

The Board questioned if the addition could be made zoning code-compliant. Sparks stated that doing so would create awkward dimensions in the bedroom in an already narrow space. She noted that on the first floor, an attempt was made to comply with the zoning code where possible. The Board asked about the placement of the closet and bathroom being positioned in the rear. Sparks responded that their placement on the current plans acts as a buffer from noise and sunlight and is more logical for daily use.

Heck noted that the adjacent neighbor's driveway is right on the lot line, which Sparks confirmed, and noted that the existing garage is at ground level, whereas the house is 3 ft. higher.

Heck moved to approve the variance as stated; Berenyi seconded the motion.

Review of Standards:

Standard 1: The Board noted that house was originally built 6 in. within required zoning setback, so the request for variance is related to a pre-existing condition. The narrow lot of the property is consistent with the rest of the neighborhood.

Standard 2: The Board noted that the zoning code, in part, is to maintain privacy between adjacent properties, but noted that 6 in. may not affect privacy greatly.

Standards 3 & 4: Board members noted that the house already sits within setback limits and the engineering required to bring the project into full compliance would be technically burdensome.

Collins noted that it would be an expensive alteration, and the applicant tried to minimize non-compliance with the design presented to the Board where possible. The layout of the closet and bathroom could be flipped into the new construction portion, but would affect use by the applicant and family members.

Standard 5: The Board concluded that the proposal of a 6 in. variance would not greatly affect adjacent properties and the immediate neighbor has a

driveway to act as a buffer that is likely to be in that location for a long time.

Standard 6: The Board concluded that the neighborhood has many 2-story houses of a similar size achieved through additions and that this addition would not be intrusive to the character of the neighborhood.

The Board voted 3-0 to approve the requested variance by voice vote.

2. [52723](#) John and Sue Flanery, owners of the property at 2114 Van Hise Ave., request a rear yard variance to construct a two-story addition to the side of the existing two-story single-family house. Alder District #5

Moskowitz explained the request for a 5 ft. 4 in. rear yard setback variance for a 2-story addition to the property.

Steve Connor, representative of the applicant John Flanery, stated the property was originally built in the early 1920s before the existence of the zoning code. He noted the original plans for the house included the proposed addition, but could not be built due to lack of funds and workers based on diary entries of original owner. Connor stated the original foundation for the addition exists 4-6 ft. deep, with frost wall to grade, in space currently occupied by a patio.

The Board requested clarification on the existing foundation and about basement walls. Connor was not completely sure about the date of its construction, but answered that the wall is in the same position as it was indicated in original building plans. He also indicated that the addition would match the existing house's style, color, and texture.

Heck moved to approve the variance as stated; Berenyi seconded the motion.

The Board had an additional question for Connor so Berenyi made a motion to re-open the public hearing; Heck seconded. The Board voted 3-0 to re-open the public hearing by voice vote.

The Board asked about a dormer currently present in the house, but eliminated in the addition plans. Connor responded that particular dormer is not included in the original plans, and was most likely added on the fly by the builders when the original plans were not going to be completed. He added that shingles will cover the space along with a simplified roof design.

Berenyi made a motion to close the public hearing; Heck seconded. The Board voted 3-0 to close the public hearing by voice vote.

Review of Standards:

Standard 1: The Board noted the house is already non-compliant due to its positioning in the rear of the lot and that by nature, corner lots make this less self-evident with their square shape.

Standard 2: The Board agreed with the notes in the Staff Report that the corner lot lessens the impact on adjacent 113 Bascom Pl. and that 113 Bascom Pl. is situated quite far back from the applicant's property. The Board also noted that the applicant is working with a pre-existing foundation that preserves privacy buffering to adjacent properties.

Standard 3: The Board determined that if the applicant were to comply with current setback requirements, the addition would result in a 1/3 smaller room, which would defeat the purpose of the addition to provide extra room, especially in the second floor master bath. New footings would also be necessary for altered plans to comply.

Standard 4: The Board determined that the addition is a logical way to create a more usable master bath.

Standards 5: The Board determined that being a corner lot helps minimize the impact on adjacent properties and privacy buffering is already accomplished by a large retaining wall and landscaping, as noted in the Staff Report.

Standard 6: The Board concluded that the proposal is characteristic of the existing house and that the Landmarks Commission issued a Certificate of Appropriateness for the project. Additions are common in this neighborhood.

The Board voted 3-0 to approve the requested variance by voice vote.

3. [52640](#)

Lt. Col. Daniel Statz, owner of property at 921 N. Wingra Drive, requests a fence height variance to construct a screening fence to a height not to exceed 9 ft. Alder District #13

Berenyi made a motion to have a joint public hearing for agenda items 52640 and 52032 with the understanding that the Standards must still be considered separately for each property; Heck seconded. The Board voted 3-0 to have a joint public hearing by voice vote.

