

MINUTES
BOARD OF APPEALS
Monday, May 16, 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: Paul Neumeyer, Ald. Barbara Dorff, Ald. M. Steuer, Jerry Wiezbiskie; Corey Capwell, Sheryl Michaud, Tom Heyrman, Diane Heyrman, Jim Michaud, Rachel Georgia, Roger Georgia, Rochelle Warner, Greg Warner, Mike Kanzenbach, Nora Kanzenbach, Keith Hipke, Naomi Johnson, Bonnie Ziemer, Albert Lorenz, Patricia Lorenz, Edward Littlejohn, and Scott Batterham

D. Carlson called the meeting to order and asked if Members had gone out to the properties. R. Marx stated he went to the first address, T. Hoy and G. Babcock stated they went out to all properties, and D. Carlson stated he went to the Nicolet Drive property. 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 April 18, 2016, minutes of the Board of Appeals.

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

OLD BUSINESS:

1. 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.

Corey Capwell – 2607 Nicolet Drive: C. Capwell asked the Board to table the request because Mach IV Engineering is drawing up a new site plan that will not require any variances; however, he will not know definitely until it is reviewed by Planning staff. D. Carlson clarified with C. Capwell that he would like to have the new site plan and the current site plan and proposed plan before them tonight to come back to a future meeting so the two can be compared. D. Carlson stated they will consider tabling the item, but will open the floor for public comments. C. Capwell stated that the building is bigger than originally planned as they do plan on living at the B&B. The variance he is asking for is not for him, but for neighbors because they didn't like the building next to them. Some of the modifications made included pulling the building back which then they need to extend the parking out and into the set back. He stated that with the new site plan, the building will be closer to the Bay and will not need any variances.

D. Carlson asked what would happen if they denied the variances tonight. Capwell stated before it's denied he will withdraw his application and go forward with the other plan. D. Carlson stated

he just introduced an alternative, which Capwell stated he didn't want to do. D. Carlson asked if the new plan would be something the neighbors would like or is it just a way to avoid the variances. Capwell stated it is to avoid the variances, and doesn't think the neighbors will like it and that the current plan is the one best for the neighbors. D. Carlson asked if the meeting with the neighbors took place as requested from the previous meeting. He stated no.

A conversation ensued between Board members. D. Carlson asked if they should continue discussing the issue and let the public speak or deny the variance. G. Babcock's concern is if they deny it, how would it affect a future application. R. Marx and T. Hoy agree with D. Carlson.

Ald. B. Dorff received many calls opposed to the granting of the variances. Fliers were distributed to call her to speak against the granting of the variances. Many are opposed to having the B&B. She stated she tried to explain that the B&B has already been approved and that variances were needed regarding setbacks. Fears of having a B&B included human trafficking, rent by the hour rooms and decrease in property values. She stated a decision needs to be made to lessen the anxiety of the neighborhood.

Sheryl Michaud – 2603 Nicolet Drive: She still has an issue with the commercial zoning and should be zoned residential and questioned adverse possession. She wants the 20 ft. kept from the property line. She is upset the land was not surveyed prior to the item being brought before the Plan Commission. P. Neumeier stated that a survey is not required.

D. Carlson stepped in and stated that they are addressing the variances for the project, and cannot do anything regarding her adverse possession question or anything regarding the zoning. A conversation continued as to why residents were not involved in the rezoning of the property. P. Neumeier briefly explained the zoning process through the Plan Commission.

Tom Heyrman – 2615 Nicolet Drive: His concern is the zero green space between the parking lot and the road and parking between the road and parking lot in a mixed use and residential district. He questioned the number of parking spots needed and how will it follow the ordinance. He also submitted additional signatures for a petition challenging the variances requested. P. Neumeier stated this is not a mixed use area, but is a Commercial District (C1).

D. Carlson stated the issues being brought up are again outside of what is being requested. T. Heyrman stated no, that the variance is for the green space in the parking lot and that the parking lot location is wrong. P. Neumeier explained the parking requirements and how they are calculated. T. Heyrman stated there will be parking issues along Nicolet Drive.

Greg Warner, 2451 Remington Road: He stated neighbors want a B&B and not a hotel as everyone is against having a hotel. He stated there should have been additional variances as it is more than a B&B with the common spaces/banquet hall for weddings and should now be considered a hotel/motel. He doesn't see that there is a hardship present, according to the definition of a hardship on the City's website. The only hardship it is causing is a hardship to the neighborhood.

T. Hoy interjected and stated that the Board asked for the item to be tabled at the last meeting so they can review all the documents. He asked G. Warner if he had any new information to present. He did give to Board Members a summary of his statements presented tonight.

D. Carlson again informed G. Warner that the issue tonight is variances. He stated he gets the impression that if the variances are denied that all their concerns will disappear. D. Carlson stated they are prepared to address an opportunity to see what the Capwell's are proposing as

an alternative to. The decision that is made tonight will not turn down the B&B proposal. G. Warner again stated no one is against a B&B, but they do not want a hotel, and if they are not allowed the variances, and cannot expand beyond the scope of the building and will have a smaller footprint or building and that will alleviate a lot concerns and parking along Nicolet Drive.

