



**BOARD OF APPEALS**  
*City of West Allis*

**WEST ALLIS BOARD OF APPEALS MINUTES**  
**September 9, 2014**

**MEMBERS PRESENT:** Paul Budiak – Vice Chair  
Brian Keller  
David Princeton – Chair  
Rachel Wagner – Board Member

**EXCUSED:** Lawrence Burja – Alternate  
Mark Maline  
Jean Wolfgang

**ALSO PRESENT:** Ted Atkinson, Director of Building Inspections & Neighborhood Services  
Sally Bukowski, Clerical Support

David Princeton called the meeting to order at 6:00 PM.

Mr. Princeton stated that the Notice of Appeals for the subject cases were published on August 28, 2014 in the "My Community Now" newspaper. He stated that all property owners within a radius of 100 feet of the subject properties had been notified by mail of the appeal request.

Mr. Keller made a motion to approve the minutes of the June 10, 2014 meeting. His motion was seconded by Ms. Wagner and unanimously approved.

Mr. Princeton called for the first case to be heard.

Mr. Atkinson read from denial letter #2014-08.

August 6, 2014

Joseph P Henika  
Shirley Henika  
3676 E. Barnard Ave  
Cudahy, WI 53110

RE: Written Notice of Permit Refusal No. 2014-08  
Address: 6022-6024 West Orchard Street  
Tax Key #: 454-0054-000  
Zoning: RB-2 Residence District  
Legal Description: Lot Nine (9) in Block One (1) in Liberty Heights Subdivision, in the Northeast ¼ of Section 3, Town 6 North, Range 21 East, in the City of West Allis, Milwaukee County, Wisconsin.

Dear Property Owner:

On July 1, 2014, a building permit application was submitted to this department for the above referenced property to construct an addition to the front (south side) of this dwelling. The area for the addition currently has an enclosed porch with a roof. This property is in the RB-2 Residence Zoning District.

The proposed addition would be located at the limits of the existing porch, which is sixteen and two tenths (16.2) feet away from the front (south) property line. The required setback for a dwelling in this residential district is twenty (20) feet from any front yard property line. The proposed addition would be located three and eight tenths (3.8) feet too close to the front (south) property line.

Enclosed porches are allowed within this setback up to ten (10) feet to a front property line. The proposed addition would not be located any closer than the existing enclosed porch. The proposed addition would use the existing foundations and roof structure.

Your permit application to construct an addition is denied because the proposed addition does not meet the required front yard setbacks as set forth in the following sections of the West Allis Revised Municipal Code:

**12.36 RB-2 RESIDENCE DISTRICT.**

\* \* \*

(7) **Front Yard.** Every lot will have a front yard not less than twenty (20) feet in depth; however, where any lots fronting on one side of a block are presently developed, or hereafter developed, and have front yards with depths of more than twenty (20) feet from the front lot line, no main building hereafter erected or structurally altered shall project beyond the setback line so established. This Section will not be interpreted in any way so as to require a setback of more than forty (40) feet. Existing, unenclosed, covered porches may be reconstructed so as to extend into the required front yard, provided the reconstructed porch does not extend beyond the original porch limits; and, provided further, that no porch may be reconstructed within five (5) feet of the front lot line. Additionally, these existing open porches may be enclosed; provided, the enclosure of the porch above the guard rails and below the roof line are totally undertaken with windows or wire mesh screens and the porch is not to be used for lodging purposes. Overhanging roof eaves projecting not more than three (3) feet will not be considered as obstructions.

The proposed addition would be located three and eight tenths (3.8) feet too close to the front (south) property line than the Zoning Code allows. The building permit for a dwelling addition as submitted is therefore denied.

You may appeal this decision to the West Allis Board of Appeals. The deadline for filing an appeal to the September 9, 2014, meeting date is August 15, 2014. You are required to visit our offices in person between the hours of 8-5, Monday-Friday to file the appeal prior to August 15<sup>th</sup>. The fee to file an appeal is \$150 and that fee is required at the time you file the appeal. If you have any questions or require additional assistance, information can be obtained by contacting the Department of Building Inspections & Neighborhood Services at 414-302-8400.

Mr. Atkinson displayed pictures of the property and stated that the homeowner will be removing the wall between the living room and the existing enclosed porch which would extend the habitable area three and eight tenths (3.8) feet closer to the front south property line than allowed per code. He also stated that the exterior of the house will not change.

Mr. Henika appeared on his own behalf. He stated that the house was built in 1923 and he wants to extend his living room into the existing enclosed porch. He will be removing the interior wall between the living room and the existing enclosed porch and replacing some of the exterior windows.

Mr. Budiac made a motion to approve the variance, as it is not contrary to public interest and public safety and welfare would not be affected. It was also noted that the exterior of the house will not be changed. The motion was seconded by Mr. Keller and unanimously approved.

Mr. Princeton called for the second case to be heard.

Mr. Atkinson read from denial letter 2014-09.

