



CITY OF WAUWATOSA  
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**MEETING OF THE BOARD OF ZONING APPEALS  
Thursday, September 10, 2012**

PRESENT: Mr. Bittner, Mr. Subotich, Mr. Pennoyer

EXCUSED: Mr. Randall, Mr. McGuan

ALSO PRESENT: J. Ferguson, Planner

Mr. Pennoyer as acting Chair called the meeting to order at 7:00 p.m.

**6504 West Wisconsin Avenue**

**Variance**

**Request by Wendy Hagaman for a Variance to the side yard setback in order to construct a deck in the BB Two Family District at 6504 W. Wisconsin Avenue.**

At the August 2<sup>nd</sup> meeting, the applicant requested a variance to the side yard setback to construct a deck and the Board held the item for additional information to be obtained. (Refer to the minutes from that meeting for details of the discussion.)

At this time, the applicant has not modified their plans for the deck, but has provided supplement explanation and evidence supporting their request. The included narrative discusses why the suggested alternative at-grade patio with a retaining wall/fence enclosure is not feasible on this property. A site plan and photo comparison with the property immediately to the north (717 N. 65<sup>th</sup> St) is also included to demonstrate the deck essentially lines up with the structure on that property. The aerial photo of the street shows that the houses on this block are as close or closer to the sidewalk than the proposed deck.

As a corner lot, the City's setback requirements for the deck are 10 feet from the property line along the N. 65<sup>th</sup> Street side. The applicant is proposing to encroach approximately 5.4 feet into this setback.

Present in favor: Nick Kerzner, 1200 Capital Drive, Oconomowoc, WI  
Wendy Hagaman, 6504 W. Wisconsin Avenue  
Sandy Goyette, 717 N. 65<sup>th</sup> Street  
Barbara Holmes, 6432 W. Wisconsin Avenue

Present in opposition: None

Mr. Kerzner, Kerzner Remodeling and Construction, stated that Ms. Hagaman's house and garage take up most of the property. There is no yard, no protection for pets and children. Vehicles travel very fast on Wisconsin Avenue which creates a dangerous situation.

Mr. Kerzner stated that at the previous meeting, it was suggested that alternatives be explored such as a patio with a retaining wall and fence. Mr. Kerzner has explored this possibility and stated that in order to accomplish installation of a patio, the area would need to be leveled, providing enough pitch for proper drainage. This would place the new grade above the basement window sills. Properly installed pavers would be directly against the house and drainage would be difficult, which would cause pressure on the walls. He also stated that

the retaining walls would have to be at least 36" past the patio to create proper underground support for the fence posts. There would be very little green space between the retaining wall and sidewalk. Because of the topography of the land, it is difficult to enjoy the property and the installation of the deck would provide a safer environment.

Ms. Hagaman provided additional letters of support from the neighbors and several are present in support of the deck.

Moved by Mr. Bittner, seconded by Mr. Subotich to  
Approve the request for a variance to the side yard  
setback in order to construct a deck

1. Exceptional circumstances do exist pertaining to this lot. It is a corner lot with limited free space on three sides. Only the east side of the property allows space for an outside gathering place. The topography prevents significant problems with a patio and fence combination with drainage.
2. That the variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity. The majority of the adjacent property owners are present in favor of this deck. The project will enhance the property. The neighborhood is in support of this and there is no other space available for outside recreation.
3. That the variance will not create special detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this or to the public interests. There are persons present supporting this deck and the owner has provided letters of support from other neighbors who also support this. The setback of the deck would not project out further than other properties. The new porch will be in alignment with other properties.
4. That the difficulty of hardship was not created by the property owner. The property owner does not control the topography, the drive, and other factors of the parcel.

Based upon these findings, I move that the variance be granted.

Roll call vote taken: Ayes: 3

**7527 Wright Street**

**Variance**

**Request by Matthew Kirklewski for a Variance to the front yard setback in order to construct a chimney in BB Two Family District at 7527 Wright Street.**

at the August 2<sup>nd</sup> meeting the applicant requested a variance to the front yard setback (18.5 feet as averaged along the block) in order to add a chimney to the existing house and the board held the item for further justification. (Refer to the minutes from that meeting for details of the decision).

As requested by the Board, the applicant has provided information that includes photos of homes/chimneys within a two block radius of the property and an explanation of why it is not feasible to locate the chimney in a different place. The structure is already nonconforming with respect to the front setback at 10.9 feet) and the chimney would extend this nonconformity 18 inches further.

