



Wauwatosa, WI

Board of Zoning Appeals

Meeting Minutes - Final

7725 W. North Avenue
Wauwatosa, WI 53213

Thursday, May 22, 2025

6:00 PM

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

Regular Meeting

CALL TO ORDER

Chairperson Mr. Kern called the meeting to order at 6:00 PM.

ROLL CALL

Present 5

- Member, Chair David Kern
- Member James Bittner
- Member Richard Brunner
- Member Michael Mazmanian
- Member Patricia Stone

NEW BUSINESS

1. Request by Mike Kartz for an alley fence setback exception at 2103 N. [25-0731](#)
107th Street

Issue/Background

The applicant is requesting a fence code exception for an already constructed fence not meeting the 18" minimum setback located at the alley for a length of approximately 21 feet. A permit was applied for but was not issued by the Building Division

Constructed Fence

The alley side fence has a 4" setback from the property line for a length of approximately 21 feet along the alley on the West side of the property.

Allowed by City Code

Under 15.28.030A.3, fences located adjacent to an alley shall be setback a minimum of eighteen inches from the lot line.

Attachments to this report include the applicant's narrative addressing the exception criteria, a site plan, and photos.

The applicant has a permit on file that has not been approved.

Recommendation

Under the exception provisions, the applicant must demonstrate to the Board that a hardship exists created by conforming to the fence regulations. The Board should consider all of the following, making findings that each of these factors applies in favor of granting the exception:

1. Whether strict application of the code would create a hardship to the property owner;
2. Whether 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; and
3. Whether the application of the exception will be consistent with the intent of the ordinance and not impair public safety.

Andrew Krause, Code Enforcement Officer, presented the item to the board. Applicant, Mike Kartz, provided reasons for the exception from his point of view. Topics consisted of the fence being installed through a contractor which the contractor verified permit was approved, replacing the previous fence that was installed and not having any issues from neighbors. Discussion was had with the board and city staff. Topics consisted of pictures of the old fence vs the new fence, the correspondence from the contractor, the requirement of a permit and the reason of the denial, the requirement of an exception for replacing the fence vs no exception needed for repairing fence, the property line and the requirement of a survey when pulling a permit. Applicant made additional comments regarding hardship.

Mr. Bruner's motion will be a denial for the exception. The board considered all the following, making the findings of each of these factors in favor of denying the exception.

- 1. Whether strict application of the code would create a hardship to the property owner: exception standards were not met*
- 2. Whether 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: exception standards were not met*
- 3. Whether the application of the exception will be consistent with the intent of the ordinance and not impair public safety: fence was build without approval of permit.*

Mr. Kern made an amendment to Mr. Bruner's motion for criteria 1 and 2. It was moved and seconded (Bruner / Kern) to deny the exception.

RESULT: DENIED
MOVER: Richard Brunner
SECONDER: David Kern

Aye: 5 Kern, Bittner, Brunner, Mazmanian, and Stone

2. Request by Eugene Sczesny for a front yard setback variance at 1314 St. [25-0684](#)
James Court

Issue

The applicant is requesting a variance to the front yard setback requirement for the construction of a wooden deck at 1314 St. James Court, located in the Two-Unit Residential (R2) zone. With the exception of the front yard setback, the proposed project is expected meets all applicable development standards.

The existing home is currently situated 24 feet from the front property line and is considered legal non-conforming with respect to front yard setback requirements. The proposed deck would further encroach into the setback by approximately 7 feet, resulting in a 17-foot front yard setback.

In accordance with WMC 24.15.040, expansions to nonconforming structures are permitted provided that the proposed expansion complies with all applicable lot and building standards.

Attached to this report are a letter addressing the four variance findings in accordance with WMC 24.16.060.H, plat of survey, site aerial, deck specifications and photos of a previous walkway and railing in the project location.

Recommendation

The standard four criteria should be applied to make the determination for the requested variances:

1. Exceptional circumstances do exist pertaining to this 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.
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.
4. That the difficulty or hardship was not created by the property owner.

Art Pinon, Principal Planner, introduced the item to the board. Applicant, Eugene Sczesny, provided reasons for the variance from his point of view. Topics consisted of the background history of the property improvements, the accessibility ramp, property residing on a dead end cul-de-sac, no private space, surrounding neighbors with similar features of a porch or deck in front and surrounding neighbors in favor of the variance. Applicant went over pictures submitted to the board to support their request. Discussion was had with the board and staff. Topics consisted of the dimensions of the ramp protruding from the house, date of when property was purchased, the dimensions of the new deck, concrete ramp not requiring a permit and permit requirements for a structure vs hardscape.

Mr. Brunner'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 in favor of granting the variance.

- 1. Exceptional circumstances do exist pertaining to this lot: the property is in need of the variance and will enhance the value of the property. Amendment to Mr. Brunner's motion by Mr. Kern to include the property abuts a bluff to the back.*
- 2. That a variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity: Amendment to Mr. Brunner's motion by Mr. Kern to include the deck will create conformity by surrounding properties that have porches and decks. Another amendment to Mr. Brunner's motion by Mr. Bittner to include by right the applicant can do a concrete structure in the exact same footprint and would not require a variance but this presents a much more appealing profile of the house instead of just a concert structure.*
- 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: Visually the neighbors won't be affected*
- 4. That the difficulty or hardship was not created by the property owner: Hardship was not created by property owner.*

It was moved and seconded (Brunner / Bittner) to approve the variance.

RESULT: APPROVED
MOVER: Richard Brunner
SECONDER: James Bittner

Aye: 5 Kern, Bittner, Brunner, Mazmanian, and Stone

ADJOURNMENT

Meeting adjourned at 7:18 PM.