



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2914
Fax: 262-242-9655

www.ci.mequon.wi.us

Office of the City Clerk

BOARD OF APPEALS
Thursday, August 1, 2024
6:00 PM
Christine Nuernberg Hall

Agenda

- 1) Call to Order, Roll Call
- 2) Approve meeting minutes of May 2, 2024
- 3) Hear evidence concerning; debate, deliberate and decide the request of:
 - a. Applicant: Scott Starr
 - Owner: Scott Starr
 - Appeal: Opportunity will be afforded to all interested in being heard concerning the request by Scott Starr to appeal the denial of a building permit application for the construction of a second accessory structure at 2220 Sunnydale Lane.
- 4) Adjourn

Dated: August 1, 2024 */s/ Kathleen Massey, Chair*

Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting.

Any questions regarding this agenda may be directed to the City Clerk's Office at 262-236-2914, Monday through Friday, 8:00 AM – 4:30 PM



draft

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BOARD OF APPEALS
Thursday, May 2, 2024
6:00 PM
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Minutes

1) Call to Order

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 Robert Stern
Board Member Steve Helfer
Board Member Kirsten Hildebrand -- **Excused**

Also present: City Attorney Brian Sajdak, City Clerk Caroline Fochs, Community Development Director Tollefson, Associate Planner Hoier, and interested public.

2) Approve meeting minutes of January 4, 2024

Discussion between City and Ozaukee County to review the building code implications from the January meeting is planned for July.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Massey
SECONDED BY: Board Member Helfer

AYES:	Massey, Larson, Helfer
ABSTAIN:	Flannagan, Stern

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

- a. Applicants: Tracy & Mike LaLonde
- Owners: Tracy & Mike LaLonde
- Appeal: Opportunity will be afforded to all interested in being heard concerning the petition by Tracy & Mike LaLonde appealing the February 19, 2024

Attachment: BOA draft accelera minutes_05-02-24 (9546 : May 2, 2024 Minutes)

Planning Commission's building and site plan amendment approval to allow for a renovation for office use at 6714 W. Mequon Road.

Hearing no objection, Chairman Massey opened the public hearing, stated the administrative appeal and the process.

All parties appearing before the Board of Appeals were sworn.

Community Development Director Tollefson stated that staff does not find that the appellant's application provides any evidence of an error by Planning Commission at the February 19, 2024 meeting.

Associate Planner Hoier addressed each condition the appellant wanted to appeal with the appropriate Mequon Code: 1) Code 58-564(e)(2) and 58-564(e)(1) requires a 6 foot fence along the east property line, 2) Code 58-564(e)(1) requires the installation of tall bushes or hedges on the north side of the building, 3) Code 58-564(a) requires the installation of street trees along the driveway to the parking lot, 4) Code 58-605(e) allows Planning Commission to deny street connections where the effect would encourage the use of such streets by substantial through traffic. If a driveway to 6720 W. Mequon Road is installed on River Birch Drive the City can deny the driveway connection from 6720 W. Mequon Road and 6714 W. Mequon Road, and 5) Code 58-605(e) gives Planning Commission the authority to restrict access to River Birch Drive to the north. Staff confirmed that the property to the western side of the subject property is a different property and zoned C-2 Conservancy and that recently a large amount of deciduous trees have been cut down. In addition, Planning Commission allowed public testimony on this issue in February and the neighbors received the appropriate notice.

Chairman Massey read into the record as Exhibit 1 the six letters/emails from residents filed with City staff regarding this appeal. While neighboring resident's comments are taken into consideration, the Planning Commission makes their own recommendations. The parking lot needs to be widened to allow for two-way roadway which would in-turn require street trees. City staff is unaware of the current status of the ongoing dispute between the appellant and the adjacent Home Owners Association (HOA) regarding trespassing and the unauthorized removal of trees from the HOA's property.

