

BOARD OF ADJUSTMENT MINUTES
APPROVED
January 14, 2019
7:00 p.m.

A. Call to Order:

Members Present: Brandt, Charlson, Juhl, Lampe, Shea

Staff Members Present: Tim Kangas, Council Liaison
Rachel Leitz, Zoning Administrator

B. Approval of Agenda:

Motion By: Brandt

Seconded By: Shea

Move that the agenda be approved as printed.

Yes: 5

No: 0

Absent: 0

C. Approval of the minutes of the December 10, 2018:

Motion By: Shea

Seconded By: Brandt

Move that the minutes of the December 10, 2018, Board of Adjustment meeting be approved.

Yes: 5

No: 0

Absent: 0

D. Public Hearing:

1. Jack & Sarah Salzwedel – Variance Request to allow a 10 ft. front yard setback from the north property line and an 11 ft. 11 in. front yard setback from the east property line for a new home to be located at 523 5th Street NW.

Leitz reminded the Board that at its December 11, 2018 meeting, the applicant requested a variance to allow a 10 ft. front yard setback from the north property line. The Commission agreed that a variance was also needed for the setback on the east property line, as the code only has special exceptions for decks/porches that are unenclosed and without a roof. It was discussed that a new publication and notice must be sent out notifying residents of the east property line variance. Leitz stated that this evening, the applicant's request is to allow a 10 ft. front yard setback from the north property line and an 11 ft. 11 in. front yard setback from the east property line, where the zoning district requires a setback of 20 ft. Leitz described the practical difficulties in complying with the provisions of the zoning district including reasonable use, unique circumstances, character of the neighborhood, and spirit and intent. Leitz also added that if the setbacks were followed on this lot, there would be a buildable area of 2,050 sq. ft. The applicant has proposed a 1,687 sq. ft. house and 456 sq. ft. one stall garage, which totals 2,143 sq. ft. The applicant is only proposing 93 sq. ft. more buildable area to accommodate the house with the setback flexibility. Leitz also stated that the applicant is also battling the City's 50% impervious surface requirements for a lot. After the house and garage, there is only 509 sq. ft. impervious space left for a driveway, patio, sidewalk, etc. The applicant has had to move the garage 6 ft. east to lessen the amount of paved driveway surface. The applicant will then have to install permeable sidewalks from the garage to house and house to sidewalk, as no more impervious surface would be allowed on the lot. Leitz also addressed a few comments from the last meeting. She stated

that staff has talked with the City's Engineer and no sidewalk would need to be installed on the north property line. The City Engineer also looked at request and intersection and stated that there would be no sight line issues with the request. Lastly, there was some comment at the last meeting regarding attaching the garage, meeting the north front yard setback of 20 ft. and requesting a 2.5 ft. setback variance from the south property line. Leitz stated that it was in staff's opinion that a variance from the south property line would affect neighboring properties more so than the setback from the north property line. She also directed the Board to attachments to understand the character of the area and idea of aligning the home up with other homes within the area. Leitz stated that the applicant was in the audience if the Commission had any questions.

Chair Lampe asked if the applicant had any comments they would like to make.

Jack Salzwedel, 5117 Saint Cyr Road, Middleton, WI 53562, stated that although him and his wife live in Madison currently, he went to College at Wartburg and his wife is from the Cedar Valley. He stated his kids have went to Wartburg and he has one more enrolling next year. His family would like to come down to Waverly more and really liked this lot and its location, even with its challenges. He stated that he appreciates the Board considering the variance requests.

Lampe inquired as to how they picked out this house and asked if they've reached out to anyone who has analyzed customizing the stock plans to fit within this lot.

Mr. Salzwedel stated that him and his wife have looked at many different home designs and house plans and the one presented is the one they are looking to build. He stated that they have reached out to someone to look at the plans for potential alterations, but were told that the stock plan really is the best option for them.

Leitz added that the applicant has been in conversations with staff about this lot since fall 2018. She stated that she was not presented with this house plan to begin with and first had conversations with the applicants regarding setback requirements, floodplain, and other zoning code provisions. The applicant took that information with them and then presented this home plan for the lot. She stated that it was mentioned how challenging it was to find a home to fit this lot, especially one that had any architectural elements, variation in wall projections, etc.

Chair Lampe opened the public hearing.

No one was in the audience for the public hearing.

Chair Lampe closed the public hearing.

Juhl stated that he is uncomfortable with approving a 10 ft. front yard setback from the north property line when there is 10 ft. between the garage and home. He stated he would prefer if the property owner to attach the garage, meet the 20 ft. front yard setback from the north property line, and then request a 2.5 ft. variance from the south property line.

Shea asked for clarification on the setbacks for detached structures.

