

VILLAGE OF ELM GROVE

13600 Juneau Boulevard
Elm Grove, WI 53122

BOARD OF APPEALS
Tuesday, July 12, 2016 * 5:00 PM * Park View Room

AGENDA

1. Bring meeting to order and roll call

2. Review and act on minutes - 6/28/16

Documents:

BA062816md.pdf

3. Consideration, hearing, and action for variance requests - 14055 Wisconsin Avenue
Street right-of-way setback; side yard setback; maximum building footprint

Documents:

14055 Wisconsin Ave Application.pdf

14055 Wisconsin Ave Survey.pdf

BOA memo 14055 Wisconsin Ave 071216.pdf

4. The Board may convene into closed session pursuant to Wis. Stats. §19.85(1)(a) to deliberate the above referenced quasi-judicial hearing.

5. The Board may reconvene into open session to render its decision.

6. Adjourn

Any person who has a qualifying disability as defined by the Americans with Disabilities Act who requires that the meeting or materials for the meeting has to be in an accessible location or format must contact the Village Clerk, Mary S. Stredni, at 262-782-6700 or 13600 Juneau Boulevard by 3:00 PM Friday prior to the meeting so that any necessary arrangements can be made to accommodate your request.

NOTICE: It is possible that members of, and possibly a quorum of, other governmental bodies of the Village may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to in the above notice.

VILLAGE OF ELM GROVE
BOARD OF APPEALS
Tuesday, June 28, 2016 * 5:00 p.m.

1. Roll Call

Present: Chairman Barry Book, John Finerty, Doug Jacobson, John Allen, and Frank Lorenz. Joe Puchner arrived at 5:05 p.m. Gordon Giampietro excused. Village Clerk Mary Stredni, Zoning/Planning Administrator Tom Harrigan, Village Manager David De Angelis, and Village Attorney Koehnke.

2. Minutes

Finerty and Jacobson moved and seconded to approve the February 25, 2016 minutes. Motion carried.

3. Consideration, hearing, and action on appeal for variance request – 14320 Hillside

Ms. Stredni swore in Harrigan, De Angelis, Jeff Gregg, Robert Prindiville – Design Group 3, and Don Ralfs 14300 Hillside.

Prindiville stated that currently the property is non-conforming regarding impervious surface. The maximum allowable impervious surface is 30%. At this time the property is at 34.6%. Prindiville stated that with the proposed new construction there will be the removal of some of the impervious surface with the end result of 34.5% total impervious surface.

In 2011, a garage addition and driveway extension were constructed on the property. At that time, 263 square feet of existing driveway was to be removed which would have left the property at a conforming status with 29.61% of impervious surface. This was never done.

Attorney Koehnke asked why the 263 square feet of existing driveway was never removed. Prindiville did not know.

Harrigan testified that in addition to the 263 square feet of existing driveway not being removed, additional impervious surfaces were added to the property: sidewalks/walkways and a patio.

Allen asked when the garage was added was the condition that 263 square feet of asphalt be removed. Harrigan stated that yes it was the condition.

Prindiville stated that the owner built retention ponds in the front and back of the property for stormwater management, which makes the property uneven. The owner spend a lot of time and money to repair and restore the property so that it does not flood. So he should be able to do this proposed project. Gregg testified that he wants to build an indoor pool for his daughter to practice swimming and to improve the value of his property.

Finerty questioned the non-compliance of the property. De Angelis stated that the property became non-compliance in 2011 when Gregg added the garage but did not remove the impervious surface which was part of the agreement. Had the 263 square feet of existing driveway been removed at that time, the property would be conforming.

Don Ralfs, neighbor, testified that before the improvements of the retention ponds there were time when there was standing water one foot deep. There is no longer a problem. Gregg testified that he worked with the railroad to divert stormwater from the property.

Book questioned Gregg regarding the 2011 project of a garage addition with the agreement of removing 263 square feet of existing driveway and why that was not done. Gregg answered – it just wasn't done.

De Angelis stated that Village Code does allow 30% impervious surface with an additional 3% if permeable surface materials are used.

Book asked whether the builder has looked into alternatives. Prindiville stated that nothing can be taken out.

Harrigan again stated that since the 2011 project more impervious surface has been added by adding a patio and walkways.

As there were no other questions, Chairman Book closed the hearing.

4. Convene into closed session

By roll call vote at 5:32 p.m. the Board convened into closed session pursuant to Wis. Stats. §19.85(1)(a) to deliberate the above referenced quasi-judicial hearings.

