

**MINUTES  
BOARD OF APPEALS  
Monday, March 21, 2016  
City Hall, Room 604  
5:30 p.m.**

**MEMBERS PRESENT:** Don Carlson – Chair, Greg Babcock - Vice-Chair, Rob Marx, and Thomas Hoy

**MEMBERS EXCUSED:** None

**OTHERS PRESENT:** Mark Lyons, Phil Jennings, Mark Nysted, Andy Loch, Ron Antonneau, Steve Bieda, Michael Martin, Jason Gosseck, Jason Switalski, Aaron Breitenfeldt, Chester McDonald, and Jared Schmidt

D. Carlson called the meeting to order and asked if Members had gone out to the properties. T. Hoy and D. Carlson went to all the properties and G. Babcock stated he went to all properties except for 1156 Hobart Drive. He then asked if any members had spoken to anyone regarding the variance requests. All stated no. D. Carlson then asked Members if anyone needed to abstain from voting. All stated no.

**APPROVAL OF MINUTES:**

Approval of the January 19, 2016, minutes of the Board of Appeals.

A motion was made by T. Hoy and seconded by G. Babcock to approve the January 18, 2016, minutes of the Board of Appeals. Motion carried. (4-0)

**OLD BUSINESS:**

**NEW BUSINESS:**

1. Phil Jennings, Creative Sign Company, on behalf of Tri-City Glass, property owner, proposes to install a wall sign located in a General Commercial (C1) District at 1811 East Mason Street. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code, Section 13-2010, maximum area for a wall sign.

Mark Nysted – 374 S. Huron Road: M. Nysted stated he is from Keller Construction and is the contractor for the project. He stated it was brought to his attention from P. Jennings that the signage that they were planning on using exceeded the 200 sq. ft. allowance for signage. The façade of the building is approximately 4400 sq. ft. The sign has individually back lit letters and shapes. The sign they have planned is at 338 sq. ft., which is less than 10 percent of the frontage of the whole building. Board members were provided with renderings of the final plan for the sign.

Phil Jennings – 505 Lawrence Drive, De Pere: P. Jennings provided specifics regarding the sign. This included how the sign was lit and size of the sign. The sign will not be any issue with illumination at night.

D. Carlson asked the petitioners if their argument is that they would like a variance for a larger sign and that if they were to adhere to the ordinance, the sign would be inadequate in size. P. Jennings stated that was correct and that the size would not look proportional with the building. D. Carlson asked how big the current sign is. P. Jennings stated he did not know, but did give measurements of the new sign.

A conversation then ensued between Board members. T. Hoy stated that he liked the fact that the sign is back lit and that there are no residential properties in the area that will be affected by the sign. He also stated that he traveled to another property that will have a similar sign as to what Tri-City Glass will be using. D. Carlson stated he did not see a problem with the larger sign. G. Babcock stated that the new sign will look nice and that it's not overly big and does not have an issue with the variance. R. Marx agreed.

A motion was made by R. Marx and seconded by T. Hoy to grant the variance as requested. Motion carried. (4-0)

2. Andrew J. Loch, property owner, proposes to retain an existing front stoop located in a Low Density Residential (R1) District at 1156 Hobart Drive. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code, Section 13-604, Table 6-2, front yard setback.

Andrew Loch – 1331 Delray Drive: A. Loch stated that the City of Green Bay Inspection Department informed him that the front stoop that he has is non-conforming and either a variance is needed to keep the stoop or it will need to be torn down and rebuilt to proper setback parameters. A. Loch stated he believes the stoop is a foot and a half into the set back. He stated that the house sits very close to the lot line and the front door is the only common door where the stoop could be built.

D. Carlson asked A. Loch if he will be adding a railing. A. Loch stated no, but he would if it's required and that is the reason why he built it lower to the ground so he didn't have to add one. D. Carlson clarified the reason for the stoop being placed in the front is that there is no other place to put it, and it was built bigger than allowed. A. Loch stated that was correct.

