

OFFICIAL MEETING NOTICE & AGENDA

The **City of Stoughton** will hold a meeting of the **Board of Appeals** on **Monday, January 6, 2014** at **5:30 p.m. or as soon as this matter may be heard** in the **City Hall, Hall of Fame Room, Lower Level, 381 E. Main Street, Stoughton, Wisconsin.**

AGENDA:

1. Call meeting to order.
2. Elect-Vice Chair.
3. Consider approval of the August 26, 2013 and September 23, 2013 Board of Appeals minutes.
4. Discuss recent zoning board workshop.
5. Adjournment.
12/16/13mps

***NOTE TIME AND MEETING PLACE. PLEASE ENTER AT THE EAST EMPLOYEE ENTRANCE.**

PACKETS SENT TO:

Russ Horton, Chair

Robert Busch

Aaron Thomson, Alternate 1

Bob Barnett, Alternate 2

David Erdman, Secretary

Gilbert Lee

Bob McGeever

cc: Mayor Donna Olson (via-email)

Council Members (via-email)

derickson@madison.com

Department Heads (via-email)

City Attorney Matt Dregne (via-email)

Stoughton Newspapers (via-fax)

IF YOU HAVE ANY QUESTIONS REGARDING THIS NOTICE, PLEASE CALL MICHAEL STACEY AT 608-646-0421

“IF YOU ARE DISABLED AND IN NEED OF ASSISTANCE, PLEASE CALL 873-6677 PRIOR TO THIS MEETING.”

NOTE: AN EXPANDED MEETING MAY CONSTITUTE A QUORUM OF THE COUNCIL.

Board of Appeals Meeting Minutes

Monday August 26, 2013 5:00 p.m.

Public Safety Building, Council Chambers, 321 S. Fourth Street, Stoughton WI.

Members Present: Russ Horton, Chair; David Erdman, Secretary; Robert Busch; Robert Barnett; and Bob McGeever.

Members Absent and Excused: Gilbert Lee and Al Wollenzien

Staff: Michael Stacey, Zoning Administrator.

Guests: Ben DiSalvo

- 1. Call meeting to order.** Horton called the meeting to order at 5:00 pm.
- 2. Consider approval of the August 19 22, 2013 minutes.** Motion by **Barnett** to approve the August 19, 2013 Board of Appeals minutes as presented, 2nd by **Busch**. Motion carried 5 – 0.
- 3. Ben Di Salvo, owner of the property at 819 N. Page Street, Stoughton, Wisconsin, has requested a variance from zoning code section 78-105(4)(b)8bF, “Building to nonresidential side lot line: Ten feet, zero feet on zero lot line side, 40 feet for lot adjacent to a street officially mapped as being equal to or exceeding 100 feet” and zoning code section 78-105(4)(b)8bL, “Minimum building separation: 20 feet, zero feet where property line divides attached buildings, 40 feet for a lot adjacent to a street officially mapped as being equal to or exceeding 100 feet.”**

The applicant is requesting the variance to allow rezoning the property from General Industrial to Planned Business with the intent to convert the use from primarily storage to primarily retail sales and restaurant.

Horton introduced the request and opened the public hearing.

Ben DiSalvo explained the intent of the request and answered various clarifying questions from the board.

Michael Stacey gave the staff review of the proposed variance request according to the 3 standards necessary to approve a variance request as follows:

A. Unnecessary Hardship:

Does the ordinance in place today unreasonably prevent the landowner from using the property for a permitted purpose or are the standards unnecessarily burdensome?

We believe, in this case, the applicant is creating a better situation by rezoning the property to a more compatible classification for the neighborhood. Being zoned General Industrial allows uses such as: Light Industrial, indoor maintenance services, indoor storage and wholesaling while vehicle repair, outdoor storage, freight terminals and distribution centers are allowed as a conditional use. Changing the zoning classification to Planned Business will allow uses such as: Offices, indoor sales, and personal & professional services while indoor commercial entertainment and in-vehicle sales are

allowed as conditional uses. We are not sure why the buildings were allowed to be that close to the side lot lines and too close to the adjacent building.

