



TOWN OF EAGLE  
Zoning Board of Appeals  
April 2, 2012  
Approved Minutes

Chairman Day called the meeting to order at 6:30 p.m.

Present: Chairman Day; Members Erikson, Harthun, Wambach, and West; Also present: Town Clerk Lynn Pepper and Town Planner Tim Schwecke.

Minutes: Motion by Member Wambach, seconded by Member Harthun to approve the minutes from March 5, 2012. Upon voice vote, motion carried.

**ZA12-01 Public Hearing** – TABLED FROM LAST MONTH - Randy and Jessica Haumschild for property located at W355 S9305 Bennington Drive – Tax Key EGLT 1820-017. The petitioner is seeking a variance from Sec. 5.07(6)(A) of the zoning code, which requires a minimum setback of 50 feet from the front property boundary line. The variance is for the “after-the-fact” construction of a covered porch which is closer than 50 feet. – Town Planner Tim Schwecke reminded the Board that this public hearing was tabled from last month because the Board asked for more information. Planner Schwecke explained that he obtained the 1978 Waukesha County Zoning Permit. In addition, Waukesha County Planner Amy Barrows indicated to him that the front yard setback when the house was built was fifty (50) feet, the same as it is today.

Chairman Day reviewed the four questions that the Board asked for additional information on. Chairman Day reported that the Waukesha County Board of Adjustments had a similar request at their last meeting. In that instance, the applicant’s front porch encroached seventeen (17) feet into the fifty (50) foot setback. The applicant was requesting a relocation of the front porch on the same side of the house and also requesting the same encroachment. The Waukesha County staff recommended approval based on the rationale that “denial of this variance would serve no useful purpose and it would be unnecessarily burdensome.” The Board of Adjustment also cited safety concerns as a reason to allow the enclosed front porch. In regards to the Haumschild variance request, Chairman Day explained that he visited the property today and explained that it appears that the road right-of-way is sixty (60) feet, which means it falls thirty (30) feet into his property. The setback line is measured from that point. Chairman Day explained that the house measures fifty-two (52) feet from the road right-of-way and the porch, including the stairs, encroaches twelve (12) feet into the fifty (50) foot setback. Chairman Day explained that Bennington Drive is a dead end street, with the property in question located at the west end. Chairman Day stated that he would not anticipate the road being lengthened or widened. Member West added that in speaking with the Town Chairman, he indicated that the Town has no intention of lengthening the road beyond the dead end and the Town is in the process of changing Bennington Drive from a temporary to a permanent cul-de-sac. In response to Member Harthun, Chairman Day stated the Waukesha County instance should not be used as precedence setting for the Town.

Member West referred to the detached garage located on this property. The garage, he believes, is closer to the cul-de-sac but that would just mean that the garage is a non-conforming building and does not play a factor in tonight’s decision. Member West questioned if it is necessary to include the stairs in the figure. In response, Planner

Schwecke explained that it was his understanding that the porch area was twelve (12) ft. by twelve (12) ft. but now according to the applicant, the porch actually eight ( 8) feet by twelve (12) feet with four (4) foot steps.

Chairman Day explained that other homes in the area are close to the road right-of-way and some of them have a similar covered porch as what the applicant has constructed.

Mr. Haumschild clarified that the porch area is eight (8) feet by twelve (12) feet with the steps extending another four (4) feet towards the road right-of-way. In response to Chairman Day, Mr. Haumschild explained that when entering the house on the east side, you enter to a landing to go up or down. The north side entrance enters on the lower level.

At this time, the floor was opened to public comments.

After hearing no public comments, a motion was made by Member West, seconded by Member Harthun to close the public hearing at 6:55 P.M.

Chairman Day explained that in the previous hearing, the Board of Appeals answered all of the questions except for the question regarding hardship. Chairman Day explained that if the Board feels that a hardship exists, he would suggest using language that denial would serve no useful purpose and that denial would be unnecessarily burdensome. In addition, a covered porch would be safer during inclement weather and that Bennington Drive is a cul-de-sac and that it is not anticipated to be widened.

Planner Schwecke explained that the rationale that was used by the County is not the role of the Board of Appeals. The Zoning Code states that the setback of fifty (50) feet is required for a useful purpose or various purposes. The point of the benchmark is from the right-of-way. The question should be whether there is a hardship; not whether it makes sense.

Member West stated that he has observed that variance requests that come to this Board on lots that are non-conforming have an easier time getting approval than those requests which come before the Board on legal lots. The Board of Appeals should consider that this porch is not for recreation or amusement, it is for safety. Members Wambach and Harthun agreed. Member Harthun added that there are other homes in that area which are close to or right at the fifty (50) setback line.

A motion was made by Member Harthun, seconded by Member Wambach to approve the variance request, citing safety concerns, citing that the porch in compliance with neighboring homes and that denial would be unnecessarily burdensome. Upon voice vote, motion carried.

Variance application form/Recommendations for possible amendments to the Town's Zoning Code – Chairman Day explained that a committee has been reviewing the Town's zoning code. One of the recommendations that will be coming forward is in regards to the maximum height of accessory buildings. In addition, Chairman Day suggested that the committee look for any codes that are significantly different from the Waukesha County Zoning Code. If there is no rationale as to why there is a difference, the committee should try to align with the County. Chairman Day suggested e-mailing any comments on the proposed variance form or any suggestions to changes to the zoning code to the Town Planner. Planner Schwecke added that the committee usually meets on a Tuesday or a Thursday.

There being no further business on the agenda, Member West moved, seconded by Member Erikson to adjourn the meeting at 7:09 P.M. Motion carried.

Lynn M. Pepper  
Eagle Town Clerk