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Office of the City Clerk

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

Minutes

1) Call to Order

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

Present:

Chair Massey
Board Member Helfer
Board Member Hildebrand
Board Member Larson
Board Member Wawrzyn
Board Member Stern – **Excused**
Board Member Flanagan – **Excused**

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

2) Approve meeting minutes of May 2, 2024

RESULT: **Approved by Voice Acclamation [4:1]**
MOVED BY: Chair Massey
SECONDED BY: Board Member Larson

AYES:	Massey, Helfer, Hildebrand, Larson
ABSTAIN:	Wawrzyn

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

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.

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.

Scott Starr 2220 W Sunnydale Lane, Mequon, WI 53092
Evan Hoier 11333 N Cedarburg Road, Mequon, WI 53092
Kim Tollefson 11333 N Cedarburg Road, Mequon, WI 53092
Brian Parrish 11333 N Cedarburg Road, Mequon, WI 53092

Chairman Massey began by explaining the guidelines for the Board of Appeals as well as the process for the Board of Appeals meeting.

City Attorney Sajdak clarified that the agenda item was not regarding the denial of a building permit but a variance request for the code. This clarification was meant to ensure that the Board was ready to proceed knowing proper notice had been given and the applicant also understood this distinction. The Board, the City, nor the applicant had any objection with proceeding.

Associate Planner Hoier said homeowner Starr applied for a permit for an additional accessory building on May 1, 2024 to be used as a yoga/meditation studio on the property at 2220 West Sunnydale Lane. Code allows for one additional structure; however, Starr said a second structure was necessary for medical reasons. The City cannot take into account any medical, physical or financial personal circumstances rather must look at whether there is a unique physical hardship of the land.

It was determined that there was not a physical hardship that would allow for this variance in the code. A permit for the second structure was never issued. The homeowner had applied and presented to Architectural Review Board but they do not review zoning.

Mr. Starr stated that March 2024 was the first contact regarding the project and understood that the guidelines would be for a structure to be under 400 square feet and 20' from property line. The Architectural Review Board said it was good once windows were added; therefore, Mr. Starr began the process and ordered materials and poured concrete. At that time, he received a call from Associate Planner Hoier saying Starr needed a permit for a second structure but that permit would be denied as they already had a pool shed on the property. The site plan, survey and drawings were documents the City had for review.

The Board of Appeals and the homeowner discussed what other options had been considered before this plan; such as adding square footage to home or taking down the pool shed. The homeowners didn't want to disrupt the look/feel/style of the home with an addition. The homeowner preferred a separate space that wasn't part of the house as it would be clean and quiet. The Board and homeowner discussed other options including using a different internal space, making the pool shed a dual-space or using space within the garage for storage. The Homeowner had considered other options but wanted it to be a separate and quiet space outside of the home as they have the land that could accommodate that.

City Attorney Sajdak discussed the legal guidelines of the ADA which allows for reasonable accommodations and can have an impact on zoning decisions. Even when there is a disability, you still have to consider the code and reasonableness of what options exist.

Alderman Parrish stated that he understands each decision made must consider precedent. Boards can deal with unique situations and need to work with the members of the community. He asked the Board to recognize the hardship of this homeowner's needs due to a health-related request as well as the fact that the neighbors were contacted and had not disputed it.

Motion to close the public hearing for Scott Starr.

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

AYES: Helfer, Hildebrand, Larson, Massey, Wawrzyn
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Chair Massey stated that this Board must look at the ordinances and codes as they are written. While the Board can relate to the difficulty faced by the homeowner, they can only review the request and determine if this variance can be granted based on hardship due to the property not the needs of the individual/homeowner.

When reviewing this case, it must be considered that the code clearly states that only one accessory structure is allowed. Homeowner Starr said he is willing to take down the existing pool shed to move forward with the new structure which would better meet their current needs.

Motion to deny the variance.

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

AYES: Helfer, Hildebrand, Larson, Massey, Wawrzyn
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4) Adjourn

Motion to adjourn at 7:10 PM.

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

AYES: Helfer, Hildebrand, Larson, Massey, Wawrzyn
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Respectfully Submitted,
Beth Kong
Deputy Clerk