Appellant Mr. LaLonde clarified that the on-going litigation concerns the north edge of his property, the land adjacent to 6720 W. Mequon Road. Quotes were received to re-screen. He removed most of the trees on his property. The commercial building has been there for years prior to his purchasing it. It is positioned between two of his properties and not on a thoroughfare. There are no residences north of this building since it is a conservancy. Residents live to the east and west. His solution was a natural barrier of arborvites spaced along the lot line. There is a small plot of land that belongs to the HOA that he proposes to plant part of this natural barrier. Mr. LaLonde further stated that he opposes the Planning Commission's insistence on fencing and shrubbery along the lot line. He does not want to surrender any of his property in order to save more trees when erecting a fence. Any fence would be placed on the lot line and undoubtedly more trees would need to be removed.

Since he owns the house behind him he does not feel that he should be forced to "screen" himself. These resources could be put towards rectifying the bigger issues. He continued to state that the driveway to 6720 W. Mequon Road is not a roadway and therefore he should not be required to plant street trees. He stated that there is a legal easement between 6720 W. Mequon Road and 6714 W. Mequon Road and he should not be required to surrender that.

Discussion ensued. The Board went through each Planning Commission condition that the appellant is challenging. These include the fencing along the east property line, the hedges along the north side, street trees along the driveway to the parking lot, removal of the condition to severing access to 6720 W. Mequon Road if the driveway to 6720 W. Mequon Road is installed on River Birch Drive. Mr. LaLonde argued that it is a private drive and not a roadway and thus Code 58-564(a) does not apply, nor does the Planning Commission have the authority to require the connection. His appeal concerns 6714 W. Mequon Road not 6720 W. Mequon Road.

Further discussion ensued on the access to River Birch Road. Mr. LaLonde stated that he owns both 6714 and 6720 W. Mequon Road. 6714 is a commercial property. Being the owner he can reduce or eliminate the access point to River Birch Road. 6720 is a tenant-occupied residential property that has a legal right to the access point to River Birch Road. There is no paved access to River Birch Road at this time. He owns all three buildings. Ms. Tollefson explained that with the conversion of 6714 W. Mequon Road into a new commercial business, the Planning Commission did not want to see commercial traffic traveling across a single-family lot and entering onto a residential, local street in a residential neighborhood from River Birch. Five offices are planned at 6714 W. Mequon Road. Hours of operation could be later than 5:00 pm depending on the clientele. Under State statutes the City has the right to control the egress from 6714 W. Mequon Road. There is no indication that the City is taking away any of his easements.

The following residents spoke against Mr. LaLonde's appeal: Dave Schaefer, Paul Reinholz, Dave Boerke, and Archie Shew.

The subject building is very visible, citing the change of use to a multi-use business could result in more light pollution and more traffic, the insufficiency of trees to screen car lights, the fence condition should remain, extension of the fence further south would be acceptable to the River Birch HOA, landscaping is needed around the patio for privacy, street trees along driveway are needed to restore the aesthetics of the property, agrees severing the driveway to the north is correct, there is also increased noise pollution, the lack of vegetation is unsightly, the current screening is nonexistent since the trees were either trimmed up or cut down, neighbors wish to maintain their property values.

Mr. Reinholz confirmed that the lawsuit is on-going and the River Birch HOA has not agreed to accept trees on their part of the lot line. Mr. Boerke agrees with Mr. LaLonde's opinion that screening is the most important issue to be addressed.

David Neel opposed but declined to speak.

Mr. LaLonde clarified that he only removed trees on his side of the east lot line and afterwards the Home Owners Association cleared the low vegetation on their side of the property line. Both of these actions opened up the sight lines immensely. He admitted trimming up six trees on the north property line in error. The reason to cut trees was to be able to access the power lines that cross his property.

Finally, Ms. Tollefson stated that when an access is being used for a commercial use that is open to the public it is no longer considered private. These requirements are conditions of an application made by the appellant to use the property as a commercial use. These are the minimum standards by the code that any development needs to meet. The site plan is in place for perpetuity as long as commercial development occurs. Any changes need City approval.

Motion to close the public portion of the hearing.

RESULT: Approved by Voice Acclamation [Unanimous]
MOVED BY: Board Member Stern
SECONDED BY: Board Member Flanagan

AYES: Massey, Flanagan, Larson, Stern, Helfer

Board discussion ensued.

