



## CITY OF WAUWATOSA

MEMORIAL CIVIC CENTER  
7725 WEST NORTH AVENUE  
Telephone: (414) 479-8917  
Fax: (414) 479-8989

### MINUTES MEETING OF THE BOARD OF ZONING APPEALS Thursday, February 24, 2011

PRESENT: W. Pennoyer, B. Randall, P. Subotich – 3

EXCUSED: E. Bruderle-Baran, E. Meyer

ALSO PRESENT: T. Szudy, Planner

Mr. Randall as Chair called the meeting to order at 7:01 p.m.

#### 6611 W. Wisconsin

#### Variance

#### **Request by William Huettner for a Variance to the side yard setback in the BB Two Family Residence District to construct an addition at 6611 W. Wisconsin Avenue.**

Ms. Szudy said the applicant wants to construct an addition to the rear of the house that will have a proposed setback of five feet seven inches from the west side property line; however, the required setback established by the BB Two Family Residence District is six feet from this property line. The existing house predates the current zoning code and is nonconforming as it only has an average setback of three feet from the west property line. The proposed addition will be setback further from the property line than the house.

Unfortunately, due to a variety of miscommunication issues, this addition is nearing completion. Although the building permit was originally applied for in late August, 2010, planning staff was made aware of this proposal in early January after much of the construction was already completed.

Present in favor: Michael Kidd, 4510 N. Marlborough, Shorewood  
Dennis Iwanski, 1847 N. Prospect Avenue, Milwaukee

Mr. Kidd clarified the points that were important in the situation. The structure has compatible architecture with the rest of the house. Mr. Randall asked if the rear of the house is an existing closed porch. Mr. Kidd responded that the applicants wanted to have a shared space and an expanded kitchen space. Mr. Randall asked if the enclosed porch will be part of that design.

Mr. Iwanski explained that from the remodeled kitchen there is one step down to the sitting space and two steps down to the porch.

Mr. Randall asked if the addition could have been located east of the enclosed porch. Mr. Kidd responded that the area to the east has a beautiful slate patio. The new structure is set back two and ½ feet from the western edge of the house.

Mr. Randall asked if the addition could have been reduced in size to be five inches in and therefore compliant. Mr. Iwanski responded that they needed walls that were load bearing for the windows that were to be compatible with the house. They needed to maintain the same line of the windows.

Mr. Randall asked if the Design Review Board had already approved the design. Mr. Kidd answered yes, it was approved during a couple of meetings.

Mr. Pennoyer asked if the windows could have been made narrower to meet the setback. Mr. Iwanski answered that the owners were strong about consistency with the windows.

Mr. Randall noted that the applicant applied for a building permit in August and asked why they started construction before the building permit was issued. Mr. Iwanski responded that the Building Inspector inspected the footings and signed off on them. Ms. Szudy commented that she didn't know what happened with the process. Mr. Pennoyer agreed saying that typically construction wouldn't start without the permit. Ms. Szudy commented that it seemed that there was miscommunication in the building division.

Mr. Iwanski thought that the Building Inspector was there because the permit had been issued. Mr. Randall pointed out that the permit should have been posted in a visible spot. He added that even if the Design Review Board says something looks nice it doesn't mean the plans are in compliance.

Mr. Randall suggested that a bank of windows could be taken out and that would meet the code by bringing the structure in five inches.

Mr. Kidd explained that the plan is to walk out from the kitchen and then transition to the porch. That keeps the elevation they were trying to create. A suggestion was made that the addition could be made flush to the house. Mr. Iwanski noted that the electrical meter was there so they couldn't make it flush to the house.

Mr. Randall reiterated that the addition is still two feet seven inches from the lot line. He asked if the contractor consulted with the attorney about options if the variance is denied. Ms. Szudy noted that if the variance is denied they would have to go back and modify the plans.

Mr. Randall observed that construction was currently halted and asked if there was any weather consideration if the item had to be held. Mr. Iwanski answered that they would have to replace the roof covering. They were hoping to close the wall to keep the house heated.

Mr. Randall asked if any neighbors objected to the plans. Ms. Szudy responded that there were no objecting neighbors. She asked if the survey was correct. Mr. Iwanski noted that they have built a garage at the bottom of the hill on the southwest part of the property. It is set back 18 inches from the property line which is acceptable for a detached garage. He noted that everyone has been using the neighbor's fence as a measuring point.

Mr. Randall asked if the porches could have been taken off. Mr. Iwanski responded that the porches are original to the house.

Mr. Randall asked the City Planner if there were any ramifications for starting construction without a permit. Ms. Szudy answered no because the city made the mistake. The owner did apply, but the permit wasn't issued. She added that this is a unique situation.

Mr. Randall emphasized that he wasn't condoning starting construction without a permit. He did not want to set a precedent. He advised the contractors to make sure the permit is posted next time before they start construction.

Mr. Subotich asked if the owner should be present. Mr. Randall responded that the owner's presence wouldn't add that much to the discussion.

Mr. Pennoyer reiterated that Ms. Szudy said the city had made a mistake. Mr. Randall noted that the owner said the permit was issued. Mr. Iwanski pointed out that the owner had applied for the permit and assumed that DRB approval meant the permit was approved.

Ms. Szudy stressed that this applicant has gone through the process before and followed every step so the misunderstanding was an unusual situation.

Moved by Mr. Pennoyer, seconded by Mr. Subotich to approve the Variance. The board finds beyond a reasonable doubt that: 1) exceptional circumstances do exist pertaining to this lot in that the current building is at least one foot closer to the lot line; 2) a variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity; 3) the variance will not create a special detriment to adjacent properties and will not materially impair or be contrary to the purpose and spirit of this or to the public interest; and 4) the difficulty or hardship was not created by the property owner in that there were procedural breakdowns on the part of the city and that this home was built before current building codes and the design of the proposed addition will enhance the neighborhood. Vote on the motion was Ayes: 2, Noes: 1

The meeting adjourned at 7:47 p.m.

---

Tamara Szudy, Secretary

svh