

**MINUTES  
BOARD OF APPEALS  
Monday, July 15, 2013  
City Hall, Room 604  
5:30 p.m.**

**MEMBERS PRESENT:** D. Carlson, B. Maccaux, J. Bunker, R. Marx

**MEMBERS EXCUSED:** J. Reck

**OTHERS PRESENT:** P. Neumeyer, A. Lindley, C. Lindley, S. Wegner, T. Wegner, S. Omernik, R. Proefrock, L. Trick, D. Chrouser, and Ald. J. Moore

D. Carlson called the meeting to order and asked the Board if anyone needed to abstain from voting; all replied no. He asked if any members had gone to the properties or talked to anyone regarding the requests; all replied no. D. Carlson stated he visited 2101 Mahon Court for Item #2 and 538 S. Van Buren Street for Item #4.

**APPROVAL OF MINUTES:**

Approval of the June 17, 2013, minutes of the Board of Appeals

A motion was made by J. Bunker and seconded by R. Marx to approve the June 17, 2013, minutes of the Board of Appeals. Motion carried 4-0.

**NEW BUSINESS:**

1. Adam & Collen Lindley, property owners, proposes to install a new pool within their rear yard located in a Low Density Residential (R1) District at 1024 Lark Street. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code Section 13-531(a), interior and rear yard setback.

A. Lindley is requesting the variance due to the small size of the lot. The applicants did not realize a permit was required for the pool installation. The pool is not permanent but was installed. The applicants were in the process of installing a six-foot privacy fence along the side of the house. The variance is for the distance between the pool and the fence on the side property line. The entire width of the yard is approximately 56 feet.

D. Carlson asked what hardship will be endured by the applicants if the request is not approved.

A. Lindley said his children and the neighbor children would have no place to swim without being transported to a public pool such as Joannes.

D. Carlson asked if side yard distance is different for in-ground and above-ground pools.

P. Neumeyer said it is the same for both.

D. Carlson said the code allows for recreational playground equipment to be within the setback, and that could actually be permanent unlike this temporary pool that is taken down every fall and put up again in spring. P. Neumeyer said the code deems playground equipment to be temporary in nature.

A motion was made by J. Bunker and seconded by R. Marx to approve the request to install a new pool within the rear yard located in a Low Density Residential (R1) District at 1024 Lark Street. Motion carried 4-0.

2. David Chrouser, Mau & Associates, on behalf of Scott & Tammy Wegner, property owners, proposes to allow existing fill to remain located in a Varied Density Residential (R3) District at 2101 Mahon Court. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code, Section 13-515(b)(3), protection of natural slopes 20% or greater.

Dave Chrouser, Mau & Associates, represented the applicants. The garage is behind the home on this property. The applicants wanted to extend the slope out to lessen the steepness of it for safety purposes. The applicants were not aware permits were required for filling, so they completed the work without being properly permitted. The City brought this to their attention, and now they are applying for the variance to be in compliance. The only work left to be completed at this time is to add topsoil for appearance purposes. The hardship is the safety factor – a past owner died from injuries sustained on the property due to the slope. Bob Toonen owns the apartment complex near the property, and his only concern with the request is that the applicants finish the process by laying topsoil and seeding it so the property looks nice.

D. Carlson said he visited the property and agrees the area needs topsoil. D. Chrouser said a stop work order was put on the project; otherwise the topsoil would have been deposited already.

Ald. Moore said he spoke with the applicant and does not believe the applicant knew there was a permitting process to go through. Also, the complainant said there are no issues as long as the area is covered with grass. It would truly be a hardship for the homeowners to undo what has already been done to the slope. He is in support of the variance request.

P. Neumeyer said the code is trying to protect steep slopes from erosion. The City needs to know the consistency of the fill.

D. Carlson asked if the City would allow the home to be constructed today according to the current code. P. Neumeyer said it would require a geotechnical survey to see the exact grade of the slope.

