



CITY OF WAUWATOSA
7725 W. North Avenue
Wauwatosa, Wisconsin 53213
Telephone: (414) 479-8957
Fax: (414) 471-8414
www.wauwatosa.net

MINUTES
MEETING OF THE BOARD OF ZONING APPEALS
Thursday, May 26, 2016

Attendee Name	Title	Status	Arrived
Peter Subotich	Member	Present	
James Bittner	Board Member	Present	
David Kern	Board Member	Present	
Brian Randall	Board Member	Present	
Pamela Stokke-Ceci	Board Member	Excused	
Ed Bremberger	Board Member	Excused	
Jennifer Ferguson	Planner	Present	

Ray's Growler Gallery-awnings

Variance

The applicant is requesting a variance to the required 10 foot front yard setback in order to install retractable awnings on a portion of the building. In the C2 General Commercial Zoning District, the front of a corner lot is defined as the side along the major street, making North Avenue the front of the lot for this property. The building, standing 10' 8 7/8" off the lot line, conforms to the setback requirement but the desired awning at 10 feet in length (20 feet wide) projects into the front, necessitating a variance. The awning would not cross the lot line and therefore does not need an encroachment agreement with the City. Currently zoning only permits awnings in rear yards in non-residential districts. Awnings are a relatively common feature on buildings in the North Avenue Commercial Corridor.

Ms. Ferguson mentioned that these regulations may be revised in the future to allow for this architectural feature in some capacity.

Present in favor: Sara Laev, Ray's Growler Gallery, 8920 W. North Avenue, Wauwatosa, WI
Ed Hayden, 2568 N. 71st Street, Wauwatosa, WI

Mr. Hayden stated that last year, Ray's Growler Gallery was approved for a Conditional Use for a patio. Tables, chairs and umbrellas were set out and the patio was accessorized with planters. Customers could purchase beer from the Growler Gallery and then be able to sit outside in the beer garden. This year they would like to do two things, one is to go in front of the Board of Building and Fire Code Appeals to install a fire pit, and the other is for approval from the Board of Zoning Appeals to install the awning. The awning will replace the umbrellas over the tables and will be adjusted according to the sun. The awning will be retracted at night.

Present in opposition: No one

Mr. Kern asked that whether the applicant wanted a five foot or a two foot awning, would they still need a variance because it is in the front of the building. Ms. Ferguson responded yes, according to the Code Section 24 entitled Terminology and Measurements, it lists specifically that the only area that awnings are permitted in non-residential districts is the back yard.

Mr. Randall asked the applicant to describe what the Growler Gallery is. Mr. Hayden responded that it is essentially a bar that serves fresh beer. A customer is able to purchase a large glass and take it downstairs to the patio to drink. A growler can be purchased, but this type of container needs to be taken home. There are signs on each table indicating that the tables are reserved for the Growler Gallery customers.

Mr. Bittner asked if the awning is intended to extend over the patio area during the day. Ms. Laev responded yes and the awning will be retracted once the sun goes down. Mr. Hayden commented that the outside edges are approximately seven feet six inches in height. They plan to use the same colors as the current limestone of the building for the awning.

Mr. Kern asked if the applicants had safety concerns for the table umbrellas. Ms. Laev responded that they had bases for the umbrellas and her staff close the umbrellas if it was windy outside.

Mr. Bittner asked what months would the awning be used. Ms. Laev commented that this year they opened the patio during the month of May and normally will close in October, pending the weather, and all furniture will be moved into a storage area inside the building. The awning will be retracted with a flap that goes over the awning.

Moved by Mr. Kern, seconded by Mr. Subotich to approve the request by L-S Properties LLC, and Ray's Growler Gallery for a variance to install retractable awnings in the front yard in the C2 General Commercial District located at 8920 W. North Avenue. The Board finds beyond a reasonable doubt that:

1. Exceptional circumstances do exist pertaining to this lot. The position of the building and any awning would require a variance because of the setback.
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 addition of the awning will increase the likelihood of foot traffic which will benefit the businesses 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. There is no objection and there appears to be significant support for the Ray's Growler Gallery patio activity. An awning will enhance the enjoyment of this space.
4. That the difficulty or hardship was not created by the property owner. The business was acquired from the original property owner so the applicants did not position the building which results the need for a variance.

Mr. Randall stated that for criteria 1 the applicant needs a variance because of the setback, however, if the building was located closer to the lot line, it would need an encroachment so the position of the building is exceptional as a lot. For criteria 2 the cleaner look of the awning versus the umbrellas would serve to the property rights of other owners. For criteria 3, staff has indicated that this provision may be changed in the future and that there is ample room for the awning to be installed.

Based upon these findings, I move that the application for a variance be granted. Ayes: 4

RESULT:	APPROVED [UNANIMOUS]
MOVER:	David Kern, Board Member
SECONDER:	Peter Subotich, Member
AYES:	Subotich, Bittner, Kern, Randall
EXCUSED:	Stokke-Ceci, Bremberger

Meeting Adjourned at 7:30 PM

Jennifer Ferguson, Secretary