

MINUTES
BOARD OF APPEALS
Monday, July 20, 2015
City Hall, Room 604
5:30 p.m.

MEMBERS PRESENT: Don Carlson - Chair, Thomas Hoy - Vice-Chair, and Greg Babcock

MEMBERS EXCUSED: Rob Marx

OTHERS PRESENT: Paul Neumeyer, Ald. Tim De Wane, Lisa Mehlberg, Kristy Green Prokopovitz, Rick Koebel, Mary Faubert Thomas, John Bartelt, RJ Delain, Mike Flynn, Vicki Flynn, and David Niebler

D. Carlson called the meeting to order and asked the Board if anyone needed to abstain from voting. All stated no. He then asked if any members had gone out to the properties. T. Hoy stated he went to all properties except for the West Ottertail Court property, G. Babcock stated he did not go to any of the properties and D. Carlson stated he had been out to all properties. He asked if any members had spoken to anyone regarding the variance requests. All stated no.

APPROVAL OF MINUTES:

Approval of the June 15, 2015, minutes of the Board of Appeals.

A motion was made by T. Hoy and seconded by G. Babcock to approve the June 15, 2015, minutes of the Board of Appeals. Motion carried (3-0).

D. Carlson stated that Item #4 will be moved to the top of the Agenda.

NEW BUSINESS:

4. Lisa A. Mehlberg, property owner, proposes to install an 8 ft. fence along a side yard in a Low Density Residential (R1) District at 1357 Chicago Street. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-521(a)(1), maximum height of a fence.

Lisa Mehlberg – 1357 Chicago Street: L. Mehlberg is proposing to install an 8 ft. fence rather than a 6 ft. fence on the west side of her property. She stated she has a pool in the backyard and many two-story homes in the area and the 8 ft. fence would be tall enough to give her privacy while using her pool. Other safety issues include keeping her dogs in her yard, as they have jumped her fence in the past, and there are many kids walking through the area. She submitted a letter from her neighbors favoring the 8 ft. fence.

A conversation then ensued between Board members and L. Mehlberg. D. Carlson confirmed with her that she will be installing 48 linear ft. of 8 ft. fencing. She stated yes, just on the west side of the property and will be connected to the existing 6 ft. fence.

D. Carlson asked if the variance is needed because she is asking for an 8 ft. fence, which is above what the code allows. L. Mehlberg stated that was correct.

Board members then deliberated among themselves. D. Carlson asked Ald. Tim De Wane if he had any comments. Ald. Tim De Wane stated he has no objection to the 8 ft. fence going in. G.

Babcock stated he does not have a problem with the request as she does have the justification for a taller fence. T. Hoy stated he does not have any issues either.

A motion was made by T. Hoy and seconded by G. Babcock to grant the variance as requested. Motion carried (3-0).

1. Rick Koebel, property owner, proposes to retain an existing shed located within a required side and rear yard setback in a Low Density (R1) Residential District, located at 3123 West Ottetail Court. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-615, Table 6-4, side and rear yard setbacks.

Rick Koebel – 3123 W. Ottetail Court: R. Koebel stated he built his shed six or seven years ago and is approximately 3 ft. off the property line in the back of their yard. He found out that he needs to be 4 ft. off the property line and is requesting a variance for the 1 ft. to keep the shed in its existing location.

D. Carlson asked why he selected that corner for his shed to be built and why he didn't request a variance at that time. He stated he assumed the builder knew what he was doing. He stated he talked to the neighbor's behind him and next door to him and they had no issues as to the shed being built. He now has new neighbors behind him, who own the fence between the two properties. D. Carlson confirmed with P. Neumeyer that the variance is needed because there was a complaint submitted, in which he stated that was correct.

D. Carlson asked R. Koebel what his argument would be for the 1 ft. if the shed was not there and he was requesting the variance today. R. Koebel stated they chose that spot because it was landlocked and in an area of the property that wasn't being used and it wasn't affecting either neighbor.

Kristy Green Prokopovitz – 3116 Windland Drive: K. Prokopovitz stated they just purchased the property last year. She stated the grass used to look nice and green and now it's brown. She stated that the landscaping mulch goes all around his shed and gets caught in their fence and when it rains the water from the shed pools into her backyard. D. Carlson asked K. Prokopovitz if she was more concerned about the water drainage issue rather than how close he is to the property line. She stated yes and was not sure if the issue is due to the landscaping or the shed.

D. Carlson stated that if they denied the variance, he would have to move the shed and it may not solve the problem. K. Prokopovitz stated if he moved the shed from her fence, which would move the landscaping and all build-up, it should allow the water to flow through the back yards.