J. Bunker asked if it was possible to add more fill to the area to lessen the slope even more. D. Chrouser said the applicant wanted to keep the trees on the property, and if more fill was added, the trees would not survive.

D. Carlson did not foresee any drainage issues when he viewed the property, but the applicant has left the slope pretty steep. He would like the space between the slope and the property line to remain instead of filling the slope to the property line.

P. Neumeyer said according to the code the applicant must have an engineering solution for the slope steepness and must have a better description of the fill.

S. Wegner said it is mostly broken concrete & clay.

D. Chrouser stated that the fill area would not be constructed on and they would like to add top soil to the area.

D. Carlson asked why the City would have an interest in the quality of the fill. P. Neumeyer said this is an extreme case, and the City is concerned about erosion, drainage, and lack of an engineering plan.

D. Carlson was hesitant to have the applicant create an engineering plan for something that is already there.

D. Carlson stated the code doesn't address the extent to which a slope can be modified and felt the slope had already been modified. P. Neumeyer did not agree.

A motion was made by J. Bunker and seconded by R. Marx to approve the request to allow existing fill to remain located in a Varied Density Residential (R3) District at 2101 Mahon Court with the conditions that at least four inches of topsoil is deposited and seeded as soon as possible. Motion carried 4-0.

3. Sheri Omernik, Orde Sign & Graphics, on behalf of Neufeld Properties, property owner, proposes to modify existing pylon and wall signage in a General Commercial (C1) District at 1616 W. Mason Street. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code Section 13-2010, Table 20-2, maximum total signage, maximum size for one wall sign, and maximum number of attached signs per wall.

Sheri Omernik, Orde Sign & Graphics, said Burlington Coat Factory wants its sign directly in front of the building proportionate to the space available. The letters in the sign are over 200 feet (288 feet), which requires a variance. In addition, only one sign per frontage is allowed per code. The sign for Baby Depot is currently not in compliance; however, Baby Depot is Burlington's national brand name and therefore is very important. Finally, a property is allowed 1,084 square feet of signage. In order for Neufeld Properties to secure a second tenant in the building, they must be able to provide adequate signage possibilities. Therefore, an additional 332 feet of allowable signage is being requested at this time but for future tenant use.

J. Bunker feels it would be a hardship to lease the second space when the property owner could not offer adequate signage. He feels the signage would be an improvement and is in favor of the request.

D. Carlson feels the request is reasonable, consistent with other variances granted in the past, and is in favor of the variance request.

A motion was made by J. Bunker and seconded by B. Maccaux to approve the request to modify existing pylon and wall signage in a General Commercial (C1) District at 1616 W. Mason Street. Motion carried 4-0.

4. Loren C. & Cindy L. Trick, property owners, propose to replace an existing fence located in a Low Density Residential (R1) District at 538 S. Van Buren Street. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code Section 13-521(a)(1), maximum height and placement of a fence.

Loren Trick, 538 S. Van Buren Street – He said the corner lot is non-traditional in that it once was an interior lot before the corner lot was removed. There is an existing fence on the back lot line and on the line parallel with Mason Street. He would like to replace the existing fence as it sits today. Along Mason Street, he would like to have no setback. There is a 7- to 10-foot distance between the existing fence and the existing sidewalk that is within the right-of-way. He would like to reconstruct that portion of the fence to a six-foot height on the property line rather than a traditional corner lot side yard setback. The second portion of the request is to construct the six-foot fence across the entire façade of the primary building. The construction will be identical to his neighbors on the east and west. The hardship for this variance is maintaining the portion of property outside of the fence and also issues with trespassing.

Rebecca Proefrock, 532 S. Van Buren Street – She spoke in support of the request.

A motion was made by R. Marx and seconded by J. Bunker to approve the request to replace an existing fence located in a Low Density Residential (R1) District at 538 S. Van Buren Street. Motion carried 4-0.

A motion was made by J. Bunker and seconded by B. Maccaux to adjourn the meeting at 6:18 p.m. Motion carried 4-0.

Meeting adjourned.