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Office of the City Clerk

BOARD OF APPEALS
Thursday, December 5, 2024
6:00 PM
Christine Nuernberg Hall

Minutes

1) Call to Order

Present:

Chair Kathleen Massey
Vice Chair Thomas Flanagan
Board Member Ramona Larson
Board Member Robert Stern
Board Member James Wawrzyn
Board Member Steve Helfer -- **Excused**
Board Member Kirsten Hildebrand -- **Excused**

Also present: City Attorney Sajdak, City Clerk Fochs, Director of Community Development Tollefson and interested public.

2) Approve meeting minutes of November 7, 2024

Motion to approve meeting minutes.

RESULT: Approved by Vote Count [Unanimous]
MOVED BY: Board Member Flanagan
SECONDED BY: Board Member Larson

AYES: Massey, Flanagan, Larson, Stern, Wawrzyn

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

- a. Applicant:** Jeremy Gonzalez
Owners: Jeremy Gonzalez
Appeal: Opportunity will be given to all interested in being heard concerning the petition by Jeremy Gonzalez to request a variance for a shed and dog run at the property located at 11329 N Meadowbrook Drive.

Chairman Massey explained the guidelines for the Board of Appeals as well as the process for the meeting. All parties appearing before the Board of Appeals were sworn.

Jeremy Gonzalez	11329 N Meadowbrook Drive
Kim Tollefson	11333 N Cedarburg Road
Gary Norton	11323 N Meadowbrook Drive

Director of Community Development Tollefson explained that the applicant had requested three variances related to two structures. Two variances relate to an accessory structure, which is a shed at the rear of the property. The subject lot is narrow and current placement of the shed does not meet two offset requirements (rear is at 18 feet rather than 25 feet and side is at 15.5 feet rather than 19 feet).

During the review process, it was determined that neither the shed nor the dog run had been installed with permits. While staff can work with the homeowner to resolve the permit issue, the setbacks are still out of compliance. The shed could be relocated within the yard to meet required offsets.

The third variance is for a dog run located in the side yard that is currently 600 square feet when code limits a dog run to no more than 150 square feet. The dog run is used for a K-9 unit dog for the Milwaukee Police Department. While the height and location of the current dog run are acceptable, the overall size is not allowed by the current ordinance. The Milwaukee Police Department provides guidelines for a K-9 unit / service animal, but a required size for a dog run is not defined.

Chair Massey pointed out that the term “dog run” and “kennel” have differing definitions. City Attorney Sajdak said the municipal code does not define a “dog run” but says a “kennel” is something that can house four dogs or more. The applicant’s structure should not be referred to as a “kennel” as that does not apply since this is just regarding one dog.

Board Member Flanagan said Section 58-532 does not specify anything regarding a service dog or K-9, and he asked how it can be amended by the Common Council to address this type of situation. Director Tollefson said that a policy analysis could be initiated to review this circumstance or other K-9 or service dog requirements.

Mr. Gonzalez explained that when they purchased the property, it had an existing shed that was dilapidated. They purchased and installed a replacement shed without realizing the need for a permit. Their new shed was placed further from the lot line than the old one (which improved the offset). The new location was selected as it was the flattest area of the yard and is now placed on a gravel pad. They wanted to keep an open space for their children to play without affecting the wooded area of the yard. The neighbors signed off that this current location was acceptable.

Nox is an eight-year-old German Shepherd that works as K-9 for the Milwaukee Police Department. Due to his training, Nox constantly runs and paces within the dog run. Mr. Gonzalez built the dog run to provide much-needed extra space for Nox to safely move and expend energy outside. They do not have space in their basement for Nox to use for exercise. The neighbor closest to the dog run also does not have any issue with the size or location of the current dog run.

The Board asked if the Milwaukee Police Department sets any other requirements or provided any of the supplies since the K-9 is technically their property. Gonzalez purchased and installed the dog run at his own expense. The size and location were selected because of the open area that was available with access closest to the house. The shed had been up for two years and the fence for 7 years before Mr. Gonzalez received any notice that he was out of compliance with the ordinance.

Chair Massey said it would be useful to know the additional requirements needed for a working or K-9 dog or service animal. Mr. Gonzalez explained Nox must have a lot of exercise to release his energy, and the house does not lend itself to having an interior area for exercise.

Board Member Wawrzyn questioned why the size area is specified for a dog run but residents can fence in an entire yard for their pet (and that is not considered a dog run). Director Tollefson agreed there can be different interpretations within the codes, so it may be necessary to revisit the guidelines within this code.

Gary Norton is a neighbor at 11323 North Meadowbrook Drive and wanted to say that there have been many improvements to the property since the Gonzalez family arrived. He believes Mr. Gonzalez has already had enough of a hardship with paying for a survey and investing in a new shed that was a great enhancement within the neighborhood. The dog is well-behaved and does not bark. Mr. Norton asked the Board to grant an exception for the existing shed and dog run for this K-9 while the Gonzalez family owns this residence.

Motion to close the hearing.

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

AYES: Massey, Flanagan, Larson, Stern, Wawrzyn

The Board discussed that they cannot change a city ordinance. They can determine if the property itself is causing a hardship and approve a variance. While the dog run location is acceptable, its size is larger than the maximum allowed. If this was considered a kennel, there would be no limitations on the size of the dog run.

The Board agrees that there needs to be more clarification from the Common Council regarding how the ordinance could be expanded for a working animal. The needs of a service dog should make this a “canine exercise facility” rather than a dog run as the requirements of this K-9 are different from a house pet or family dog. However, this Board is limited by the narrow role it must work within. It must consider the municipal ordinances as they are written and make a decision based on that.

Motion to deny all three requests for variance.

RESULT: **Approved by Vote Count [Unanimous]**
MOVED BY: Chair Massey

SECONDED BY: Board Member Wawrzyn

AYES: Massey, Flanagan, Larson, Stern, Wawrzyn

After the vote, the Board reviewed the procedures for bringing ordinance changes to the Common Council. Director Tollefson said her department would hold off on any enforcement regarding the dog run or shed while these changes are being pursued.

4) Ordinance

a. ORDINANCE 2024-1672 An Ordinance to Amend Section 58-41(g) of the Mequon Municipal Code Related to the Issuing of Decisions by the Board of Appeals.

City Attorney Sadjak stated it is necessary to have a timely turnaround when making a decision, but it has been too aggressive at times and has made it hard to meet. The request is to extend the deadline by five days but would not go past 60 days without the Board’s approval. This is just an initial discussion and it can be revisited at the January 2025 meeting.

Chair Massey said she read the proposed change would allow 15 days plus 5 days (20 days total) for the work to be completed following a meeting. If there is an extension approved of 60 days, that can mean a delay of 80 days which is too long. Chair Massey wanted to clarify who should have the authority to delay getting a decision finalized and determine what amount of time is reasonable. She believes the Common Council or Mayor should be tasked with making an allowance if the 20-day deadline cannot be met.

The Board believes the wording of the proposed ordinance should be reviewed to make it clearer who has the role of writing up the decision and the timeline allotted. The top of page 36 should be amended to say “the attorney representing the board shall render a decision”. City Attorney said that the point of the ordinance is to make sure that it is clear what the decision process is and how a “reasonable time” is defined. Board members had to respond within five days or they will be passed over (and presumed as having approved the decision).

5) Adjourn

Motion to adjourn at 7:50 PM.

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

MOVED BY: Board Member Wawrzyn

SECONDED BY: Board Member Stern

AYES: Massey, Flanagan, Larson, Stern, Wawrzyn

Respectfully Submitted,
Beth Kong
Deputy Clerk