D. Carlson stated that the BOA does not adjudicate neighborhood disputes or solve or alleviate drainage issues. T. Hoy asked if she has spoken to her neighbor regarding these issues. She stated she has not, but her husband has. T. Hoy then stated if they move or request the shed be in compliance, it will only force him to move his building one additional foot away from the fence. This will not prove that it was mulch that caused the build-up nor will it mandate that he put gutters on the shed to direct the water away. K. Prokopovitz then asked that if he gets to keep his shed where it is at, would she be able to do the same thing and build landscaping along the fence to butt up against it so her property is not lower than his property. P. Neumeyer stated staff has been advised by the City Attorney's office that drainage issues are a civil matter between property owners.

R. Koebel explained that there have always been issues with water drainage at the back portion of the property. He stated that water does pool along the entire backyard and on both sides of his

property. He did state that he would be willing to put downspouts or gutters on the shed to deviate the water away from the back of the property to the front of the property.

D. Carlson stated that K. Prokopovitz is having issues with the mulch behind the shed. R. Koebel stated that when they did the landscaping, they did put mulch all the way around the shed. D. Carlson asked, in his opinion, if he thought the mulch was part of the drainage problem. He stated that he didn't think it was because water drainage has always been an issue. He did state that he would be willing to move the mulch, but doesn't think it would resolve the issue.

A conversation then ensued between Board members. G. Babcock stated that this is not a significant deviation from the zoning code. He also stated that the hardship would be that he didn't know that the builder wasn't doing his job and built it in the wrong setbacks and he finds out 6+ years later. D. Carlson stated that even if he came in prior to building the shed, he didn't think they would grant the variance. He did say that moving the shed by 1 ft. is not going to solve the drainage issue; however, they can put conditions on the variance to include removing the mulch and adding gutters. The property owner had already mentioned he would be willing to comply.

A motion was made by G. Babcock and seconded by T. Hoy to grant the variance as requested with the conditions that the mulch between the shed and fence be removed and gutters be added to the shed to direct water away from the property lines. Motion carried (3-0).

2. Mary Faubert Thomas, property owner, proposes to expand and repave an existing driveway in a Low Density Residential (R1) District at 1720 Harold Street. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1709, setbacks for parking.

Mary Faubert Thomas – 1720 Harold Street: M. Faubert stated she is requesting to expand her driveway to the property line so she can park her bus in her driveway as she is a bus driver. She did submit a letter from her next door neighbor that stated she has no objections to her parking her bus in the driveway and putting the driveway in at the property line. She had put gravel down and then found out that is not allowed. If she cannot expand her driveway, she will not be able to park her bus there anymore as she would end up hitting her house/gutters due to the overhang on the house and possibly lose her job as they cannot park buses on the street. She would also like to put in a sidewalk from her porch to the city sidewalk. She has not had any complaints in the past 20+ years of her bus being parked on the gravel. She said the hardship would be that she would lose her job as there is no way she can drive back and forth to work three times a day as she drives bus from 6:30 am to 9:15 am, 10:30 am to 12:00 noon, and 2:30 pm to 5:00 pm.

D. Carlson verified with P. Neumeyer that there was a complaint. M. Faubert stated that the complaint was that there was mud at the end of the driveway. D. Carlson asked how far back the driveway will go. M. Faubert stated that her current driveway is blacktop and that will be torn out and replaced with concrete all the way back to the garage. She is also going to replace the sidewalk in front of her house and put in a sidewalk from her porch to the sidewalk. D. Carlson asked P. Neumeyer if a variance is needed for the sidewalk from the porch to the sidewalk, to which he stated no.

A conversation then ensued between board members. G. Babcock stated there is a hardship present and sees no problem with the request. T. Hoy agrees and stated that it would be an improvement to the house and area.

A motion was made by T. Hoy and seconded by G. Babcock to grant the variance as requested. Motion carried (3-0).

3. John Bartelt, property owner, proposes to construct a shed within a Low Density Residential (R1) District at 1041 Caroline Street. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-615, Table 6-4, corner side yard setbacks.

John Bartelt – 1041 Caroline Street: J. Bartelt stated he would like to build a shed in the corner of his property. However, because his yard butts up against a dead end alley way, it is considered a corner lot and needs to be 15 ft. from the side and rear property lines. He stated he has a very small lot and has a 6 ft. privacy fence, which is 3 ft. off the property line. He would like to place the storage shed in the side yard lot and 6 ft. off the back lot line and take a section of the existing privacy fence out and back up the shed in line with the fence and make it part of the fence. The reason for this would be so he can use all the usable space he can from inside the fence.