Leitz stated that a detached accessory structure that is 10 ft. or more away from the principal dwelling may be 5 ft. from property lines. If the accessory structure is closer than 10 ft. from the principal dwelling, it must abide by general setback requirements for the zoning district, which would be 7.5 ft. from side yards, in this case.

Charlson stated that he understands there are some challenges with the lot, but is trying to understand the hardship. He believed someone may meet the requirements of the zoning district if they built a custom home specifically to meet this lot's setback requirements.

Leitz stated that the real hardship is the lot size. She stated that if a subdivision was created today and someone with a 9,000 sq. ft. lot wanted to subdivide it, the City would say no because we have minimum lot size and setback requirements. However, this subdivision was created in the mid-1800s and didn't have the same requirements, so today we are dealing with a lot that is 2,000 sq. ft. smaller than the minimum lot size but is still expected to abide by the same requirements of a lot that much larger.

Shea added that the lot also must abide by corner lot setback requirements, which are a bit more unique than the normal setbacks seen in the zoning district. She stated that she can easily see a hardship with the unique character of the lot. Shea added that according to statute, a request must be financially feasible. She stated that when homes in this neighborhood were being built, it was easy to buy and sell a small house, but questions how saleable a house much smaller than the one proposed would be.

Lampe stated that the applicant's proposal, specifically on the east property line, would jut out 2 ft. further than most of the properties to the south. He inquired as to if the applicant would be willing to adjust the porch size 3 ft. to accommodate a 15 ft. front yard setback from the east property line instead of a 12 ft. setback.

Shea clarified that the applicant would still need a variance, but there is a preference that the porch is shortened to have less of a setback from the east property line.

Lampe stated if the porch was reduced from 9 ft. wide to 6 ft. wide, the home would better align with the homes that have porches to the south.

Lampe asked Kangas if he agreed with the City Engineer's opinion that a sidewalk would not be needed along the north property line.

Kangas stated that there is still a sidewalk on the north side of 5th Ave. He stated that there was no provisions made for a sidewalk crossing on the south side of the bridge, so it makes sense that a sidewalk would not be needed on the north side of this property.

Shea reconfirmed that she believed there was a hardship with this unique lot.

Charlson stated that the site plan laid on the aerial image helps visualize the setbacks. He stated the setbacks would align the house with the houses next to it.

Shea stated that the proposed house does do a nice job of fitting in with the character of the area.

Charlson inquired as to what the setbacks would be if the property wasn't a corner lot.

Leitz stated that if 5th Ave. was the only front yard; the north and south property line would have a 20 ft. setback and the east and west property line would have a 7.5 ft. setback. Leitz stated that she believes there would be challenges either way, purely based on buildable area, however a corner lot does add some extra challenges with orientation of a typical home.

Lampe stated that he has found that corner lots do present a struggle for a lot of people and generally require some plan modifications to fit within zoning requirements.

Lampe asked the applicant if they would be willing to shorten the proposed porch from 9 ft. to 6 ft. to be 15 ft. from the east property line.

Mr. Salzwedel stated that he is willing to work with the Board.

Juhl asked how far the property to the west is setback from the property lines.

Leitz stated that it's always hard to tell from an aerial, but it's setback probably 7.5 – 10 ft. from the north property line. Leitz didn't know the setback from the east property line. She stated it would look like about a 5 ft. setback.

Juhl clarified that the proposed 10 ft. setback from the north property line would not encroach further than the house to the west.

Leitz stated that was correct.

Shea asked if a variance would be needed if the front porch did not have a rood and only was the decking material.

Leitz stated that there are some exceptions for encroachment into setbacks for decks or porches that are unenclosed and without a roof.

Lampe asked the Board if they would like to see an amendment to the motion or if the request should be left as is.

Mr. Salzwedel stated that he would prefer the request be left as is, but if it creates a large issue he is open to some alterations of the plans.

Charlson asked if staff had heard from any residents regarding the variance request.

Leitz stated that the neighbor to the west was at the last meeting and commented on the property; he believed there was no hardship on the lot. Otherwise, Leitz mentioned that the request sparked some interest in a few residents who asked what was happening on the lot, but after seeing the proposal had no issues with the request. Leitz stated that after publishing the request in the paper and sending out neighborhood notices, no one expressed any concerns regarding the proposal.

Motion By: Shea

Seconded By: Charlson

Move that the Board of Adjustment approve the variance Request to allow a 10 ft. front yard setback from the north property line and an 11 ft. 11 in. front yard setback from the east property line for a new home to be located at 523 5th Street NW.

Yes: 3

No: 2

Absent: 0

E. **Old Business:**

F. **New Business:**

G. **Adjournment:**

Motion By: Brandt

Seconded By: Shea

Move that the Board of Adjustment meeting be adjourned.

Yes: 5 No: 0 Absent: 0