



Wauwatosa, WI

Board of Zoning Appeals

Meeting Minutes - Final

7725 W. North Avenue
Wauwatosa, WI 53213

Thursday, December 5, 2024

6:00 PM

Zoom Only:
<https://us02web.zoom.us/j/89325102239>,
Meeting ID: 893 2510 2239

Regular Meeting

CALL TO ORDER

Chairperson David Kern called the meeting to order at 6:03 PM.

ROLL CALL

Present 4 Member, Chair David Kern
 Member James Bittner
 Member Richard Brunner
 Member Michael Mazmanian

Excused 1 Member Patricia Stone

NEW BUSINESS

1. Request by Jessica Fugere for a street side yard fence height exception at 1903 Church Street [24-1557](#)

The applicant provided reasons for the exception request from their point of view. Topics consisted of the contractor stating no permit was required for the fence and having privacy from the structure across the street. Art Pinon, Principal Planner, verified with the board and applicant that a fence height of 4 1/2 ft. does require a permit. The applicant stated surrounding neighbors are in support and no comments regarding the height. Discussion was had with the board that included a comment to staff about sending a reminder to residents regarding permit requirements for constructing a fence, the appearance of this variance and the definition of a corner lot for a front yard vs side yard. Art informed the board that this variance came to the board by observation from city staff and not a complaint. Also, he informed the board that the property is a corner lot and by looking at the side yard it's like another front yard, so it'll be held to a higher standard of what they can put on that side of the property. Furthermore, if it was a interior property line (rear property line, property line facing another house), they can go up to 6 ft. in height. Mr. Kern verified the north side of the property may go up to 6 ft. in height and Mr. Bittner verified the south side of the property is restricted to 4 1/2 ft. in height. Applicant informed the board that the fence, whether it be taken down, removed or worked on, is a financial hardship and verified to the board that the arbor was not replaced and was already there previously.

Mr. Kern's motion will be an approval for the variance, that the applicant demonstrated to the board. The Board considered all the following, making the findings of each of these factors to apply in favor of granting the variance.

1. *Strict application of the code would create a hardship to the property owner as it will be a financial hardship having to cut down the existing fence and the fence will not be providing the privacy the applicant is seeking.*

2. *The hardship results from conditions which are unique to the property, or unusual in comparison to the*

properties to which the code is generally applicable as there's a presence of a very large apartment complex across the street and the desire to privacy in relation to that building and the coming and goings from that building.

3. The application of the exception will be consistent with the intent of the ordinance and not impair public safety as the applicant is seeking a relatively modest exception for the fence height.

It was move and seconded (Kern / Brunner) to approve the variance.

Mr. Bittner amended Mr. Kerns motion by stating that because the building across the street is more than two stories high, it does make privacy a bigger issue for people across the street from those types of structures which makes the property unique due to the existence of that structure .

Mr. Bittner commented that the applicant is required to obtain a permit regardless of the outcome .

RESULT: APPROVED

MOVER: David Kern

SECONDER: Richard Brunner

Aye: 4 Kern, Bittner, Brunner, and Mazmanian

Excused: 1 Stone

ADJOURNMENT

Meeting adjourned at 6:31 PM.