- The subject property currently looks very rough and barren.
- There are different ways to resolve this.
- The Board's role is to rule on law.
- The Board must consider all oral and written testimony.
- Planning Commission had the authority to levy conditions.
- Mequon is not taking any easement away from the appellant.
- The City weighed the impact of noise pollution, traffic, safety of neighboring residents, and egress/ingress to property.
- The Planning Commission acted without error.
- The Planning Commission approval conditions are reasonable.
- Traffic will be increased on the property by the nature of its use.
- Neighboring residents have the right to be shielded.

Motion to deny the appeal to remove and revise conditions of the building and site plan approval on February 9, 2024.

RESULT: Approved by Roll Call Vote [Unanimous]
MOVED BY: Board Member Flanagan
SECONDED BY: Board Member Massey

AYES: Massey, Flanagan, Larson, Stern, Helfer

4) Adjourn

Motion to adjourn at 7:53 PM.

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

MOVED BY: Board Member Helfer

SECONDED BY: Board Member Stern

AYES: Massey, Flanagan, Larson, Stern, Helfer

Respectfully Submitted,
Kathy Andrykowski
Deputy Clerk

Attachment: BOA draft accel minutes_05-02-24 (9546 : May 2, 2024 Minutes)

BOARD OF APPEALS VARIANCE APPLICATION**CITY OF MEQUON, WISCONSIN**

Applicant: Scott Starr Address: 2220 W Sunnydale Ln
 City/zip: Mequon WI 53092

Owner: Scott Starr Address: 2220 W Sunnydale Ln
 City/zip: Mequon WI 53092

Contact Person/Name: Scott Starr

Phone Number: 414-552-6592 Email: scott@revpop.com

TO THE BOARD OF APPEALS:

Section 58-247(c)

The above hereby requests a variance to City of Mequon Code Sec. #: Detached Storage Structures,
 regarding:

2220 W Sunnydale Ln Mequon WI 53092*(street address or legal description)*

in order to: Please see attached letter.

APPLICANT MUST PROVIDE:

Application form

\$250 filing fee

1 copy each of the following documents

1. Copy of denial letter if any, or a description of the denial
2. Letter explaining hardship or practical difficulty in complying with the ordinance requirement(s)
3. Detailed dimension drawing of/and indicating area where appeal/variance is requested
4. Elevation drawings if appropriate (4 views)

FOR OFFICE USE ONLY

Receiving Officer: _____	Received Date: _____
Parcel #: _____	Hearing Date: _____
Zoning District: _____	Receipt #: _____
Alderman & District #: _____	Published: _____

- c: Notice of scheduled hearing to DISTRICT ALDERPERSON, OWNER(S) OF RECORD as listed in the Office of the Assessor and all parcels in the City of Mequon as per state statute and City of Mequon Communication Policy.



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July 9th, 2024

Scott Starr

2220 W Sunnydale Lane

Mequon, WI 53092

RE: Building Permit Application

This letter is to inform you that your building permit application for a detached storage structure at 2220 W Sunnydale Lane has been **denied**. This is due to the presence of an existing detached storage structure on the property, of which you are only allowed one.

According to Section 58-249 – Permitted accessory uses in residential districts.

(c) *Detached storage structures.* In addition to any permissible garages, a single detached storage shall be permitted in the following zoning districts subject to the following conditions:

(1) On any property zoned R-1 provided that no such detached storage structure shall exceed the lesser of 2,178 square feet or one percent of the area of the property; however, if the property is subject to an AO agricultural overlay, the property shall not be restricted in the number or size of detached storage structures.

(2) On any property zoned R-1B through R-5 subject to the following conditions:

a. If a guesthouse is constructed as a conditional use, no detached storage structure is permitted.

b. A detached storage structure shall not exceed one percent of the lesser of (a) five acres or (b) the area of the property if the property is not divisible in the current zoning district or, if it is divisible, the zoning district's minimum lot size.

Please remove the existing storage structure and resubmit your building permit application.