Present in favor: Matthew Kirklewski, 2815 N. Hartung, Milwaukee, WI  
Ald. Tilleson, District 5

Present in opposition: None

Mr. Kirklewski has provided further information to the Board as it relates to the surrounding homes in the neighborhood with fireplaces. Some of these existing fireplaces are on homes that have the same distance to the street as what is being proposed for his home. He also provided information regarding the energy efficiency of the fireplace. Placement of the fireplace in another location would make it unusable. The east side of the home is one foot off the alley, the south side is the bedroom and bathroom and the west side has two entrances.

Mr. Kirklewski stated that the fireplace has hearth extension requirements making it impractical to be a complete internal fireplace. There is approximately a 20% intrusion into the living room.

Letters from his alderpersons as well as neighbors have been provided to the Board in support of this fireplace.

Ald. Tilleson spoke that he was present in support of this fireplace. He did a walk through and believes it is the only location that it can be installed. He also complimented Mr. Kirklewski on the addition of windows on either side of the fireplace. Mr. Tilleson further commented that the current condition of the property has been worked on. He had received complaints in the past about the lack of work on this property but has noticed that Mr. Kirklewski has now begun to progress.

Mr. Kirklewski stated that all of the beams have been sheeted and all of the exterior on the second floor will be framed and sheeted tomorrow.

Moved by Mr. Subotich, seconded by Mr. Bittner to  
Approve the request for a variance to the front yard  
setback in order to construct a chimney.

1. Exceptional circumstances do exist pertaining to this lot. There is no other location to install the fire place.
2. That the variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity. The applicant has presented numerous pictures of the neighboring homes with chimneys similar to what is being proposed. The chimney will greatly enhance the property.
3. That the variance will not create special detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this or to the public interests. The applicant has provided letters of support and intends to improve the property. Other homes in the area have similar chimneys.
4. That the difficulty of hardship was not created by the property owner. The property does not have another place to install this fire place.

Based upon these findings, I move that the variance be granted.

Roll call vote taken: Ayes: 3

**1346 N. 70<sup>th</sup> Street**

**Variance**

**Request by David Martin for a Variance to the side yard setback in order to construct a detached garage in the AA Single Family District at 1346 N. 70<sup>th</sup> Street.**

The applicant is requesting a variance to the street side yard setback in order to construct a new detached garage. For this corner lot, a detached garage would need to be located 10.6 feet from this property line; the applicant would like to locate the garage two feet off the side property line. Currently, there is no garage on this property and the applicant was informed that it appears possible to construct the proposed garage in a manner that meets the setback. However, the applicant believes there are exceptional circumstances pertaining to the lot that necessitate a variance. Photos of the backyard and from the side street (Blanchard Street) are enclosed.

Present in favor: David Martin, 2435 Pasadena Blvd.  
Ald. Dubinski, District 2

Present in opposition: None

Mr. Martin commented that he purchased this property intending on constructing a garage. The lot line on the north side of the property is on an angle. He would like to put a two car garage on the northeast corner of the lot with the driveway going directly toward the garage. This will provide him with a larger back yard area for recreational purposes and will also make it easier to maneuver parking of larger vehicles within the garage.

Mr. Martin stated that he explored placing the garage in the middle of the yard and also on the southeast corner of the lot. Both alternate locations would make it very difficult for larger vehicles to maneuver parking in the garage and would also provide no other recreational area. Vehicles would have to enter from the north side of the home and then make a sharp right turn. Smaller vehicles might be able to make the turn easily, however, larger vehicles would have difficulty and nearly impossible with snow conditions.

Mr. Martin provided pictures of the property and plans for the two car garage.

Ald. Dubinski commented that this property is unique in that it is a pie shaped lot. There is a significant drop in elevation going down the street. He believes that this will be a definite improvement from the current property.

Moved by Mr. Bittner, seconded by Mr. Subotich to  
Approve the request for a variance to the side yard  
setback in order to construct a two car garage.

1. Exceptional circumstances do exist pertaining to this lot. The unique pie shape of the property with the sloping topography does not offer another convenient area to build the garage.
2. That the variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity. The area north of the property is overgrown and not being maintained. Occupancy of the property and improvements to the lot will provide better upkeep of overgrown areas.
3. That the variance will not create special detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of

this or to the public interests. There is no one in opposition to this proposal.

4. That the difficulty of hardship was not created by the property owner. The lot and terrain was pre-existing.

Based upon these findings, I move that the variance be granted.

Roll call vote taken: Ayes: 3

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Jennifer Ferguson

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