B. Unique Property Limitation:

Are there any unique property limitations such as the shape, slope or size? The limitations should not be common to a number of properties and the circumstances of the individual are not justification. The uniqueness primarily relates to an industrial zoned property in a residential and commercial area. The lot is mostly flat and rectangular in shape. No wetlands onsite.

C. Protection of Public Interest.

What are the potential positive impacts of this request?

Allowing commercial uses rather than industrial uses makes much more sense for this neighborhood with residential at the rear of the property and across the street.

What are the potential negative impacts of the request such as environmental, aesthetics, safety, etc...?

We have not heard any negative comments from the public.

Alternative solutions.

Are there any alternative solutions to the request that would meet the requirements of the ordinance? No other alternatives.

Recommendations:

We recommend approval of the variance contingent on the rezoning being approved.

The board asked Michael Stacey various clarifying questions; it was noted that the building on the south side of this lot was actually built on the lot line, which then at some point necessitated a division creating a second small lot to adequately address the location of the subject building.

Horton closed the public hearing.

Motion by **McGeever** to approve the variance request, 2nd by **Barnett**. Motion carried 5 – 0.

4. Adjournment. Motion by **Erdman** to adjourn at 5:14 pm, 2nd by **Barnett**. Motion carried 5 - 0

Respectfully Submitted,
Michael Stacey

Board of Appeals Meeting Minutes

Monday, September 23, 2013 5:00 p.m.

Public Safety Building, Council Chambers, 321 S. Fourth Street, Stoughton WI.

Members Present: Russ Horton, Chair; Al Wollenzien, Vice-Chair; David Erdman, Secretary; Robert Busch; and Bob McGeever, Alt. #1.

Members Absent and Excused: Robert Barnett, Alt. #2 and Gilbert Lee

Staff: Michael Stacey, Zoning Administrator.

Guests: Cal & Rae Heiser; John O'Connor; Marty & Karen Vaage; Andrew Kaiser; and David Kneebone.

1. **Call meeting to order.** Horton called the meeting to order at 5:00 pm.
2. **Consider approval of the August 26 22, 2013 minutes.** Motion by **Erdman** to Table the August 26, 2013 Board of Appeals minutes, 2nd by **Wollenzien**. Motion carried 5 – 0.
3. **Cal & Rae Heiser, owners of the property at 1608 Moline Street, Stoughton, Wisconsin, have requested a variance from zoning code section, 78-105(2)(f)7bH, “Rear lot line to house or attached garage: 30 feet.” This request is to allow the property/duplex to be split by zero-lot line.**

Horton introduced the request and opened the public hearing.

John O'Connor represented the owners and explained the request.

There were no questions for Mr. O'Connor.

Michael Stacey gave the staff review of the proposed variance request according to the 3 standards necessary to approve a variance request as follows:

A. Unnecessary Hardship:

Does the ordinance in place today unreasonably prevent the landowner from using the property for a permitted purpose or are the standards unnecessarily burdensome?

The zoning ordinance does not provide flexibility in this case. The structure does meet the setback requirements as a whole but not when split for a zero-lot-line. It is not fair to allow most other duplex structures to be zero-lot-lined but not this one. The use will always remain the same and no one can tell the difference once zero-lot-lined.

B. Unique Property Limitation:

Are there any unique property limitations such as the shape, slope or size? The limitations should not be common to a number of properties and the circumstances of the individual are not justification. The uniqueness primarily relates to the setback requirements for a zero-lot-line structure. The shape, slope and size of the lot is not necessary all that unique.

C. Protection of Public Interest.

What are the potential positive impacts of this request?

The positive impact could be viewed as allowing two potential affordable home opportunities for families.

What are the potential negative impacts of the request such as environmental, aesthetics, safety, etc...?