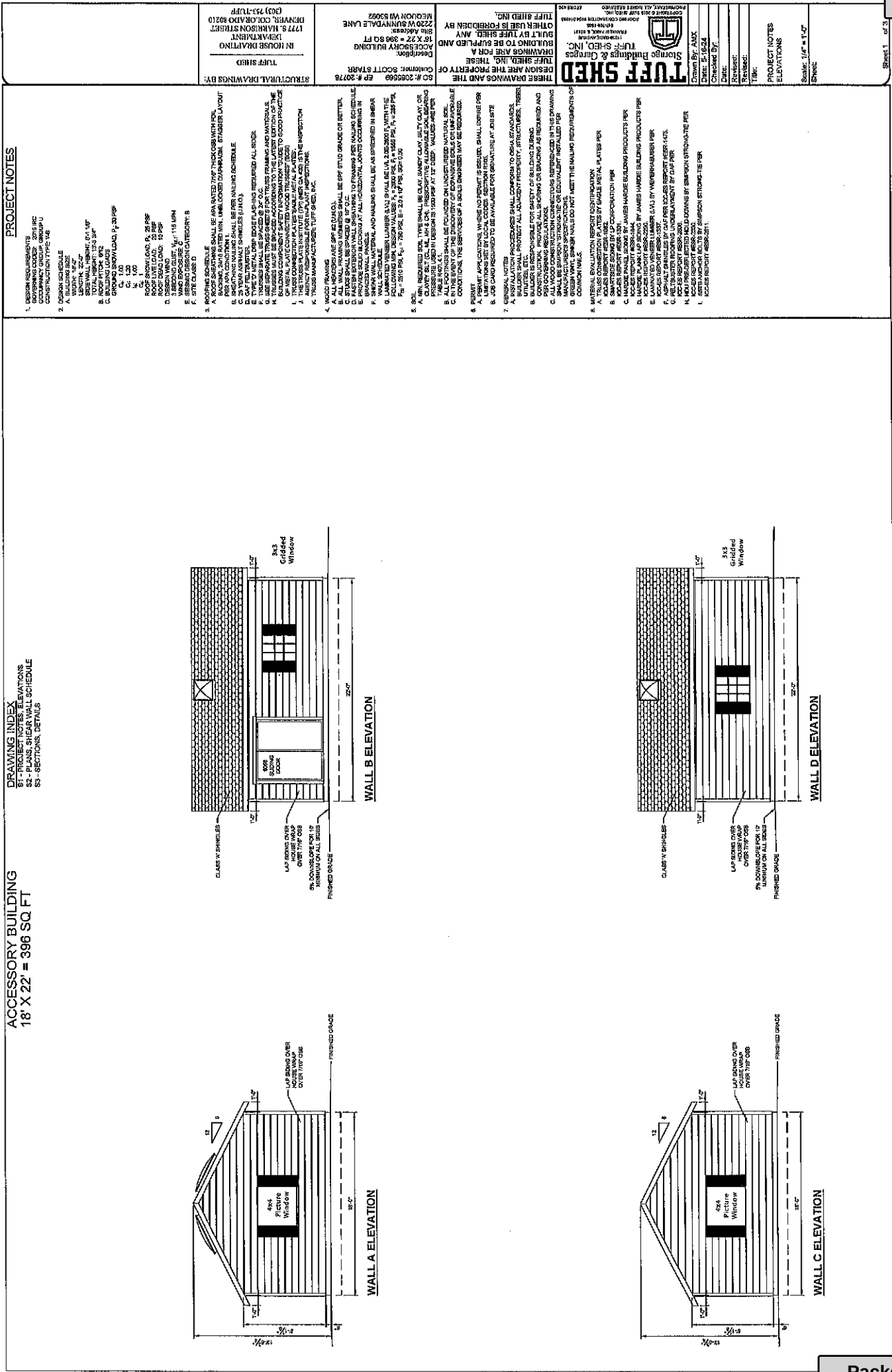
Alternatively, you may appeal this denial or request a variance. Please contact the Clerk's Department at the City of Mequon, which can be reached at (262)-236-2914 or by email at jmeyer@ci.mequon.wi.us.

Evan Hoier

A handwritten signature in blue ink, appearing to read 'Evan Hoier', is written over a horizontal line.

