



CITY OF WAUWATOSA

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MEETING OF THE BOARD OF ZONING APPEALS Thursday, February 26, 2015

PRESENT: Mr. Randall, Ms. Kristof, Ms. Stokke-Ceci, Mr. Subotich

EXCUSED: Mr. Kern, Mr. Bittner,

ALSO PRESENT: J. Ferguson, Planner

Mr. Randall as Chair called the meeting to order at 7:03 p.m.

1742 N. 72nd Street

Variance

Request by Darren Mize for variances to the front and rear yard principal building setbacks to construct decks in the R1-6 District at 1742 N. 72nd Street

In May, 2013, the Board approved variances to the side and rear yard setbacks of the property for the owner to construct a carport and addition to the home. The owner did not move forward with that project. Variances expire after one year if construction on a project has not commenced. As a result, it is no longer possible to apply the previously approved rear yard variance approval to this current proposal.

The applicant is now requesting variances to the front and rear yard setbacks in order to construct decks in both locations. The required setbacks for the property are 30 feet from the front (west) lot line and 19.6 feet from the rear (east) lot line. The request is for a 4.6 foot variance to the front setback (measured from the deck, not the stairs which are necessary for egress) and a 12.9 foot variance to the rear setback.

Per building code, stairs for egress are required to provide safe exiting from the structure. Minimum dimensions must be met (code reference attached) and zoning does not necessitate that what is required to meet building code be measured against the setback. However, any structural elements beyond the building code minimum that require a permit must meet zoning setbacks. This is why zoning measures the variance request for the front deck from the edge of the deck structure and not the stairs that provide the landing. Conversely, the rear deck incorporates the stairs into the deck structure.

The decks are being proposed over simple replacement of the required egress landings to enhance the aesthetics and provide space for enjoyment. The odd shape of the lot in the rear creates a unique situation for the rear yard setback measurement and presents a challenge to any addition on the back of the home. The Board can consider the two variances together or as separate items as it deems fit.

Present in favor: Julie Voeller, Ruvn Brothers, 1025 W. Glen Oaks Lane, Mequon, WI

Ms. Voeller is present representing the homeowner. The applicants are requesting approval to install decks on the front and rear of the property. The applicants have spoken with the neighbors and received no objections.

The applicants want to have a safe entry to the home. The current front porch is falling apart. A 36" landing was considered in the front however, the applicants felt the current plan would be more aesthetically pleasing. At the rear of the home, the door is low and they would like to raise the door up as the interior stair that goes to the lower level is shallow and worn. The replacement would be considered an improvement.

Present in opposition: No one

Ms. Kristof confirmed that the request is for the front door and back door egress.

Ms. Voeller stated that this plan was presented and approved at the Design Review Board with the addition of slats. The applicants are doing some internal work on the house and the interior stairways. The addition of the decks will provide for safer entry into the home.

Mr. Randall commented that with the improvements of the interior stairways and the raising of the rear doorway, this will bring the interior to be more code compliant. Ms. Voeller responded yes.

Mr. Randall commented that Yale Place there is a dead end. Is the rear yard setback measured to what's facing the house or does their yard go all the way to the back in a flag pole type. Ms. Ferguson responded that the rear yard setback will be measured from both places. Ms. Ferguson demonstrated where it would be measured using the survey. She indicated that the setback needs to be 19.6 feet at the rear and the house does not meet this now, it is non-conforming.

Ms. Voeller stated that the applicants have small children and the deck on the back of the home will allow them to be outside with the children. The front deck will have two stairways, one leading off the front of the deck and the other to the side.

Ms. Ferguson received calls from neighbors to the north and to the east. They looked at the plans and had no objections.

Moved by Mr. Subotich, seconded by Ms. Kristof to approve the request for a variance to the rear yard principal building setback to construct a deck at 1742 N. 72nd Street.

1. Exceptional circumstances do exist pertaining to this lot. The rear yard is narrow and is an uncommon lot.
2. That a variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity. The deck is an enhancement to the entire property and other properties in the area. An addition of a deck will provide additional safety to children in the area.
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 rear

deck will not be visible from the street nor other neighboring properties with the exception of two and will enhance the property. The placement of the deck will provide safer accessibility to the interior stairway.

4. That the difficulty or hardship was not created by the property owner. The property is narrow and was not created by the applicant.

Ayes: 4

Mr. Randall stated that in looking at the plans, it appears that the applicant's home is closer to the street than most other homes in the area. The neighboring properties may not need a variance if they were to place the proposed deck on their homes. Ms. Ferguson stated that if the applicants were building a 36" deck, they would not need a variance.

Mr. Randall commented that the applicants will need an 18" variance due to the dual stairs. With the installation of dual stairs, there is need for a larger landing. Mr. Randall asked if the applicants would be willing to install a 36" landing. Ms. Voeller stated that if this application is denied, they will consider a 36" landing on the front of the home, however, the applicants felt that the larger deck would be more aesthetically pleasing.

Ms. Kristoff is concerned that the property to the north has the same setback as the applicant's property. Upon further review of the homes in the area, there are five homes with the approximate same setback and seven that are further set back.

Meeting adjourned for break at 8:00 p.m.

Meeting reconvened at 8:15 p.m.

Ms. Voeller provided a view from the street to give the Board members a view of the applicant's house and the elevated level. The house is higher than other homes in the area so they need to have the elevated deck and steps. Other homes in the area are at ground level.

Moved by Ms. Stokke-Ceci, seconded by Ms. Kristoff to hold this item to provide an opportunity for the applicant to submit additional setback information on other homes in the neighborhood.

Ayes: 4

Meeting adjourned at 8:35 p.m.

Jennifer Ferguson

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