



BOARD OF APPEALS
City of West Allis

WEST ALLIS BOARD OF APPEALS MINUTES
October 8, 2013

MEMBERS PRESENT: Paul Budiac
Mark Maline (Alt)
Jean Wolfgang (Alt)
Rachel Cincotta

*2/11/14 Bd of Ap.
Approves Minutes
w/o change. File
7A*

EXCUSED: David Princeton
Charles Wolf

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

Ms. Wolfgang (Acting Board Chairperson) called the meeting to order at 6:00 PM. It was noted the meeting was moved from Room 220 as noted in the Notice to Room 128.

Ms. Wolfgang stated that the Notices of Appeals for the subject cases were published on September 26, 2013 in the "My Community Now" newspaper. She 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. Atkinson stated that no written or other communications regarding today's petitions were received.

Mr. Budiac made a motion to approve the minutes of the August 13, 2013 meeting. His motion was seconded by Mr. Maline and unanimously approved.

Ms. Wolfgang called for the first case to be heard.

Mr. Atkinson read from denial letter #2013-04.

September 11, 2013

Ken & Susan Irwin
2885 S. Orleans Avenue
West Allis, WI 53214

RE: Written Notice of Permit Refusal No. 2013-04
Address: 2885 S. Orleans Avenue
Tax Key #: 517-0230-000
Zoning: RA-2; Residence District
Legal Description:

Broson Manor Addition No. 5, all of Lot 1 in Block 16 and part of Lot 3 in Block 16, which is bounded and described as follows: Commencing at the Southeast corner of said Lot 3; running thence North 11° 27' 11" West along the Easterly line thereof 85.00 feet to a point; thence Southerly on a line to a point in the South line of said Lot 3 which is 10.00 feet West of the Southeast corner thereof; thence North 28° 54' 30" East along said South line 10.00 feet to the point of beginning.

Dear Property Owner:

On September 3, 2013, an application was made for a permit to construct a detached garage to the above referenced single family dwelling. The proposal is to construct a sixteen (16) foot by twenty (20) foot detached garage on the northwest corner of the property. The garage will be located in the same general area as an existing twenty (20) foot by twenty (20) foot garage on the property, which will be razed as a part of this project. The proposed garage will be sixty-nine hundredths (0.69) feet from the rear (west) property line, one and ninety-two hundredths (1.92) feet from the north side property line and five and eight tenths (5.8) feet from the dwelling. The Revised Municipal Code requires a minimum three (3) foot setback to rear and side property lines and a minimum ten (10) foot setback to a

dwelling on the same property. The proposed garage will be two and thirty-one hundredths (2.31) feet too close to the rear property line, one and eight hundredths (1.08) feet too close to the north side property line and four and two tenths (4.2) feet too close to the dwelling. The proposed garage does not meet the current Zoning Code of the City of West Allis.

Your permit is denied because the proposed detached garage is in violation of the following section of the West Allis Revised Municipal Code.

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.

The code requires this garage to be set back three (3) feet from the rear property line. The proposed garage would be located two and thirty-one hundredths (2.31) feet too close to the rear property line than the Zoning Code allows.

The code requires this garage to be set back three (3) feet from the north side property line. The proposed garage would be located one and eight hundredths (1.08) feet too close to the north side property line than the Zoning Code allows.

The code requires this garage to be set back ten (10) feet from the dwelling. The proposed garage would be located four and two tenths (4.2) feet too close to the dwelling than the Zoning Code allows.

Based on the three issues listed above, the building permit for a detached garage as submitted is denied.

You may appeal this decision to the West Allis Board of Appeals. Information on filing an appeal can be obtained by contacting the Department of Building Inspections & Neighborhood Services at 414-302-8400.

Mr. Atkinson distributed pictures of the property and explained that the homeowner wants to construct a detached garage that is two and thirty-one hundredths (2.31) feet too close to the rear property line, one and eight hundredths (1.08) feet too close to the north side property line and four and two tenths (4.2) feet too close to the dwelling than the Zoning Code allows. He noted that the code allows ten (10) feet or more from the dwelling and three (3) feet or more from the side and rear property lines. This set back allows some room for maintenance and fire protection separation. Ms. Wolfgang confirmed that the garage would be at least 10' from the neighboring house. Mr. Atkinson stated that if this location is approved by the Board the Building Code will further require fire rating for the separation approved base on a table in the State of Wisconsin Uniform Dwelling Code.

Mr. and Mrs. Irwin appeared on their own behalf. They stated that the existing garage is deteriorated and they plan to build a new, smaller garage and put in a new driveway. Gutters and downspouts would be placed on the garage at both eave ends directed toward the front of the house. The Board inquired about constructing a garage on the open southerly lot area. Mr. and Mrs. Irwin indicated that if they put the garage elsewhere on the lot they would lose trees and would need a new driveway approach all being additional cost.

Mr. Budiak made a motion to approve the variance, contingent upon gutters being placed on the garage to drain to the street, as it is not contrary to public interest and public safety and welfare would not be affected. It was also noted that the lot has an irregular shape for the construction of buildings with required setbacks; the lot is only 84' by 95' deep. The motion was seconded by Mr. Maline and unanimously approved.

Ms. Wolfgang called for the second case to be heard.

Mr. Atkinson read from denial letter 2013-05.

