

BOARD OF APPEALS
Tuesday, February 3 2015; 6:30 PM
MINUTES

Present: Chairman Reitz; Members Ashmore, Larson, Levin; City Attorney Sajdak, Deputy Clerk Fochs; City Administrator Jones, Community Development Asst. Director Zader, Court Reporter Thies, Gramann Reporting; and interested public

Also Present: Appellant Renee' Karas, Representing the homeowners, Brian Schneider

All parties appearing before the Board of Appeals were sworn.
A complete transcript of the proceedings can be made available upon request.

The meeting was called to order at 6:32 PM.

1. Approve meeting minutes of December 3, 2013

Moved by Member Levin, seconded by Member Ashmore to approve the meeting minutes of December 3, 2013.

The motion passed upon roll call vote (4/0):

Favor: Ashmore, Larson, Levin, Reitz

Opposed: None

2. Hear evidence concerning; debate, deliberate and decide the request of:

Applicant(s): Renee' Karas

Owner: Kathy Schneider

Appealing: Requesting a variance from Section 58-239(c)(1)d Mequon Code of Ordinances to construct a detached garage at 10923 N. Cedarburg Road

Assistant Director Zader provided attendees with a brief summary. The City issued a permit for an addition which included an attached garage on July 29, 2014. The plat of survey noted the relocation of an existing 576 square foot detached garage to another area on the site. As a condition of the permit, staff notified the applicant that the detached garage was no longer compliant with zoning code because of the construction of the attached garage and gave the following alternatives to achieve compliance: 1) raze the detached garage; 2) reduce the size of the detached garage to 327 square feet to comply with code; or 3) seek a variance from the Board of Appeals. The City allowed the applicant to move the detached garage to a temporary location until a decision was made provided that no work was done on the structure. In December 2014, the applicant applied for a building permit for the detached garage that was denied based on the size of the structure. On December 11, 2014 the owner applied for a variance for the 576 square foot garage.

Mr. Schneider stated that intentions were always to repurpose and reuse the detached garage so they indicated the relocation according to building codes and setbacks on the plans submitted to the Building Inspection Department. Miscommunication occurred between him and City Staff regarding allowable size of the detached garage as well as miscommunication in the Inspections Department since they inspected and approved the new foundation for the detached garage. He

knew that he would need to get approval for that garage before the final occupancy would be granted, but completion is currently a couple months out. All plans to get approval from the City were accelerated when a stop work order was issued on the entire project by the City in December 2014. In order to be able to continue work on their house and garage they had to apply for a building permit for the detached garage, have it denied by staff, and then apply for Board of Appeals meeting.

Mr. Schneider further summarized his basis for appeal: 1) His lot is not a typical lot. The easement for the road runs through his house. If/when Cedarburg Road is widened, he would lose part of the living space of his house. That is why they decided to convert the attached garage into living space and build a detached garage. 2) He has approx. 57,000 s.f. of land or 1.32 acres, and is zoned as $\frac{3}{4}$ acres. They lose 5,700 s.f. for the easement of the road, which takes them down to 1.2 acres. However, whichever property area figure is used, the detached garage is too big. 3) Their home is an 1880's farmhouse, with no basement, so the additional garage space would be used for personal and business storage; 4) His neighbors are appreciative of the efforts to improve and restore the house.

Mr. Zader clarified that currently the applicant has an attached area of the house being used as a garage and so the 24' x 24' detached structure in question is characterized as an "accessory structure" and therefore limited by city zoning law that states "any property may have, in addition to any permissible garage, one detached storage structure not exceeding one percent of the property area or one percent of the property's minimum lot size zoning requirement, whichever is less. The city erroneously inspected the slab for the detached garage in July 2014 by not clarifying what the permit on file included. The permit on file was for the home addition, not the detached garage. City put a stop work order on the detached garage when they discovered it was being sided.

Members questioned the applicant and City Staff on earlier communications with applicant. The detached garage was always on the original site plan but the City contended it was in the wrong location and too large. Applicant stated that the scale of the plans had to be reworked because the City said the detached garage did not fall in the setback limits. Architects relocated the garage to a compliant location but did not change the size of the garage. City notified the applicant on July 29, 2014 the detached garage with the proposed addition was not allowed and before final occupancy would be granted for the addition one of three options would need to occur raze garage, reduce garage size, apply for a variance with Board of Appeals. The detached garage was to remain in a temporary location and not be improved until this issue was addressed.

Member Levin questioned what would need to be done if the existing attached garage was changed into living space. Mr. Zadar said building modifications would need to be approved at staff level for sure, and potentially the Architectural Review Board, and building inspection staff would need to ensure it complies with building code for habitable space vs. a garage.

Chairman Reitz asked for clarification of the timeline. The addition went before Planning Commission in July 21, 2014 to request a setback waiver for the main structure and before the Architectural Review Board on July 14, 2014 for architectural review of the addition. The garage had nothing to do with this.

As soon as a building permit for the detached structure was applied for the stop order was lifted. Applicant admitted he knew he'd have to ask for the variance eventually and stated that the stop order on the addition accelerated his coming before the Board of Appeals to request said variance for the detached garage. Currently they are 2-3 months away from final occupancy.

Chairman Reitz asked if the attached living space was converted to living space and the detached garage was completed where it stands would they have the option for another accessory structure. Mr. Zader confirmed that another structure of not more than 327 square feet would be allowed per Code.

The applicant asked Mr. Zader what the requirements are for a detached garage if they had a 1-car attached garage or a 3-car attached garage. Mr. Zader said that Code allows for discretion if an attached garage is a certain size, but without knowing the specifications of the applicant's addition, Mr. Zader could not state how that would relate to his situation.

Moved by Member Ashmore, seconded by Chairman Reitz to close the public hearing. The motion passed by voice acclamation.

The Board deliberated:

- Has the appellant demonstrated a hardship unique to the property and not self-created?
- There appears to be no miscommunication between the appellant and City staff; in fact the communications consistently indicate what choices the appellant has.
- The Board suggested an additional alternative that could be pursued to solve the problem, that being convert the current attached garage to living space. That would allow the existing detached garage to remain as is.
- Zoning code should be respected in the absence of compelling reasons to the contrary.

Moved by Member Ashmore, seconded by Member Larson to deny the variance.

The motion resulted in a roll call vote (4/0):

Favor: Ashmore, Larson, Levin, Reitz

Oppose: None

3. Adjourn

Moved by Member Ashmore, seconded by Member Levin to adjourn the meeting at 7:33 PM.

The motion passed by voice acclamation.

Respectfully submitted,
CITY OF MEQUON BOARD OF APPEALS
Kathy Andrykowski, Administrative Secretary
Approved March 3, 2015