

Board of Appeals Meeting Minutes

Thursday, May 5, 2016, 5:00 p.m.

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

Members Present: Russ Horton, Chair; David Erdman, Secretary; Bob McGeever; Bob Barnett, Vice-Chair; Jeff Cunningham, Alt #1 and Donna Vogel, Alt #2.

Members Absent: Aaron Thomson

Staff: Michael Stacey, Zoning Administrator

Guests: Terri Zeman and Jamie Bush

1. Call meeting to order. Horton called the meeting to order at 5:00 pm.

Roll call was taken by Interim Secretary Donna Vogel.

David Erdman, Secretary arrived at 5:03pm.

2. Consider approval of the Board of Appeals minutes of April 11, 2016.

Motion by **McGeever** to approve the minutes of April 11, 2016 as presented, 2nd by **Barnett**.

Motion carried 5 – 0.

3. Elect Vice-Chair.

Motion by **McGeever** to nominate Bob Barnett as Vice-Chair, 2nd by **Erdman**. Motion carried 5 – 0.

4. Elect Secretary.

Motion by **McGeever** to nominate David Erdman as Secretary, 2nd by **Barnett**. Motion carried 5 – 0.

5. Jamie Bush, owner of the property at 1017 Nygaard Street, Stoughton, Wisconsin, has requested a variance from zoning code sections, 78-105(4)(b)8a, “Minimum landscape surface ratio: 25 percent” and 78-610, “Landscaping requirements for bufferyards” to allow a building addition.

Horton introduced the request and opened the public hearing.

Jamie Bush explained the intent for variance request is to make his business more of a family oriented restaurant than a bar so he can compete with potential new future businesses.

Barnett questioned alcohol consumption outdoors. Mr. Bush stated the plan is to have outdoor dining including alcohol consumption.

No one registered to speak.

Stacey gave an overview of the history of the proposed addition for Deaks and a review of the 3 tests that must be met according to state statutes for the approval of a variance as follows:

Unnecessary hardship: We believe, in this case, the ordinance does create a hardship on the applicant since the zoning ordinance was updated after the property was originally developed. The property originally met all zoning requirements. The addition will not add any more impervious area than currently exists. The current bufferyard is approximately 10 feet and the landscaping and fencing do meet the bufferyard requirements. The applicant could meet these requirements by reducing the amount of parking which would not be a good solution for a property that is already in need of more parking for the use.

Unique property limitation: The lot is small for this type of use within a Planned Business district but otherwise flat and rectangular. There are no other unique property limitations related to slope, shape or environmental issues.

Protection of the Public Interest:

There does not appear to be any real positive impacts to the public at large in relation to safety or environmental. You could argue that aesthetically the building will be better for customers or the public in general.

We have heard from some area neighbor's about noise and potential traffic issues related to this site. The conditional use permit was issued contingent on no music being allowed at the outdoor patio area. The applicant has offered to install more plantings along the parking area to limit vehicle lights shining on homes. There have been no real noise issues or complaints in the past that we know of.

The applicant is trying to remain competitive for the future with other potential restaurants opening in Stoughton.

Horton closed the public hearing.

Motion by **Erdman** to approve the variance request as presented, 2nd by **McGeever**. Motion carried 5 – 0. (Barnett, Erdman, McGeever, Horton and Cunningham)

6. **Terri Zeman, owner of the property at 524 S. Van Buren Street, Stoughton, Wisconsin, has requested a variance from zoning code section, 78-105(2)(e)8bL, " Side lot line to accessory structure: Four feet from property line, four feet from alley" to allow installation of a carport.**

Horton introduced the request and opened the public hearing.

Terri Zeman explained the variance request is due to the inability to construct a carport on the side of their garage and meet the 4-foot setback rather the front of the carport would be 3 feet 2 inches from the lot line. The carport is needed because the neighbor has large pine trees that drip sap on their vehicles.

Barnett questioned the location of the lot stake and the closeness of the adjacent shed. Stacey noted there are many non-conformances in historic district such as fences and shed close to or over the lot lines.

Erdman questioned if the carport could be moved back to meet code. Ms. Zeman stated the carport would still be non-compliant.

No one registered to speak.

Stacey gave a review of the 3 tests that must be met according to state statutes for the approval of a variance as follows:

Unnecessary hardship: We believe, in this case, the ordinance does not necessarily create a hardship on the applicant. The intent of the accessory structure code section is related to having safe and adequate separation between properties. Dripping of tree sap is not really a hardship. Similarly, requesting a variance to keep a vehicle inside from rain or potential hail is not a hardship.

Unique property limitation: The lot is quite large compared to other residential properties within older areas of the community. It is fairly flat and rectangular. There is no real unique property limitation or special condition that many other residential properties would not also have. There are no steep slopes, the lot is not irregularly shaped and there are no wetlands or other environmental type issues onsite.

Protection of the Public Interest: There does not appear to be any real positive impacts to the public at large in relation to aesthetics, safety, or environmental. We have not heard from anyone about this request. There does not appear to be any environmental, aesthetic or safety concerns with the request. Alternatives may be to cover boats or vehicles with a cover of some sort or find an alternative to parking in that location.

Horton closed the public hearing.

Motion by Erdman to approve the variance request as presented, 2nd by Barnett.

Horton stated there seems to be alternatives and the request does not meet the standards to be approved so he cannot support the request.

Erdman concurs and has some concerns about approving the variance.

Motion failed 2-3 (Barnett and Cunningham voted yes; Erdman, McGeever and Horton voted no)

7. Adjournment.

Motion by McGeever to adjourn at 5:35 pm, 2nd by Horton. Motion carried 5 – 0.

Respectfully Submitted,
Michael Stacey