September 11, 2013

Adam Keller
2507 Manchester Ct.
Waukesha, WI 53188

RE: Written Notice of Permit Refusal No. 2013-05
Address: 1976-78 S. 59th St.
Tax Key #: 455-0109-000
Zoning: RB-2 Residence District
Legal Description: McGeoch Farm Subdivision No. 1, South 30 ft. of Lot 9, Block 9

Dear Property Owner:

On August 29, 2013 you made application for a building permit to reconstruct a 20' x 22' detached garage that was recently destroyed by fire. You propose to construct the garage on the existing slab. This slab was installed in 1993 when the zoning code allowed the slab to be three (3) feet from an alley. Today's code requires the garage to be five (5) feet from an alley. The proposed detached garage will be two (2) feet too close to the alley.

Your garage permit application is denied because the proposed detached garage will be in violation of the following sections of the West Allis Revised Municipal Code:

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.

The code requires this garage to be five (5) feet off of the alley. The proposed garage would be located two (2) feet too close to the alley than the Zoning Code allows. The building permit for a detached garage as submitted is therefore denied.

You may appeal this decision to the West Allis Board of Appeals. Information on filing an appeal can be obtained by contacting the Department of Building Inspections & Neighborhood Services at 414-302-8400.

Mr. Atkinson stated that there was a fire on July 29, 2013 that destroyed the existing garage and explained that the homeowner wants to construct a new detached garage on the same location which would be located two (2) feet too close to the alley than the Zoning Code allows. The garage was constructed in 1993 when three (3) feet was allowed.

Ms. Wolfgang brought to the Boards attention that Wisconsin State Statutes allow property owners to rebuild, in the same location, within 12 months after a natural disaster, which also includes fire. Mr. Atkinson will review the statute and refund any fees if necessary. The Board proceeded to review the case. It was noted the garage is accessed from the street and not from the adjacent alley.

Mr. Keller appeared on his owner behalf. He stated that the garage burnt down on July 29, 2013 and was a total loss except for the slab. He wants to rebuild a higher quality garage in the same location using the existing slab. He also stated that it would be a financial hardship to remove the existing slab and pour a new slab in a different location on his lot.

Mr. Maline made a motion to approve the variance, contingent upon gutters being placed on the garage, as it is not contrary to public interest and public safety and welfare would not be affected. The motion was seconded by Ms. Cincotta and unanimously approved.

(Appeals Board Secretary Note: It has been determined that State Statutes Section 62.23(7)(hb) applies to existing nonconforming structures and this garage structure may be restructured on the existing location without variance. The City will return processing fee of \$150.00, see communication dated October 16, 2013.)

Ms. Wolfgang called for the third case to be heard.

Mr. Atkinson read from denial letter 2013-06.

September 11, 2013

Thomas Kinnard
Ancilla Kinnard
8421 W. Orchard St
West Allis, WI 53214

RE: Written Notice of Permit Refusal No. 2013-06
Address: 8421 W. Orchard Street
Tax Key #: 451-0658-000
Zoning: RB-2; Residence District
Legal Description: Assessor's Plat No. 257, Lot 2, Block 5

Dear Property Owner:

On August 21, 2013, an application was made for a permit to construct a detached garage to the above referenced single family dwelling. The proposal is to construct a twenty-eight (28) foot by twelve (12) foot detached garage on the south east corner of the property. The garage will be located in the same general area as an existing ten (10) foot by twenty (20) foot garage on the property, which will be razed as a part of this project. The entire lot is only sixty (60) feet deep. The Revised Municipal Code requires a sixty (60) foot front yard setback for detached accessory structures. The front of the garage will only be twenty-nine (29) feet from the front property line, which is thirty-one (31) feet too close to the front (north) property line. The proposed garage is therefore not allowed by code.

Your permit is denied because the proposed detached garage is in violation of the following section of the West Allis Revised Municipal Code.

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.

The code requires this garage to be set back sixty (60) feet from the front property line. The proposed garage would be located thirty-one (31) feet too close to the front property line than the Zoning Code allows. The building permit for a detached garage as submitted is therefore denied.

The entire property is only sixty (60) feet deep, making it a violation of the zoning code for any detached accessory structure to be constructed on this property without a variance.

You may appeal this decision to the West Allis Board of Appeals. Information on filing an appeal can be obtained by contacting the Department of Building Inspections & Neighborhood Services at 414-302-8400.

Mr. Atkinson distributed pictures of the property and explained that the homeowners want to construct a detached garage that is located thirty-one (31) feet too close to the front property line than the Zoning Code allows. He noted that the Code requires a setback of sixty (60) feet from the front property line. He informed the Board that the lot is 60' x 69' which would make conforming to the code very difficult without securing variances.

Mr. and Mrs. Kinnard appeared on their own behalf. They stated that the existing garage needs to be razed because it is deteriorated and is a hazard.

Mr. Atkinson noted that every homeowner should be allowed to have a garage. He also indicated that the garage should have gutters and downspouts directed to the front of the property on both eave ends.

Ms. Cincotta made a motion to approve the variance, contingent upon gutters being placed on the garage to drain towards the street, as it is not contrary to public interest and public safety and welfare would not be affected. It was also noted that the lot is irregular being 60' by 60'. The motion was seconded by Mr. Budiak and unanimously approved.

The Board discussed amending the garage height code requirement and agreed to hold a decision until the next meeting.

Ms. Wolfgang then motioned to adjourn, seconded by Ms. Cincotta and unanimously approved. The meeting was adjourned at 6:45 p.m.

Respectively Submitted,



Jean Wolfgang, Acting Board Chairperson
West Allis Board of Appeals



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