

**City of Oconomowoc
Zoning Board of Appeals Minutes – June 3, 2020**

The Deputy Clerk called the meeting to order at 6:00 pm and confirmed that appropriate notice was given.

Members Present: Mark Gempeler, Kyle Driscoll, Ken Brotheridge and Bob Morgan
Members Excused: Jake Nicholson
Staff Present: Jason Gallo and Tina Wallace

2. Nominate/act on Chairperson pro tem: Motion by Driscoll to nominate Board Member Kenneth Brotheridge as Chairperson pro-tem; second by Morgan. Motion carried 4-0.

3. Approve Minutes of May 14, 2019: Motion by Driscoll to approve the May 14, 2019 minutes; second by Gempeler. Motion carried 4-0.

4. Reynen Public Hearing – 6:01 PM: The purpose of the hearing is to hear public comment on the variance application filed by Chad Reynen (property owner) for the property located at 833 W. LaBelle Avenue. The owner is requesting a variance from Section 17.202 – Residential Intensity and Bulk Requirements within the City Zoning Code, specifically the front yard setback in the Traditional Residential Zoning District, which does not allow structures within 20' of the front or street side property line. A variance of 7'6" is required to allow an addition to the existing dwelling to be constructed 12'6" from the street side property line.

Brotheridge opened the public hearing at 6:01 pm and swore in the property owner, Chad Reynen, David Nason and Jason Gallo, City Planner. Gallo gave a power point presentation on the applicant's variance request. He stated this is for an area variance. They are asking for a waiver of an ordinance from Section 17.202 Residential Intensity and Bulk Requirements for the property at 833 W. LaBelle Avenue. This is regarding a building addition to the existing home. The City allows 20' setback from the street or the front property lines. The applicant would like to encroach 7.6' into that setback. The dwelling's front door does not abut a street but faces a vacated right-of-way that was to be used for LaBelle Avenue. The only street frontage for this dwelling is on Chestnut Street. The current dwelling address is for LaBelle Avenue. Gallo gave a brief history of the property. The property has an approximate 150-year old oak tree with steep slopes in the rear yard. No neighbors voiced concerns. Gallo stated in order for the Zoning Board of Appeals to grant a variance there is a three-part test. The applicant has the burden of proof to demonstrate that all three criteria defined in the state statute requirements are met: 1) is unique physical property limitations are existing; 2) no harm to public interests; and 3) unnecessary burden on the owner if it's not granted. Planning Staff finds the property contains unique physical property limitations, no harm to public interest and there is unnecessary burden placed on the applicant. Gallo concluded the Board has 5 alternatives to granting a variance: approve the request as submitted, deny request, approve the request in part, approve the request with conditions as determined, or postpone action. The Board should consider have they exhausted all other means; would a text amendment be a better solution and will granting this various set a precedent. The Board should consider the application, evidence during the public hearing, staff report, photos, letters and emails. Planning Staff recommends approval of the variance at 833 LaBelle Avenue with the conditions that it cannot encroach any closer to the existing home and the address of 833 LaBelle Avenue should be displayed on the house or property for emergency vehicle way finding.

Chad Reynen stated one of the reasons LaBelle Avenue is vacated is the City deemed it unimproved and not necessary for public travel. The front door is their main concern. The tree in the back is a Burr Oak and is over 13 ft. round and old. They are encroaching a little to the north. He submitted a letter of support from the neighbors. Also, they will keep the address on the garage.

David Nason, 902 W. Wisconsin Avenue, spoke in support of the project.

No additional public comments were received. The public hearing closed at 6:32 pm.

5. Consider/act on the request of Chad Reynen for a variance from Section 17.202 allowing a building addition to encroach 7'6" into the street side setback at 833 W. LaBelle Avenue:

Board was in agreement with staff findings.

Motion by Driscoll to approve the variance as it was provided for the following reasons with two conditions that the full address is displayed on the house or garage and that the home cannot encroach closer to the road than the existing home: 1) The property contains unique physical limitations due to the mature tree in the backyard and the topography of that and not allowing to build in the rear; 2) No harm to the public interest: A) The addition will not be any closer than the front street; B) There was no calls or emails received in opposition to this plan; and C) The letters of support by the neighbor, as well as the Alderman; and 3) There is an unnecessary burden given that the front door is not on the street and the new front door will allow for a much safer access to the property in times of emergency; second by Gempeler. Motion carried 4-0.

No further discussion or action was taken.

6. Jeffers Public Hearing – 6:38 PM: The purpose of the hearing is to hear public comment on the variance application filed by Robert Jeffers (property owner) for the property located at 515 Greenland Avenue, City of Oconomowoc. The owners are requesting a variance from Section 17.202 – Residential Intensity and Bulk Requirements within the City Zoning Code, specifically the side yard setback in the Traditional Residential Zoning District, which does not allow structures, such as dwellings, within 7' of the side property line. The full variance of 7' is required to allow an addition to the existing dwelling to be constructed one-foot from the side lot line with an overhang of 1' leaving a total of one-inch from the side property line.