We have not heard any negative comments from the public.

Alternative solutions.

Are there any alternative solutions to the request that would meet the requirements of the ordinance? The property could be a condominium however, there is a significant hardship currently because of the condo market and the ability to acquire a loan for a condo has not been easy.

Horton closed the public hearing.

Motion by **Erdman** to approve the variance request as presented, 2nd by **Busch**. Board members discussed their reasoning to approve or disapprove of the request. Among the reasons provided were zero lot line considerations in recent ordinance changes and precedent of variances previously granted for a similar situation. Motion carried 5-0.

4. **Marty & Karen Vaage, owners of the property at 145 Forton Street, Stoughton, Wisconsin, have requested a variance from zoning code sections, 78-105(2)(e)8bF, "Side lot line to house: Minimum six feet."; 78-105(2)(e)8bJ, "Rear lot line to house: Minimum 20 feet."; and 78-405(4)(b)1, "Permitted intrusions into required rear or side yards: Sills, pilasters, lintels, ornamental features, cornices, eaves, and gutters for residential buildings; provided they do not extend more than two and one-half feet into the required yard." This request is to allow a carport that was built in non-compliance to remain.**

Horton introduced the request and opened the public hearing.

Marty & Karen Vaage explained their request.

The Board questioned the applicants and City staff.

Michael Stacey gave the staff review of the proposed variance request according to the 3 standards necessary to approve a variance request as follows:

A. Unnecessary Hardship:

Does the ordinance in place today unreasonably prevent the landowner from using the property for a permitted purpose or are the standards unnecessarily burdensome?

We believe, in this case, the ordinance does not unreasonably prevent use of the property and the standards are not unnecessarily burdensome. The applicant created the hardship in the case. In fact, the ordinances were amended in 2009 to provide more flexibility for historic properties such as this one.

B. Unique Property Limitation:

Are there any unique property limitations such as the shape, slope or size? The limitations should not be common to a number of properties and the circumstances of the individual are not justification. We do believe the size and slope of the property did likely contribute to the errors for some of the non-conformities, not all of the non-conformities. The errors could happen on any similar property. Anyone could make the same claim for an after-the-fact variance.

C. Protection of Public Interest.

What are the potential positive impacts of this request?

The applicants have updated a home that was previously in poor condition.

What are the potential negative impacts of the request such as environmental, aesthetics, safety, etc...?

There is the potential for setting precedence if the variances are approved. We have not heard any negative comments from the public.

Alternative solutions.

Are there any alternative solutions to the request that would meet the requirements of the ordinance? Alter the structure in compliance with the code.

The Board questioned the Vaage's and City staff with respect to the materials provided at the time the City issued the permit for this project, the size of the constructed carport, and the timing of the three certified surveys completed for this lot.

David Kneebone, 201 Brickson Street spoke in favor of the variance request and answered questions from the Board.

Horton closed the public hearing.

Motion by Erdman to approve the variance request as presented, 2nd by McGeever. Board members discussed their reasoning to approve or disapprove of the request. Among the reasons provided were small lot size and topography of the southern portion of the lot. Motion carried 4 – 1 (McGeever, Erdman, Busch and Wollenzien voted yes; Horton voted no).

- 5. Andrew Kaiser, owner of the property at 401 N. Page Street, Stoughton, Wisconsin, has requested a variance from zoning code section, 78-105(2)(e)8bD, "Front or street side lot line to house: Minimum 20 feet to house; 12 feet to porch; maximum 25 feet to house; 15 feet to porch." This request is to allow a deck addition.**

Horton introduced the request and opened the public hearing.

Andrew Kaiser respectfully declined his request stating he now plans to replace the existing stairs and to sell the home.

Horton closed the public hearing and the Board took no action on this request.

6. Adjournment. Motion by **McGeever** to adjourn at 6:05 pm, 2nd by **Erdman**. Motion carried 5 - 0

Respectfully Submitted,
Michael Stacey