D. Carlson asked G. Warner if he wants them to make a decision based on what has been seen or does he want to see the alternative the Capwell's are proposing. G. Warner finally stated that he would like to see an alternative plan and then kept questioning how that will change anything.

Many conversations continued between Board Members, the public and P. Neumeyer regarding zoning, lot lines, surveys, certified survey maps, business at the Carlton Inn, and information presented/approved at the Plan Commission Meeting and City Council.

Jim Michaud – 1304 Memorial: He stated he was representing his brother, John Michaud. He read into record a letter from his brother regarding his opinion about the B&B. In Summary, he would like to see a 20 ft. set back off the fences and a tall hedge adjacent to the fences to hide the hotel and provide privacy and noise abatement.

Discussion continued against the project. The main issues were the fact that it is now a hotel and parking. R. Marx asked if everything remained on the same lines but was considered a B&B if this would change the position for the neighborhood. Comments were made that they wouldn't be having this issue if there was a smaller footprint. Someone stated no one would have any issues if all the ordinances were followed.

D. Carlson stated that the issues this evening are planning issues and not variance issues and are beyond the scope of what this board would like. If they deny the variances to the Capwell's, there will not be a magic little "Astor House" that appears on the property. They are not here to decide what the Capwell's can put on the property; that has been decided. They are only here to decide whether there are variances that go along with the project they are proposing.

Additional conversations ensued regarding the new site plan and if variances will be needed regarding parking and the fact that it should be reviewed by the residents in the area. P. Neumeyer stated it will be reviewed against the codes and if variances are needed it will come back before the Board of Appeals.

All Members agreed that something does need to be done today. G. Babcock stated he feels a hardship has not been met and feels comfortable denying the variance. He stated it's the variance they are not upset about as much as the building and the issue is not solved today by denying the request. R. Marx disagrees and stated that the issue is solved by denying it. As long as the City agrees that it meets all ordinances and no variances are needed, they can build whatever they want.

A motion was made by R. Marx and seconded by T. Hoy to deny both variances as presented. Motion carried (4-0).

NEW BUSINESS:

2. Mike Kanzenbach, property owner, proposes to replace a detached garage in a Low Density Residential (R1) District, located at 510 Cass Street. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code, Section 13-615, Table 6 4, side yard setback, distance between buildings, and Section 13-1709 setbacks for parking areas.

Mike and Nora Kanzenbach – 510 Cass Street: N. Kanzenbach stated they are tearing down an old garage and building a slightly bigger garage. M. Kanzenbach stated that the current garage is already non-conforming, and they want to add an 8 x 10 addition on to the back of the garage. The biggest issue is they are too close to the lot line, partially due to the way the lot was originally designed. They want to build one that will be functional and architecturally sound and add an addition and place it on the same footprint as it is on now. D. Carlson asked if they spoke to the neighbors. N. Kanzenbach stated they have a letter of support from the neighbor behind them, which is where the garage would be touching their yard.

Ald. M. Steuer stated this request was just approved at the Historic Preservation Commission (HPC) meeting tonight. They are recommending a smooth wood finish siding and for the garage door have a design pattern creating a similar look as to what the current structure looks like.

D. Carlson asked the Kanzenbach's if they agreed with the material recommendation from the HPC. They both stated yes.

G. Babcock stated that he did go out to the property. The property is very small and garage is in rough shape. T. Hoy stated it would be a welcome change to the neighborhood.

A motion was made by R. Marx and seconded by G. Babcock to approve the variance as requested using materials recommended by the HPC. Motion carried (4-0).

3. Jayme J. Hipke, property owner, proposes to expand an existing driveway in a Low Density Residential (R1) District at 1145 Bond Street. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1705(b), parking shall lead directly to a garage or parking space.

Keith Hipke – 1606 Park Ave, Oconto: He stated he is representing Jayme Hipke. There is a green space, 6.5 x 19 ft., that they want cemented, which would be a foot wider than the existing sidewalk, and to expand the apron to create a parking space due to snow removal, the driveway being so narrow, and moving of vehicles.

Naomi Johnson – 1146 Bond St: She provided a picture of the green space that they want to concrete, which is a good portion of the front lawn. She is afraid if one person does it, then everyone will want to. She also presented letters from neighbors who oppose the request and devalue their property.

D. Carlson asked if she was opposed to the request based upon that it is unnecessary and a detriment to the neighborhood.

Bonnie Ziemer – 1164 Bond St: She also shares N. Johnson's reasoning for opposing the request.

Ald. M. Steuer stated he is the Alderman of this district. He stated he has spoken with some of the neighbors. He stated it is an older neighborhood and the lots are not very wide. He understands the reasoning for the request, but aesthetically it would not fit in the neighborhood. He does feel having to move vehicles around is not cause for a hardship. He is asking Board Members to deny the request.

T. Hoy stated he has a safety issue with having a parking space in front of the main door to the dwelling. He would deny it for this reason. G. Babcock stated he would deny it as it is more of an inconvenience compared to a hardship. D. Carlson agreed.