4. [52032](#)

Louis Olson, owner of property at 1001 N Wingra Drive, requests a fence height variance to construct a screening fence to a height not to exceed 9 ft. Alder District #13

Moskowitz explained that the proposals are for adjacent properties in the Vilas neighborhood to build screening fences whose maximum height will vary along the line according to the grade: 921 N. Wingra Dr. (1 ft. 6 in. variance in orange section, 3 ft. variance in purple section, no variance in green section) and 1001 N. Wingra Dr. (3 ft. height variance for 50 ft. in purple section, 1 ft. 6 in. variance in height in orange section, no variance required in green section).

Lt. Col. Daniel Statz, applicant, stated his intent is to construct a screening fence that will block lights from the parking lot of the apartment building behind his property. He noted that due to the elevation between the parking lot and his property, a fence complying with the zoning code would be ineffective. The applicant stressed that he intends to step down the height of the fence where possible to bring its height as close to compliance as possible. He also stressed that the fence would add extra privacy and security for his property to discourage foot traffic. Lt. Col. Statz finished by adding that vegetation alone is not feasible due to required overhead power line maintenance and an existing retaining wall.

Louis Olson, applicant, stated his application has been deferred from the June Zoning Board of Appeals meeting, and has taken Board's comments and used them to amend his request. His goal is still to reduce the light from the neighboring parking lot. Olson noted that due to the grade change, a 9 foot fence would not appear overly high to the neighboring property and may not screen all light pollution from the parking lot. The slope and retaining wall of the adjacent property mean that a standard height fence would not block car headlights. He reiterated that landscaping would not provide sufficient screening.

The Board requested clarification of the applicants on the three sections of fence noted in their packets (green, orange and purple) and the necessary variance requested for each specific colored section. The applicants noted that extending the length and raising the height of the fence in the purple sections would help to reduce turn-in light pollution from cars entering the lot before it would drop to a lower requested height in the orange sections on each respective property.

The Board also requested additional information about the retaining wall on the neighboring property. Lt. Col. Statz stated that the wall, near his property, is not well-maintained and is slowly encroaching onto his property. Olson mentioned a similar situation and added that he believes repairs and maintenance of the wall has been hit or miss over past 18 years.

The Board requested information about the distance between posts of the fence, decorative caps, and how Olson's original application was amended to the current request. Olson stated he revised his application by working with Matt Tucker and the posts were engineered to minimize wind issues and to get height to successfully block parking lot light pollution. Lt. Col. Statz asked how the height would be enforced if the height of the retaining wall changed in the future. Moskowitz responded that the Zoning Department would enforce

whatever is approved by the Board and that caps are not an issue because of 50% opaque rule.

David H. Vogel, owner of property at 1009 N. Wingra Dr., spoke in support of the requested variances at both 921 and 1001 N. Wingra Dr. Vogel stated that Wingra Dr. is the lowest land in the area and that High Street, where the apartments are located, is much higher, so noise and light pollution from cars is a serious concern for all residents of the street. He stated it would be extremely helpful to make the fences as high as possible to alleviate these issues.

Berenyi made a motion to approve 921 N. Wingra Dr, with a friendly amendment, for a 1.5 ft. variance for 50 ft. as noted in the purple section; seconded by Heck.

Berenyi made a motion to approve 1001 N. Wingra Drive for a 1.5 ft. variance for 50 ft. as noted in the purple section; seconded by Heck.

Review of Standards:

Standard 1: The Board noted that for both 921 and 1001 N Wingra Dr. the gradation drop from abutting High St. from high to low creates a unique problem for both properties as mixed-use apartment buildings sit on the higher gradation.

Standard 2: The Board noted that the maximum fence height would be mitigated by the retaining wall on the abutting rear properties, making the fences on both 921 and 1001 N. Wingra Dr. not look unusually tall. The Board also noted that were the fence height in compliance it could not achieve its intended purpose to block light pollution from the parking lots for both properties.

Standards 3 & 4: The Board concluded that for both 921 and 1001 N. Wingra Dr. it is burdensome to comply because the fence height would not block most light pollution from the rear abutting parking lot, especially with larger vehicles. It would also be an economic hardship to the property owners if they built a fence that could not fulfil its purpose to block the light pollution. The Board noted that both property owners tailored their respective fence design to minimize zoning impact, and that adding additional length to the fence would ease the burden of turn-in light pollution.

Standard 5: The Board concluded that the tapering of the fence lessens the burden to other adjacent properties on High Street so that there is minimal net impact with the differing grade for the fences for both 921 and 1001 N. Wingra Dr.

Standard 6: The Board concluded that with the gradation difference that is noted in the staff report, the fence will not appear out of character with the neighborhood for both 921 and 1001 N Wingra Dr.

The Board voted 3-0 to approve the requested variances for both 921 N. Wingra Dr. and 1001 N. Wingra Dr. by voice vote.

5. [08598](#) Communications and Announcements

Matt Tucker and Cary Perzan will be at the September meeting.

ADJOURNMENT

The Board adjourned at 6:52 pm.