D. Carlson confirmed that the variance request includes a side lot, side yard, and rear yard. P. Neumeyer stated that it is corner side and rear yard that need to be 15 ft. D. Carlson stated the hardship for this request is that the lot is very small. J. Bartelt stated that his neighbors have no issue with the shed being built.

A motion was made by G. Babcock and seconded by T. Hoy to grant the variance as requested. Motion carried (3-0).

5. R. Jay Delain, on behalf of Delwin Properties, property owner, proposes to remove and reconstruct a detached garage in a Low Density Residential (R1) District at 1368 Porlier Street. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code, Section 13-615(c), Table 6-4, maximum area for a detached accessory structure, Section 13-615, Table 6-4, side yard setback, Section 13-609, impervious surface, maximum 50%, and Section 13-1705 setbacks for parking.

R. Jay Delain – 1436 Pilgrim Street: R. Delain stated that this is a rental property and he wants to build a new 32 ft. x 32 ft. garage. The garage is approximately 7 years old and is in bad shape. They want to keep it the same distance on the east side lot line, but move it back 10 ft. They are asking for variances for the driveway, garage, impervious surface coverage, and side yard setback. The garage currently sits 18 in. off the east side property line and is currently 1100 sq. ft., which is over the 1000 sq. ft. limit. P. Neumeyer stated that the neighbors are concerned with how close it will be to the east side lot line, but are fine with the project if the building is not moved any closer to the lot line. The impervious coverage is approximately 52 percent and the code states it has to be 50 percent and under. T. Hoy stated this is a case where the existing measurements should be grandfathered in to keep with the architectural look of the neighborhood.

D. Carlson stated that this is an extremely small and narrow lot and stated he has no problem with this request. T. Hoy stated that he is OK with the request; however, suggests that gutters be added to deviate the water towards the west.

A motion was made by T. Hoy and seconded by G. Babcock to grant the variances as requested with the condition that gutters be added to direct water away from the property line. Motion carried (3-0).

6. Michael & Vicki Flynn, Jr., property owners, propose to pave a driveway in a Varied Density Residential (R3) District at 1679 Shawano Avenue. The applicants request to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1709 setbacks for parking, front and side yard.

Michael & Vicki Flynn – 803 Estes Drive, De Pere: M. Flynn stated they are asking for a variance so they can pour their own concrete driveway and apron as they currently have a shared driveway. They would like to stay 1 ft. off the property line to allow for space between the driveways. They are also asking for a small concrete turn-around in the front setback. This will allow them to drive forward off their property onto Shawano Avenue instead of having to back onto the road as it is a very busy road. The driveway is currently graveled with no curb cut.

D. Carlson asked if there is a shared driveway agreement between the properties. M. Flynn stated that there was. He then asked why he doesn't go all the way to the lot line as he thought it was required if the driveway is shared. P. Neumeier stated that is a private matter between owners.

A conversation the ensued between board members, P. Neumeier, and the applicants regarding other options the applicants have for the placement of the driveway. Board members then discussed the issue regarding the shared driveway and green space between the driveways that will be added.

A motion was made by G. Babcock and seconded by T. Hoy to grant the variance as requested. Motion carried (3-0).

7. David Niebler, Niebler Properties, property owner, proposes to repave an existing driveway in a Varied Density Residential (R3) District at 1287 Shawano Avenue. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-1709 setbacks for parking, side yard setback.

Jim Niebler – 1287 Shawano Avenue: J. Niebler stated he has an 8-unit apartment complex at 1287 Shawano Avenue and would like to replace the existing parking lot and driveway. The current parking lot is beyond repair and needs to be replaced. They need a variance as they are too close in the side yard setback. The setback is 2.5 ft. and they currently have a 0 ft. setback and the only location for the parking lot is in the rear of the building and the driveway is only wide enough for a single car to drive through.

A conversation then ensued between board members. There were no objections to the request.

A motion was made by T. Hoy and seconded by G. Babcock to grant the variance as requested. Motion carried (3-0).

ELECTION OF OFFICERS:

Discussion and action on the annual election of officers, per the City of Green Bay Board of Appeals, Rules of Procedure - Chair, Vice-Chair

D. Carlson suggested that elections be moved to the September meeting as R. Marx is not present tonight and he will not be present for the August meeting.

A motion was made by G. Babcock and seconded by T. Hoy to move the Election of Officers to the September 15, 2015, BOA meeting. Motion carried (3-0).

A motion was made by G. Babcock and seconded by T. Hoy to adjourn the meeting at 6:27 pm. Motion carried.

Meeting adjourned.