5. Reconvene into open session

The Board reconvened into open session at 5:55 p.m. Chairman Book stated that the Board had voted to deny the variance request as this is a solvable problem. There is no hardship, the Board is required to work within the law; the property can be put into compliance by removing the 263 square feet of impervious surface which was required by the Village in 2011. The property owner can also utilize up to 3% of permeable surface materials.

Book noted that the owner should work with the building department.

6. Adjourn

Allen and Puchner moved and seconded to adjourn at 6:00 p.m. Motion carried.

Respectfully submitted,

Mary S. Stredni, Village Clerk

APPEAL/APPLICATION FORM
VILLAGE OF ELM GROVE BOARD OF APPEALS

Petition # _____ Date Filed 6/21/16 \$ 125⁰⁰ fee paid

Name: MARVIN F. METZGER

Address: 14055 WISCONSIN AVE. ELM GROVE WI. 53122

Phone: 1-262-782-5765, 1-414-737-5634-c

Legal Description: 1/4 PTE 1/4 S 26 T 7 N R 20 E Village of Elm Grove, Waukesha County. LOT 14 BLK 5 ELM GROVE TERRACE Doc # 3267448

Lot area and dimensions: 0.192 ACRES sq. ft., 110.97 x 115.66 ft. x 44.50 x 51.98 75.34

Zoning District: RS-3

Current Use: SINGLE FAMILY RESIDENTIAL

Nature and disposition of any prior petition for appeal, variance or conditional use:

None

Description of all nonconforming structures and uses on the property:

Reason for Appeal Check the type of administrative decision appealed.

- Zoning district boundary dispute.
- Ordinance interpretation.
- Board, Committee, or Commission decision.
- Administrative decision, measurement, or order in dispute.
- Request for a variance.

* Please attach the information below as required by Article IX Board of Appeals.

- Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- Plat of survey prepared by a land surveyor, registered in the State of Wisconsin or other map drawn to scale and approved by the Zoning Administrator, showing all of the information required under § 335-84 of this chapter for a building permit.
- Additional information required by the Zoning Administrator, the Board of Appeals or the Village Plan Commission.

I certify that the information I have provided in this application is true and accurate.

Signed: Marvin F. Metzger Date: 6/21/16
Petitioner

Remit to: Tom Harrigan, Zoning and Planning Administrator, Village Hall, 13600 Juneau Boulevard, Elm Grove, WI 53122.

See Findings
equival to
grant variance
sheet.

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Answers To: Findings Required To Grant Variance

1. Use has been and remains as a residential, single family property within the original confines of the 9,404 sq. ft. lot per 1943 survey which has not changed.

2. In my opinion- the "exceptional circumstances" are as follows:

A. The lot, per survey 1943 to present has been and is 9,404 sq. ft. Present requirements for buildable lot size is 20,000 sq. ft. minimum.

B. The rear existing lot setback is 7' 6" to the rear corner of the existing home.

C. The home presently has a "one" car garage. I propose adding on a 2+ car garage to the east, per alternate plan with a proposed side yard of (+ -) 15' 0", similar to the side yard of the neighbor to the east.

D. Create a new 9' wide driveway to the new garage 4' west of the east lot line for safety reasons.

E. Reduce the existing drive to 10' W to accommodate guest(s) parking to eliminate parking on the street.

F. I am not asking that the zoning chapter be changed.

G. With the granting of this variance the proposed addition will conform to the quality of the surrounding residences in the community.

3. There is "no" economic hardship involved.

A. However, due the original survey of 1943, I have asked for an additional variance, item C, in the summation.

4. This proposed addition will preserve the surrounding quality of the community by bringing my home, hopefully, to the quality of my neighbors thereby insuring the preservation of same.

5. The addition, in my opinion, does not create/cause any detriment to either the property to the east or that to the south. To the east there exists a large shrub line on the lot line. The same existing to the south.

Summation:

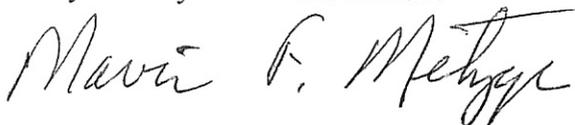
A. The existing setback approved in 1943 of 7' 6" remains today as a "pre-existing condition".

B. The proposed 15' 0" (+ -) setback to the east, in my opinion, "will not be offensive to my neighbor to the east which I would not like to cause them in any manner".

C. To allow a 2% increase of the total lot square footage of 9,404 existing, for proposed square footage of my home.

D. Hopefully, when my request for the variance is granted, as a formality to prevent any future question(s), I would like to include the "pre-existing" 7' 6" south setback as part of the requested variance.

