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Office of the City Clerk

BOARD OF APPEALS
Thursday, March 3, 2022
6:00 PM
Christine Nuernberg Hall

Minutes

1) Call to Order, Roll Call

Chairman Massey called the meeting to order at 6:00 PM.

Present:

Chair Kathleen Massey
Board Member Thomas Flanagan
Board Member Ramona Larson
Board Member Joseph Russell
Board Member Robert Stern
Vice Chair William Komisar - **Absent**

Also Present: City Clerk Caroline Fochs, City Attorney Brain Sajdak, Inspection Supervisor Mike Hadley, press and interested public.

2) Approve meeting minutes of November 4, 2021

Motion to approve the meeting minutes of November 4, 2021.

RESULT: **Approved by Voice Acclamation [Unanimous]**

MOVED BY: Board Member Stern

SECONDED BY: Board Member Russell

AYES: Massey, Larson, Russell, Stern

ABSTAIN: Flanagan

3) Hear evidence concerning; debate, deliberate and decide the request of:

- a) Applicant: Patricia M. Freymuth
Owners: Rick and Patricia Freymuth
Appeal: Opportunity will be afforded to all interested in being heard concerning the petition by Patricia M. Freymuth requesting a variance from Section 58-247 (a) (b) and Table 58-249 of the City of Mequon Code of Ordinances in order to retain

the existing carport that exceeds the required offset and permissible size at 11512 N. Wauwatosa Road.

Hearing no objection, Chairman Massey opened the public hearing at 6:03 PM, stated the appeal and the process.

All parties appearing before the Board of Appeals were sworn.

Inspection Supervisor Hadley stated that the City recommended denial because the subject carport of the Freymouth appeal does not have an authorized building permit, it exceeds the 150 feet offset to the east and did not go before the Architectural Review Board, and the appellant has not demonstrated a hardship. The carport has been in place since approximately 2018 and the City was made aware of its existence only after they received a complaint. He further defined a "temporary" structure as being limited to nine months or less, unless approved by planning commission. No temporary use shall be allowed for greater than 18 months. A carport is allowed by code to be a "temporary" use even though it is secured to the ground. If the securing pins were removed the carport would remain flush with the asphalt unless environmental conditions would cause expansion or shrinkage. Mr. Hadley stated that there is a location on the property that the carport could have been approved for if the proper permits had been filed. It would have been a permanent carport.

Ms. Patricia Freymouth stated that the subject carport was installed in 2019 and not 2018. It was installed when their driveway was excavated and replaced. The existing carport replaced a tyvek carport. She misunderstood the code and did not file for a permit. In her mind, this was to be a "temporary" structure until they retired and moved, with no footings. The neighbor has since filed the complaint about the lot line. She is asking for permission to keep it for the short-term (1 or 2 years), until they retire and move. The City-approved location of the carport would interfere with her placement of a garden. If the decision is that the carport must be removed that could take months due to scheduling. Also, a gravel driveway would need to be made to accommodate moving their vehicles further into the only green space of their property.

Attorney Sajdak confirmed that the Board of Appeals does not have the power to grant a temporary variance. Variances run with the land. If the Board decides that the carport must come down then staff would work with the homeowner ensure it happens per an agreed upon schedule.

Motion to close the public hearing at 6:46 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**

MOVED BY: Board Member Russell

SECONDED BY: Board Member Larson

AYES: Massey, Flanagan, Larson, Russell, Stern

Board discussion ensued:

- The absence of a building permit for the carport

- No notification to the neighbors of the carport being built
- Built too close to the lot line
- No proven hardship
- There are alternative locations consistent with city ordinances
- The Board cannot give a temporary variance
- Offset is closer than code allows
- How permanent is this type of carport?

Motion to deny the variance and have the appellant work with the City Attorney and City Staff to find a reasonable schedule to take down and/or move the carport per Municipal Code.

RESULT: **Approved by Voice Acclamation [Unanimous]**

MOVED BY: Board Member Massey

SECONDED BY: Board Member Flanagan

AYES: Massey, Flanagan, Larson, Russell

ABSTAIN: Stern

b) Applicant: Kathleen A. Solórzano

Owner: Kathleen A. Solórzano

Appeal: Opportunity will be afforded to all interested in being heard concerning the petition by Kathleen A. Solórzano requesting a variance from Section 58-416 (e) and Table 58-249 of the City of Mequon Code of Ordinances in order to add an addition that exceeds the required offset at 11019 N. Cedarburg Road.

Hearing no objection, Chairman Massey opened the public hearing at 6:54 PM, stated the appeal and the process.

All parties appearing before the Board of Appeals were sworn.

Inspection Supervisor Hadley stated that the subject property is a non-confirming lot and the existing setback does not meet the requirement of 20 feet. Because it is non-confirming the code allows for a further reduction of 75% which would then make the setback requirement 15 feet. The current offset is 13.6 feet. The appellant wants to build a home addition at an angle with a 13.6 to 13.8 feet offset. Discussion on the enactment of this code and Table 58-249 ensued. If the variance is allowed the addition will be 18 inches contrary to code.

Appellant Kathleen Solórzano stated that her neighbors have been informed of the addition and have seen plans. She plans to age in place and looking at the safety of the home and her quality of life as she ages. Consulted contractors have advised her that if she is not granted the variance and has to move the addition there is little flexibility to meet use needs and state plumbing codes. The addition is proposed for the rear and would increase the property value and the City's tax revenue. The fact that the property is non-confirming is a hardship. Ms. Solórzano added that a proposed addition to the north of the home would encounter the same plumbing issues as previously stated. Dan Solórzano also added the proposed addition provides a shorter distance walking for the owner to go from the detached garage to the house. A first floor laundry is planned for the addition to make life easier as she ages.

Motion to close the public hearing at 7:22 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**

MOVED BY: Board Member Russell

SECONDED BY: Board Member Stern

AYES: Massey, Flanagan, Larson, Russell, Stern

Board discussion ensued:

- The variance is 18 inches.
- Unsure if the desired plumbing can be accomplished or not.
- The costs to shift the addition 18 inches would be considerable.
- Property use has been non-conforming use since 1937.
- Neighbors have been consulted and support the plans.
- The addition would not make the structure more non-conforming.
- This is a practical difficulty or a hardship in the spirit of the code.

Motion to grant the variance in order to add the home addition that exceeds the required 15-foot offset.

RESULT: **Approved by Voice Acclamation [Unanimous]**

MOVED BY: Board Member Massey

SECONDED BY: Board Member Stern

AYES: Massey, Flanagan, Larson, Russell, Stern

4) Adjourn

Motion to adjourn at 7:28 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**

MOVED BY: Board Member Stern

SECONDED BY: Board Member Russell

AYES: Massey, Flanagan, Larson, Russell, Stern

Respectfully Submitted,
Kathy Andrykowski
Deputy Clerk
Approved 04-07-22