A conversation then ensued between Board members. R. Marx asked if this was strictly regarding setbacks, in which M. Lyons stated that was correct, just the front setback. The front setback size is based on the front of the neighboring houses. There were no issues with granting the variance.

A motion was made by R. Marx and seconded by T. Hoy to grant the variance as requested. Motion carried. (4-0)

3. Steven M. Bieda, Mau & Associates, on behalf of Ledgeview Development of Brown County, LTD., property owner, proposes to construct a sportsman club and parking area located in a Low Density Residential (R1) District, located at 3597 Nicolet Drive. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1820 (b) 15 ft. transitional yard.

Ron Antonneau – 3589 Nicolet Drive: R. Antonneau stated he is the neighbor to 3597 Nicolet Drive. He stated that he and M. Martin have come to an agreement and he is fine with the project as long as they keep 4 ft. from the property line and don't bring the driveway down to the water past his house.

Steve Bieda – 400 Security Blvd: S. Bieda stated this property used to be a commercial property, which was a sailing club with a boat ramp. He stated that M. Martin would like to place a building on the property to store his boat and duck hunt. He then explained to Board members the layout of the property and where the new building will be built. The lot was zoned commercial, however, the way M. Martin wanted to utilize the lot, suggested by Planning Staff, should be rezoned to residential with a Conditional Use Permit (CUP) to allow for the Duck Shack to be used as a gathering place.

Michael Martin – 3597 Nicolet Drive: M. Martin stated that they also have interest from UW-Green Bay in renting some storage space.

D. Carlson asked M. Lyons to explain the variance. M. Lyons explained that once they received the CUP, it triggered the transitional 15 ft. yard requirement along the CUP in a residentially zoned property. He stated they are seeking to put the driveway along that property line within the 15 ft. required transitional yard and would like to reduce the transitional yard to accommodate the driveway. The CUP has conditions to include landscaping along the south property line, and foundation landscaping along the building and in the parking area to reduce vehicle lights. This will not affect R. Antonneau's property.

D. Carlson confirmed with M. Lyons that the variance is being triggered by the fact that there are two different zonings with the two adjacent properties. M. Lyons stated that was correct and that they are now both zoned single family residential. However, the CUP for the sportsman club has triggered the transitional yard requirement. D. Carlson clarified that if it wasn't for that, there wouldn't be a need for a variance. M. Lyons stated that was correct.

D. Carlson did have some concerns regarding the driveway. M. Martin stated that the driveway has been along the side of R. Antonneau's property for 30+ years and was used when the sailing club was in business. M. Martin did show pictures to Board members regarding the driveway.

A discussion then ensued between the petitioners and Board members regarding the specifics of the CUP and the operation of the Duck Shack. D. Carlson asked if the driveway can be moved to accommodate the 15 ft. transitional yard. M. Martin stated they could, but he doesn't see the point as the road has always been there, the neighbor doesn't have an issue with it, and the traffic will be very light.

G. Babcock asked if the driveway will be improved or if it will be left as is. M. Martin stated only if it was required. M. Lyons stated that a hard surface will be required as that is the standard code.

A conversation then ensued between Board members. G. Babcock stated he does not have an issue with the variance, especially since the neighbor does not have an issue with the request. T. Hoy and R. Marx also agree with the variance. D. Carlson stated that he did have his concerns addressed and no longer has any issues with the variance.

A motion was made G. Babcock and seconded by T. Hoy to grant the variance as requested with a 4 ft. minimum transitional yard. Motion carried. (4-0)

4. Jason Gosseck, property owner, proposes to retain an existing fence in the front yard located in a Low Density Residential (R1) District at 722 Stuart Street. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-521, maximum fence height in the front yard setback.

Jason Gosseck – 722 Stuart Street: J. Gosseck stated he purchased the property last June contingent on the purchase of the lot next door to merge it with his current property to create a side yard. Soon after purchasing the home he constructed a fence and eight months later he received a letter stating that a permit was needed for the fence. He stated the fence is aesthetically pleasing and is well maintained. They own dogs that can clear a 4 ft. fence and that is why a taller fence is needed and for security purposes.