Thank you for your consideration.



Marvin "Bud" Metzger, 41 year resident

Memo

To: Board of Appeals

From: Thomas Harrigan, Zoning & Planning Administrator/ Asst. to the Village Manager

Date: July 7, 2016

Re: Request for Variance – 14055 Wisconsin Avenue

Marvin F. Metzger is requesting three variance from the Village of Elm Grove Code of Ordinances to allow for the construction of an addition on the property located at 14055 Wisconsin Avenue. The property is located on a corner lot, and a Corner Lot Development Agreement has not been executed on the property. Subsequently, a rear yard has not been designated on the property. The property is zoned Rs-3 Single Family Residential District. Total square footage of the lot is 9,404 SF.

1. Mr. Metzger is requesting a variance from the street right-of-way setback as defined in the Village of Elm Grove Code of Ordinance:

§335-19F(1): There shall be a minimum building setback of 50 feet from each abutting street right-of-way.

Under §335-94 Terms defined, a street yard is defined as:

“A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots and double frontage lots have two such yards. Where the street right-of-way is a cul-de-sac, the street yard is determined by measuring the required setback distance along each side lot line and connecting those two points with a straight line.”

Under §335-39(E)(F) Exemptions: The yard requirements established elsewhere in this chapter may be modified as follows:

E. Average street yards. The following rules apply to required street yard setback calculations: [Amended 10-28-2008]

- (1) *The required street yard may be decreased in any area of existing development to the average of the existing street yards of the abutting structures on each side, but in no case less than 40 feet in any residential district.*

(2) The required street yard shall be increased in any area of existing development in such a manner that the street yard for new development does not deviate more than 30 feet from the average of the existing street yards of the abutting structures on each side. For corner lots, the street yard toward which the principle structure's primary facade is facing shall be subject to this Subsection **E(2)**; street yard(s) toward which the principle structure's side or rear facades are facing are not subject to this Subsection E(2.).

F. Corner lots. Structures shall provide a street yard as required by this chapter on the street that the structure faces. A second street yard shall be provided on the side of the structure abutting a second public or private street. The owner(s) of a corner lot may designate one yard, other than a street yard, as a side yard for the property. In the case of new construction, such designation shall be made prior to submission of a building permit application. The remaining non-street yard shall then be deemed a rear yard for purposes of determining setback requirements under this chapter. Such a designation by the property owner shall be in recordable form and recorded by the Zoning and Planning Administrator with the Register of Deeds for Waukesha County and filed with the Village Clerk upon designation in the case of an existing structure or upon issuance of an occupancy permit in the case of a new structure. All owners of the property shall sign the designation. A side yard designation under this section shall be irrevocable, and no further designation may be made by the property owner, or the property owner's successors or assigns, for the life of the then-existing principal structure or for the life of the proposed principal structure in the case of new construction. [Amended 6-27-2006]

The proposed addition would have a 30 foot street yard setback from the abutting street right-of-way on Wisconsin Avenue). The existing 41.21 foot street yard setback on Florence Drive would remain.

The average street yard setback of the abutting properties is as follows:

<u>PROPERTY ADDRESS</u>	<u>STREET YARD SETBACK</u>
685 SUNNY SLOPE ROAD	26.7'
670 FLORENCE DRIVE	41.75'
AVERAGE	34.22'

2. Mr. Metzger is also requesting a variance from the side yard setback requirements of the Village's Code of Ordinances. The section of code regarding side yard setbacks reads as follows:

§335-19F(2): There shall be a side yard setback on each side of any principal or accessory structure not less than 20 feet in width.

Under §335-94 Terms defined, a side yard setback is defined as:

“A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.”

The proposed addition would create a 15 foot setback on the eastern property line. There is an existing 7.6 foot setback on the southern property line.

3. Additionally, Mr. Metzger is requesting a variance from the maximum building footprint area requirement from the Village's Code of Ordinances. The section of code regarding building footprint requirements reads as follows:

§335-19G: Maximum building footprint area: 20% of lot area.

Under §335-94 Terms defined, building area is defined as:

“The total area bounded by the exterior walls of the principal structures and all accessory structures on a parcel.”

The total building footprint area of the proposed addition would be 22%.

The neighboring property owners have been notified of the variance request and notice of the public hearing has been posted in the required locations.

Enclosed for your review is the Board of Appeals application form, a survey map demonstrating the location of the proposed addition, and the document titled, *Answers To: Required to Grant Variance*.

If you have any questions please do not hesitate to contact me.