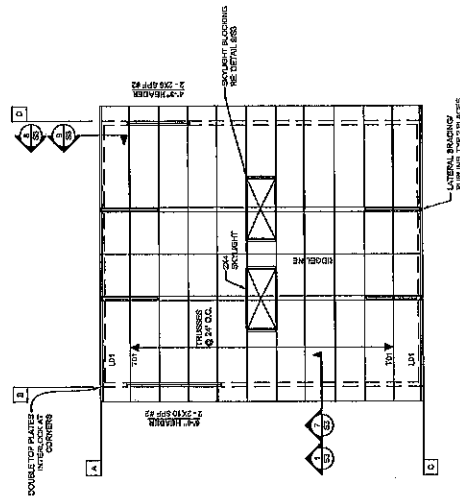
Associate Planner

Attachment: Starr Application public for Accela (9572 : Public packet)



[illegible]

WHEN PERFORATED SHEAR WALL DESIGN IS DESIGNATED, AREAS ABOVE AND BELOW OPENINGS ARE USED IN SHEAR CALCULATIONS. REFERS TO ANSI/AISC SDPWS.







Legend

Product of the LAND INFORMATION OFFICE

7/25/2024, 10:00:16 AM

7/25/2024, 10:00:16 AM

0.0075 0.015 0.03 0.045 0.06 mi

DISCLAIMER: This map is not a substitute for an actual field survey or onsite investigation. The accuracy of this map is limited to the quality of the records from which it was assembled.

OSAJA COUNTY

Sec. 58-247. - Permitted accessory uses in residential districts.

(a) *Permitted accessory uses generally.* Table 58-247 sets forth the permitted accessory uses for each residential zoning district.

Table 58-247	Additional Regulations Below	R-1	R-1B	R-2	R-2B	R-3	R-4	R-5	R-6	RM
Private garages	X	X	X	X	X	X	X	X	X	X
Private carports	X	X	X	X	X	X	X	X		
Paved parking areas	X	X	X	X	X	X	X	X	X	X
Home occupations and professional offices	X	X	X	X	X	X	X	X	X	X
Detached storage structures	X	X	X	X	X	X	X	X	X	X
Family child care homes in accordance with Wis. Stat. §§ 66.1017 and 48.65		X	X	X	X	X	X	X	X	X
Private outdoor recreational facilities normally accessory to a residential use		X	X	X	X	X	X	X	X	X
Short-term rental of a dwelling in accordance with <u>section 58-422</u>		X	X	X	X	X	X	X		
Non-commercial greenhouses that do not exceed 150 square feet—such uses do not count against the total detached storage structures allowed		X								

(b) *Garages and carports.*

(1) No garage or carport shall be erected prior to the erection of the principal building to which it is accessory.

(2) The following provisions apply to properties zoned R-1 through R-5:

- Except as otherwise specifically provided below, no more than one principal garage, either attached or detached, shall be permitted on a lot.
- If there is a residence without an attached garage, one principal detached garage not to exceed 800 square feet in area shall be permitted.
- If a residence was constructed prior to year 2003 with an attached garage in which two full-sized personal automobiles cannot reasonably be stored side-by-side, one principal detached garage not to exceed 675 square feet in area shall be permitted, provided no such garage structure shall be sited in front of an existing residence or in such other location as shall unreasonably affect or adversely impact the beauty and general enjoyment of existing residences or adjoining properties.
- Enclosed vehicular storage space for not more than one vehicle may be rented to persons not resident on the lot, such space being defined as an area not to exceed 300 square feet.

(c) *Detached storage structures.* In addition to any permissible garages, a single detached storage shall be permitted in the following zoning districts subject to the following conditions:

- On any property zoned R-1 provided that no such detached storage structure shall exceed the lesser of 2,178 square feet or one percent of the area of the property; however, if the property is subject to an AO agricultural overlay, the property shall not be restricted in the number or size of detached storage structures.
- On any property zoned R-1B through R-5 subject to the following conditions:
 - If a guesthouse is constructed as a conditional use, no detached storage structure is permitted.
 - A detached storage structure shall not exceed one percent of the lesser of (a) five acres or (b) the area of the property if the property is not divisible in the current zoning district or, if it is divisible, the zoning district's minimum lot size.