D. Carlson asked if the point they are trying to make for a taller fence is due to their dogs and the neighbors next door. The petitioners stated it's not necessarily the neighbors next door, but the neighborhood as a whole as it is undergoing redevelopment.

The applicants also asked that the Board consider a side yard. They stated that everything they have received is noted that it is a front yard and the fencing for a side yard is a 6 ft. fence and front yard is a 3 or 4 ft. fence back off the sidewalk. D. Carlson stated that is a good point and asked about the consolidation of the two lots. J. Gosseck stated that initially that is what they wanted to do, but it couldn't be done until the first of the year due to tax purposes. He was under the impression that after the first of the year that would become his side yard. J. Gosseck stated that the vacant lot used to be 720 Stuart Street.

D. Carlson asked M. Lyons if he had any information on this property. M. Lyons stated that the fence is within the front yard setback along the side yard, because it's within the required 15 ft. setback from the street. That is why they are going from the 3 ft. to the 6 ft. and it applies to the right portion of the diagram because that is still considered the front yard. It is both the front and the side yard setbacks that we need a variance for. Everything within the required front yard setback will need to be 3 ft. because it is a solid fence. R. Marx asked if the front yard setback requires a variance. R. Marx then asked if the fence lines up with the front of the house. M. Lyons stated that the house is actually closer than what today's front yard setback would be. He stated that if this was a brand new home, it would be set back farther. R. Marx asked if the front yard setback was based on the normal setback of the neighborhood. M. Lyons stated that without knowing all of the dimensions, he cannot calculate how much of the fence falls within. A conversation continued regarding the calculations of the front yard setbacks. T. Hoy stated that there are a number of 6 ft. fences in the area.

A conversation ensued between Board members. D. Carlson stated that he does not have an issue with the request. R. Marx and T. Hoy also did not have any issues with the request. G. Babcock disagrees and does have an issue with the request. He stated he doesn't think there is a hardship and thought the fence stood out.

A motion was made by R. Marx and seconded by T. Hoy to grant the variance as requested. Motion carried. (3-1) (Noes: G. Babcock).

5. Joel Ehrfurth, Mach IV Engineering, on behalf of Corey W. & Kim C. Capwell, property owners, proposes to construct a B&B Inn in a General Commercial (C1) District at 2607 Nicolet Drive. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code, Section 13-1820 (b), 20 ft. transitional yard and Section 13-1821, interior lot landscaping.

This item has been recommended to be postponed until the April meeting.

A motion was made by R. Marx and seconded by T. Hoy to postpone this item until the April Board of Appeals meeting. Motion carried. (4-0)

6. Aaron Breitenfeldt, Robert E. Lee & Associates, Inc., on behalf of McDonald Lumber Company, proposes to fill and construct a “lay down yard” in a General Industrial (GI) District at 2221 Angie Avenue. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1714, surfacing.

The Petitioners stated that McDonald Lumber owns a large portion of the industrial park along Angie Avenue, Bay Beach Road, and N. Quincy Street. One of their tenants along Angie Avenue uses some space for outdoor storage, Boarder States Electrical Supply. They are looking to bring on some larger electrical poles and transformer equipment and need extra space and direct access to the rail line. The McDonald’s are working with Green Bay Metro to possibly lease their parcel along Quincy Street. They are looking to fill the parcel to get it up above the flood plain and would like to place a permanent gravel surface to allow for outdoor storage of equipment. In 2006 a variance was granted for the McDonald’s to maintain a gravel surface on this existing parcel. In 2009 the McDonald’s were granted a permanent variance to keep and maintain the gravel surface, providing the usage did not change. They are looking for an extension of the existing variance.