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

4. Albert & Patricia Lorenz, property owners, propose to expand a driveway and add two detached accessory structures within a required setback in a Low Density Residential (R1) District at 384 Bretcoe Drive. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code, Section 13-1705(b), parking shall lead directly to a garage or parking space, and Section 13-615, Table 6-4, front & corner side yard setback.

Albert and Patricia Lorenz - 384 Bretcoe Dr.: They are proposing to add a shed on the side of their property. Their property is very long and narrow. The placement of the shed would be approximately 23 ft. to 25 ft. from the street as they are on a corner lot. They also want to place a 10 ft. x 10 ft. gazebo at the corner of the house and to widen the driveway to allow a walkway into the back yard and so they can get into and out of their vehicles in the winter time.

D. Carlson asked if they are adding a parking spot. They stated no, just to widen it and have a sidewalk going to the back of the house. D. Carlson then summarized the information and the three variances the Lorenz's are asking for. He asked if the shed would be used for storage, which A. Lorenz stated yes to make room in the garage for their vehicles. Their argument is that they have a very narrow lot and the back of their yard slopes down and they have a big tree which limits their space.

D. Carlson asked P. Neumeyer if there was an issue on the extended driveway and a parking space in the front setback. P. Neumeyer stated it is technically located in the front yard setback, however, if it was back behind the structure it wouldn't be an issue. A conversation continued between the applicants and board members regarding the driveway expansion and what is allowed.

R. Marx asked if they would be opposed to starting the taper of the extended sidewalk from the other side of the sidewalk to make it more conforming. He then explained to them in detail what he is proposing. They stated they would be fine with that. T. Hoy asked how close the gazebo would be to the house. They are not sure of the distance, but it will not be up against the house.

R. Marx stated that his only concern was regarding the sidewalk, which they agreed to the tapering. G. Babcock stated he was ok with the request and the modifications made.

A motion was made by R. Marx and seconded by G. Babcock to grant the variances as requested with modifications to extend the driveway to meet taper requirements. Motion carried (4-0)

5. Edward Littlejohn, property owner, proposes to construct a detached garage located in a Low Density Residential (R1) District at 1031 Hickory Hill Drive. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-615, Table 6-4, front and corner side yard setback.

Edward Littlejohn – 1031 Hickory Hill Dr.: E. Littlejohn stated the City made him tear his garage down 5 years ago and didn't have the funds to replace it. He is now able to build one but not in

the same place as the old garage due to a pine tree now growing there. In order for him to have the garage built in the same place, he would have to remove the tree, and doesn't want to do that. He wants to bring the garage forward to about an inch behind the house. This will allow for more green space behind the garage and will give him a little bit of a back yard.

P. Neumeyer stated the front setback should be 55 ft. from the right-of-way line.

E. Littlejohn stated he needs a garage to park his van and use it for storage. A conversation continued regarding options and the possibility of attaching the garage to the house and other setback issues. The garage would sit less than 4 ft. from the house if it stays as a detached garage.

A conversation then ensued between Board Members. It was decided a variance would be needed no matter which way the garage would sit on the property. All were in agreement to the request.

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

6. Scott Batterham, property owner, proposes to construct a detached accessory structure in a Low Density Residential (R1) District at 1845 7th Street. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-615, Table 6-4, front & corner side yard setback.

Scott Batterham – 1945 7th St: He stated he would like an 8 ft. x 10 ft. storage yard shed for storage as the garages are only one stall. The shed will be painted to match the house. The issue is where they want to put the shed; it will be too close to the house.

D. Carlson confirmed with the applicant and P. Neumeyer that this is a front yard setback issue on a corner lot and not a position issue. They both stated yes. S. Batterham stated there is no room in the backyard for the shed with the current landscaping. P. Neumeyer stated that corner lots do have exemptions; however, the shed would be considered part of the front yard setback.

D. Carlson asked S. Batterham if he has considered any type of alternatives. He stated that he does have an alternative and that he could take down the fence he has up and move the shed back. It will still stick out approximately 3 ft. beyond the house opposed to the 8 ft. However, either way a side yard setback variance will be needed. He stated that the back yard is not big enough for the shed.

R. Marx then discussed with S. Batterham additional alternatives for the placement of the storage shed. S. Batterham stated he spoke with his neighbor and he was in support of the request.

A conversation ensued between Board Members. D. Carlson stated he would prefer the alternative request with taking the fence down as the shed would not be protruding as much. The shed will also act as a privacy fence as well. P. Neumeyer stated that there needs to be a separation from the principal building and the shed of 3 ft. R. Marx asked if he pulled the shed 3 ft. from the house, put the shed where the fence is, would he be able to put the fence back up on the opposite side of the shed. P. Neumeyer stated technically he can't because of the height of the fence as it is still part of the front yard setback. The maximum height for a solid fence is 3 ft.

A motion was made by G. Babcock and seconded by T. Hoy to grant the variance subject to the fence being removed and the storage shed being placed not less than 3 ft. from the home and 3 ft. into the side yard setback. Motion carried. (4-0)

A motion was made by R. Marx and seconded by G. Babcock to adjourn the meeting at 7:19 p.m. Motion carried. (4-0)

Meeting adjourned.