(d) *Parking requirements for the RM zoning district.*

(1) *Enclosed parking.* Each dwelling unit shall be provided a minimum of the following number of enclosed parking spaces:

- One-bedroom units: 1.75 parking spaces.
- Two-bedroom units: 2.00 parking spaces.
- Three-bedroom units: 2.00 parking spaces.

(2) *Off-street parking ratio.* Off-street parking for guest parking shall be provided at the rate of one space for every two dwelling units, but no less than four spaces per development.

(e) *Home occupations.*

(1) The home occupations shall be clearly incidental to the principal residential use.

(2)

The home occupation shall be carried on wholly within the principal residential dwelling or within a permitted accessory structure and only by residents occupying the premises and one additional person not a resident on the premises.

- (3) No article or service shall be sold or offered for sale on the premises except by telephone or electronically with products stored and any physical delivery occurring elsewhere.
- (4) The home occupation shall not normally generate customer or client traffic to the residential premises.
- (5) No retail or wholesale business shall be conducted on the premises.
- (6) No sand, gravel, stone, topsoil or peat moss shall be removed from the premises for commercial purposes.
- (7) No materials, equipment or vehicles used in the home occupation shall be stored outside.
- (8) Any off-street parking area shall be maintained reasonably dustless and adequately screened from adjoining residential properties.
- (9) The home occupation shall not generate or result in offensive noise, vibration, smoke, dust, odors, heat, or glare if any of the foregoing creates a nuisance or is otherwise incompatible with the surrounding residential area.
- (10) In the R-6 zoning district, there shall be no signs for the home occupation. A sign for a home occupation in any other residential zoning district shall comply in all respects with the requirements in the sign code for home occupation signs.

(Ord. No. 2021-1591, § 1(Exh. A), 6-8-2021)



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www.ci.mequon.wi.us

Office of Community Development

TO: Board of Appeals
FROM: Evan Hoier, Associate Planner
DATE: July 25, 2024
SUBJECT: Scott Starr Appeal

Background

The appellant is requesting a variance to allow two detached structures for the property located at 2220 West Sunnysdale Lane. The appellant has an existing structure of approximately 120 square feet and uses it for storage of pool equipment. The appellant requests a second structure of 396 square feet and intends to use the detached storage structure as a space for a yoga studio. The City of Mequon Zoning Code, Section 58-249 - *Permitted accessory uses in residential districts*, states the following:

(c) *Detached storage structures.* In addition to any permissible garages, a **single** detached storage structure shall be permitted in the following zoning districts subject to the following conditions:

(1) On any property zoned R-1 provided that no such detached storage structure shall exceed the lesser of 2,178 square feet or one percent of the area of the property, however, if the property is subject to an AO agricultural overlay, the property shall not be restricted in the number or size of the detached storage structures.

(2) On any property zoned R-1B through R-5 subject to the following conditions:

a. If a guesthouse is constructed as a conditional use, no detached storage structure is permitted.

b. A detached storage structure shall not exceed one percent of the lesser of (a) five acres or (b) the area of the property if the property is not divisible in the current zoning district or, if it is divisible, the zoning district's minimum lot size.

Variance

The appellant is requesting a variance from the restriction to one detached storage structure allowed. Staff informed the appellant that the requested building permit, dated 05/01/2024, could be approved if the existing detached storage structure was removed.

The appellant alleges that the proposed structure is necessary due to personal medical circumstances. The appellant's physician provided a letter of support for the appellant's spouse's ongoing therapy.

Variance requests shall be based on unique, physical conditions associated with land that are not applicable to other sites and represent a constraint for why the technical standard of the code cannot be complied with. The property does not present a unique hardship that could be taken into consideration by the Board. In this case, the appellant has options in which medical therapy on the property can occur, including a space within the home, an addition to the home, the use or

renovation of the existing detached structure or the removal of the existing detached structure and the subsequent construction of the new proposed detached structure.

Recommendation

Based on the analysis above, staff recommend **denial** of the variance due to a lack of hardship.