They are looking to initially fill about four acres up to about 10 acres. They would like to permit the full 10 acres if possible. T. Hoy asked if they will be using the same surface as CTS and they stated that was correct. A conversation continued regarding truck and rail traffic for deliveries and kicking up of dust and gravel. The visibility from any residential home or Bay Beach is minimal. G. Babcock asked if the hardship was financial or if there was more to it than that. They stated it is mostly financial as upfront costs are a big part of it and also the transformers are heavy pieces and it would be difficult to maintain any type of covered surface. They continued to discuss the different paving surfaces and the cost of them. D. Carlson asked if this has been through any City Planning considerations. They stated they submitted an initial site plan application for the purpose of coming to the Board and identifying any other issues that there might be. He also stated that the use is consistent with the general industrial. They also stated that they will have to abide by post-construction storm water and during-construction storm water. Preliminary plans were shared with Board members.

G. Babcock asked if the EPA was involved. They are in the process of working with the DNR independent of the City to get a DNR construction permit. The EPA’s jurisdiction is mostly covered by the DNR.

D. Carlson asked for the property boundaries for the McDonald property and the Green Bay Metro boundaries were shown and explained by the petitioners.

D. Carlson asked M. Lyons what the City’s argument would be regarding this variance. M. Lyons stated that as a general planning principle, they do like to see areas paved but it would be a lot of asphalt if it was paved. In most cases they would stand by the code and the code doesn’t differentiate size or location of the parcel. It simply states anything used for parking or storage should be surfaced.

D. Carlson stated that they have a surface issue but not a dust issue. Their argument is one that is economic mitigating that this is an industrial area. M. Lyons asked the petitioner if they are proposing that their drive is asphalt with rumble strips. They stated no, that there will be a shared driveway along Quincy Street and showed where it will be paved. Just past the tracks it will be converted into the gravel surface. M. Lyons asked if they would consider putting in rumble strips. They stated they can. M. Lyons stated that is a common solution to help with

dust control. This will knock extra dirt off the trucks so they are not making excess dust or tracking off site.

G. Babcock stated that he does have some concerns about the dust as it is a large area and the precedent they could set by granting the variance. He stated they may want to consider adding conditions on to the request. He does understand the financial impact of the project, but has an issue with the dust in the environment and kids around the area. However, on the other hand, they do have a good track record and have a plan in place. He does not have a problem granting the variance as long as everyone else is comfortable with the granting the variance.

T. Hoy stated that they are already parking trucks there now and haven't had any issues. He has no issue with granting the variance.

R. Marx stated that if it was existing gravel, and has been there for years, and the variance request was to keep it that way, he wouldn't have a problem with it. He questions trucking in four acres of gravel. He stated that it doesn't meet the code and therefore is unsure at this point.

D. Carlson stated that he believes that R. Marx and G. Babcock are concerned about the fact they don't know how the property is eventually going to be used. They don't have a lot of say once they let the variance go. They can condition it and do various things, but generally speaking, a variance is forever. They would be making the assumption that the similar development that they have across the street is forever as well. If they are going to continue to make that a gravel part of town, they are essentially going to guarantee it if they grant this variance.

R. Marx agreed with D. Carlson in the essence they are saying it is acceptable to have that whole area in gravel.

D. Carlson asked the petitioners if they postponed their decision, if it would be possible for them to come back and talk about this with an alderman or someone who can explain to them the City's plan for this area. They are uncomfortable making that decision of yes or no to possibly changing the area as far as being a "gravel" area. This essentially should be a City Planning question.

The petitioners stated that waiting for an additional month should not be an issue. They then asked if bringing specific evidence to clarify everything would be helpful. D. Carlson stated that it would be helpful and that 30 days would help them bolster their argument.

G. Babcock asked at what point does the owner of the lot have culpability of the decision, the owner being the City. He feels they have been "put on the spot" to make a decision about how the City is going to develop this lot. They may need to hear from GB Metro.

A motion was made by G. Babcock and seconded by T. Hoy to table this item until the April Board of Appeals meeting. Motion carried. (4-0)

A motion was made by R. Marx and seconded by G. Babcock to adjourn the meeting at 6:50 p.m. Motion carried. (4-0)

Meeting adjourned.