Brotheridge opened the public hearing at 6:38 pm and swore in the property owner, Robert Jeffers and Jason Gallo, City Planner. Gallo gave a power point presentation on the applicant's variance request. He stated this is for an area variance. They are asking for a waiver of an ordinance from Section 17.202 Residential Intensity and Bulk Requirements for the property at 515 Greenland Avenue. This is regarding a building addition encroachment. The City allows 7' from the side lot line of the property. The applicant is requesting to do an addition that will fully encroach into the 7' setback. They will leave 1" from the side lot line. Gallo gave a brief history of the property. The property owner removed 2,000 sf of concrete, which was the driveway on the lake side of the dwelling. They would like to add on to the house with a garage. No neighbors voiced concerns. A letter of support was submitted from the property owner from the lot adjacent to the proposed addition. Gallo stated in order for the Zoning Board of Appeals to grant a variance there is a three-part test. The applicant has the burden of proof to demonstrate that all three criteria defined in the state statute requirements are met: 1) is unique physical property limitations are existing; 2) no harm to public interests; and 3) unnecessary burden on the owner if it's not granted. Planning Staff finds the property contains unique physical property limitations, no harm to public interest and there is unnecessary burden placed on the applicant. Gallo concluded the Board has 5 alternatives to granting a variance: approve the request as submitted, deny request, approve the request in part, approve the request with conditions as determined, or postpone action. The Board should consider have they exhausted all other means; would a text amendment be a better solution and will granting this various set a precedent. The Board should consider the application, evidence during the public hearing, staff report, photos, letters and emails. Planning Staff recommends approval of the variance at 515 Greenland Avenue.

Robert Jeffers stated he has owned the property for 14 months. One of the concerns was the garage. There was 2,000 sq. ft. of concrete draining run-off right to the lake and the garage was built for Model T cars. The removal of the concrete will greatly benefit the lake. Now they are stuck with no garage. The north neighbors are in favor of the property. There is 60 ft. between the homes.

No additional public comments were received. The public hearing closed at 6:58 pm.

7. Consider/act on the request of Robert Jeffers for a variance from Section 17.202 allowing a dwelling to encroach 7' into side yard setback at 515 Greenland Avenue:

Board was in agreement with staff findings.

Motion by Driscoll to approve the variance as it was provided for the following reasons with one condition that they work with the neighbors to replace any trees that are moved or removed: 1) The property contains unique physical limitations: A) The existing garage is not up to today's standards; and B) Landscaping and the utility lines making this the best area; 2) No harm to the public interest: A) The neighbors are in support; and B) There was no calls or emails received in opposition to this plan; and 3) There is an unnecessary burden given that if they were to construct on the other side they would have to move the electrical and gas lines, mature trees, landscaping and asphalt and the second option would impede your neighbors view to the lake; second by Gempeler. Motion carried 4-0.

No further discussion or action was taken.

8. Frederick Public Hearing – 7:02: The purpose of the hearing is to hear public comment on the variance application filed by Dean Frederick (property owner) for the property located at 622 Anne Street, City of Oconomowoc. The owner is requesting a variance from Section 17.202 – Residential Intensity and Bulk Requirements within the City Zoning Code, specifically the side yard setback in the Traditional Residential Zoning District, which does not allow detached accessory structures, such as garages, within 3' of the side property line. A variance of 2' is required to allow the detached accessory building to be reconstructed one-foot from the side lot line.

Brotheridge opened the public hearing at 7:02 pm and swore in the property owner, Dean Frederick and Jason Gallo, City Planner. Gallo gave a power point presentation on the applicant's variance request. He stated this is for an area variance. They are asking for a waiver of an ordinance from Section 17.202 Residential Intensity and Bulk Requirements for the property at 622 E. Anne Street. The request is to tear down the existing garage that is 1' from the side yard and rebuild it. He would need a 2' variance. The proposed garage is slightly larger as it is an additional 3 ft. in length. Gallo gave a brief history of the property. No neighbors voiced concerns. Letters of support were submitted from the property owners most affected by this variance. Gallo stated in order for the Zoning Board of Appeals to grant a variance there is a three-part test. The applicant has the burden of proof to demonstrate that all three criteria defined in the state statute requirements are met: 1) is unique physical property limitations are existing; 2) no harm to public interests; and 3) unnecessary burden on the owner if it's not granted. Planning Staff finds the property contains unique physical property limitations, no harm to public interest and there is unnecessary burden placed on the applicant. Gallo concluded the Board has 5 alternatives to granting a variance: approve the request as submitted, deny request, approve the request in part, approve the request with conditions as determined, or postpone action. The Board should consider have they exhausted all other means; would a text amendment be a better solution and will granting this various set a precedent. The Board should consider the application, evidence during the public hearing, staff report, photos, letters and emails. Planning Staff recommends approval of the variance at 622 E/ Anne Street. Dean Frederick stated the application stands for itself.

No additional public comments were received. The public hearing closed at 7:17 pm.

9. Consider/act on the request of Dean Frederick for a variance from Section 17.202 allowing a detached garage to be reconstructed one foot from the side yard setback at 622 Anne Street:

Board was in agreement with staff findings.

Motion by Driscoll to approve the variance as it was provided with no conditions for the following reasons: 1) the property contains unique physical limitations: A) Given the shape of the lot; and B) The existing support for the roof structure cannot be moved; 2) No harm to the public interest: A) The neighbors are in support; and B) the garage will not be moved over any further than it already is to the property line; and 3) There is an unnecessary burden given that if the variance was not approved given the condition of the existing garage it would likely have to come down and there wouldn't be a garage on the property; second by Morgan. Motion carried 4-0.

No further discussion or action was taken.

Motion by Gempeler to adjourn the meeting of the Zoning Board of Appeals; second by Morgan. Motion carried 4-0. The meeting adjourned at 7:19 pm.

Tina Wallace, Deputy City Clerk