August 15, 2014

Charles and Diane Cannistra  
5722 W. Fillmore Dr.  
West Allis, WI 53219

RE: Written Notice of Permit Refusal No. 2014-09  
Address: 5722 W. Fillmore Dr.  
Tax Key #: 491-0216-000  
Zoning: RA-4  
Legal Description: Mitchel Manor, Lot 4 Blk 12

Dear Property Owner:

On August 15, 2014, you applied for a building permit to construct an irregular shaped, detached garage as follows:

1. Dimensions/area: 22 feet (front/south) by 28 feet (side/west) by 20 feet (side/east) by 23.4 feet rear/north, 528 square feet.
2. Height: 18 feet
3. Location: Front yard setback – 23 feet from front property line on Fillmore Drive; east/side yard setback – 1 foot; north/rear yard setback – 5 feet; and house separation from garage – 22.81 feet.

The proposed construction violates the following City of West Allis Revised Municipal Codes:

**Chapter 12 Zoning Code**

\* \* \*

**Section 12.10 General Provisions**

\* \* \*

(2) **Accessory Buildings.** Accessory buildings are permitted as a matter of right in all of the Zoning Districts established under this Subchapter. Such buildings are, however, subject to all applicable general and specific regulations set forth in this Subchapter. The following shall apply to residential uses:

(a) No accessory building, unless an integral part of the main building, shall be erected, altered or moved within ten (10) feet of the nearest wall of the main building, or within sixty (60) feet of the front lot line, or within three (3) feet of a side or rear lot line, or within five (5) feet of any alley line.

(b) Accessory buildings may not encroach upon the side yard adjacent to the street of a corner lot, nor upon the rear yard of a through lot.

(c) No accessory building shall exceed eighteen (18) feet in height.

(d) Overhanging roof eaves projecting into required setbacks as listed hereafter will not be considered an obstruction.

- Side or rear yard setback, two (2) feet.
  - Alley setback, two (2) feet.
  - Corner or through-lot setback, two (2) feet.
- \* \* \*

The proposed garage violates the Zoning Code as follows:

1. Proposed front yard setback from Filmore Drive is twenty-three (23) feet. The code requires sixty (60) feet. The garage will be thirty-seven (37) feet too close to the front lot line.
2. Proposed east side yard setback is one (1) foot. The code requires three (3) feet. The garage will be two (2) feet too close to the property line.

The building permit for a detached garage, as submitted, is therefore denied.

You may appeal this decision to the West Allis Board of Appeals. The deadline for filing an appeal to the September 9, 2014, meeting is August 15, 2014. You are required to visit our offices in person between the hours of 8-5, Monday-Friday to file the appeal prior to August 15<sup>th</sup>. The fee to file an appeal is \$150 and that fee is required at the time you file the appeal. If you have any questions or require additional assistance, information can be obtained by contacting the Department of Building Inspections & Neighborhood Services at 414-302-8400.

Mr. Atkinson displayed pictures of the property and explained that due to the unusual size and shape of their lot the homeowners wanted to construct a detached garage that will be thirty-seven (37) feet too close to the front property line and two (2) feet too close to the east side yard property line than allowed per code. He noted that the code allows three (3) feet or more from the side yard property line to allow room for maintenance and fire protection separation. He also noted that the lot is only forty-five and three tenths (45.3) feet deep on the east lot side and a garage could not be located sixty (60) feet from the front lot line.

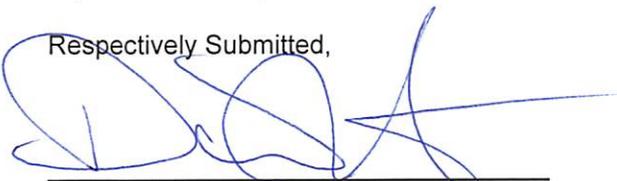
Mr. and Mrs. Cannistra appeared on their own behalf. They explained that they want to clean up the east side yard area by placing the garage one (1) foot from the property line, which would inhibit clutter accumulation in that area. They would also landscape the area with stone and edging. They also stated that if they moved the garage three (3) feet from the property line they would lose two (2) feet of their interior yard.

The Board, Mr. Atkinson and the property owners discussed the one (1) foot setback at great length. Mr. Atkinson suggested that they get a two (2) foot easement from their neighbor for access to maintain the garage.

Mr. Budiak made a motion to approve the one (1) foot east side yard setback with a two (2) foot easement or hold at the code required three (3) feet and to approve the thirty-seven (37) foot front yard setback as the lot is irregular shaped and it is not contrary to public interest and public safety and welfare would not be affected. The motion was seconded by Ms. Wager and unanimously approved.

Mr. Keller then motioned to adjourn, seconded by Ms. Wagner and unanimously approved. The meeting was adjourned at 6:40 p.m.

Respectively Submitted,



David Princeton, Board Chairperson  
West Allis Board of Appeals

*Ted Atkinson* 9/18/14

Ted Atkinson, Director of Bldg. Inspection & Neighborhood Services  
Board of Appeals Secretary