

BOARD OF ZONING APPEALS

June 18, 2019

VILLAGE OF SAUKVILLE MUNICIPAL CENTER

The meeting was called to order at 6:00 p.m. by Trevor Seitz.

Statement of Public Notice was given by Dawn Wagner.

Members Present: Trevor Seitz, Scott Fischer, Jerry Dickmann, Don Clark, John Ross, and Keith Dickmann.

Others Present: Dawn Wagner-Village Administrator, Tod Hellman-T&L Home Sales, and Meagan & Matt Schultz

APPLICATION OF MARY KAY SCHULTZ FOR A SETBACK VARIANCE

Seitz called the meeting to order.

Roll call and confirmation of quorum was taken by Wagner.

Wagner confirmed that compliance with open meeting law and public notice requirements had been met.

Seitz read the Board of Zoning Appeals Notice of Hearing (attached).

Seitz opened the Hearing.

Open the Hearing and Read the Application of Mary Kay Schultz

Wagner noted the complete application was submitted and included in the BOZA packet.

Seitz stated that Mary Kay Schultz has applied for a street yard setback variance that would allow her to remove and replace her existing front porch at 196 N. Mill Street. As shown in the map and other documents submitted by the applicant, the existing front porch is currently located over the property line and encroaches 1 foot into the public right-of-way. The proposed replacement porch would also be located over the property line and encroach 3 feet into the public right-of-way if permitted by the Village Board.

At the close of the public hearing on the application of Mary Kay Schultz for a variance to the street yard setback limitation provision of § 205-33.F(1), the Board must deliberate and make a decision in open session.

In making a decision, the Wisconsin Supreme Court has stated that to demonstrate that it has exercised its judgment, the Board must provide more than simple conclusions. The Board must specify on the record the particular reasons why an applicant has or has not met each ordinance criteria for the relief requested.

Statement by the Applicant

Tod Hellman-T&L Home Sales explained the request for the full width of the proposed porch.

Questions from Board Members None.

Request Statements from Public None.

Questions from Board Members None.

Report on any Correspondence Received by Secretary and Related to Hearing
None.

Response by Applicant None.

Questions from Board Members

G. Dickmann noted that he measured the distance from the house to the sidewalk (11 ft). The new porch width would allow approximately 5 ft. of green space.

It was noted that this would allow more green space in the street yard than several of the houses in the area.

Confirm those Documents that have been received into the Record

Wagner confirmed that all documents have been received into the Record.

Close the Public Hearing

Seitz requested a motion to Close and Record the Hearing.

Clark/Ross made a motion to Close and Record the Hearing. Roll call vote was taken with all in favor. Motion carried at 6:08 p.m.

Deliberation and Decision

- §205-127 Variance to accessory building height limitation of §205-37.E(1)
 - a. Findings of Fact
 - b. Conclusions of Law
 - c. Order and Decision

Seitz stated that § 205-33.F(1) provides that in the R-3 Single Family Residence District "There shall be a minimum setback of 35 feet from the street right-of-way."

§ 205-127 states that "No variance to the provisions of the chapter shall be granted by the Board unless it finds beyond a reasonable doubt that all of the following facts and conditions exist and so indicates in the minutes of its proceedings.

(1) Preservation of intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

(2) Exceptional circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Zoning Chapter should be changed.

(3) Economic hardship and self-imposed hardship not grounds for variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

(4) Preservation of property rights. The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

(5) Absence of detriment. No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

Seitz read the motion from the May 21, 2019 Architectural Review Board Meeting.

Maglio/Luisier made a motion to approve the proposed porch replacement located at 196 N Mill Street, submitted by T&L Home Services, Inc. on behalf of Mary Kay Schultz, owner, subject to the following: the concrete walkway to the existing porch is removed, obtaining variance approval from the BOZA for the encroachment into the setback between the structure and the property line, obtaining approval from the Village Board for the additional (2 ft) encroachment into the street right-of-way (through a license agreement), and final review and approval of plans by the Building Inspector. Motion carried.

The Board considered the five criteria section § 205-127 as follows:

1. The proposed variance is not inconsistent with the district regulations in that the property is already within the setback area and is further away from the public sidewalk than other properties in the area.
2. There are unusual circumstances due to the location of the right of way and the property is already located in the setback area.
3. No economic hardship is claimed.
4. The variance is necessary to preserve the property owners' rights.
5. There is no detriment to adjacent properties because many of those properties encroach further into the setback area.

Vote on Application

Fischer/K. Dickmann made a motion to grant contingent upon approval from the Village Board for the additional (2 ft) encroachment into the street right-of-way (through a license agreement).

(Note: The applicant is responsible for all cost associated with the license agreement)

J. Dickmann/Fischer made a motion to approve the variance request.

Roll Call Vote was taken:

Seitz - Aye
Fischer- Aye
Clark- Aye
K. Dickmann- Aye
J. Dickmann- Aye
Ross - Aye

Motion carried.

Adjournment

K. Dickmann/Ross made a motion to adjourn. Motion carried at 6:30 p.m.


Dawn Wagner
Village Administrator