



## MINUTES OF AN OFFICIAL MEETING:

Regular / Special Meeting:        **Board of Zoning Appeals**

Date and Time:                        June 9, 2022, at 7:00 PM

Location:                                City Hall, 2000 N. Calhoun Road, Brookfield, Wisconsin

Members Present:                     Frank DeGuire, Ald. Bill Carnell, Mark Krause, Dean Marquardt, Ald. Kathryn Wilson

Members Excused:                    Rod Carter, Gordon Rozmus

Others Present:                        Zoning & Building Administrator Larry Goudy

### 1. ROLL CALL

Dean Marquardt called the Board of Appeals to order at 7:00 pm. He stated that the notice of hearing has been duly published pursuant to the State open meetings law and explained the procedure to present the appeals to the Board this evening. Mr. Marquardt indicated that a quorum was present and that the request for variances must receive the affirmative vote of three members of the Board in order for a request to be granted.

### 2. MINUTES OF THE OCTOBER 11, 2021, BOARD OF APPEALS

***Motion by Frank DeGuire, seconded by Mark Krause, to approve the October 11, 2021 Board of Zoning Appeals minutes. The motion carried unanimously.***

***Public Hearing & Consideration of Appeal:*** *Certain requests for building and sign permits have been submitted to the City of Brookfield and have been denied by the Zoning & Building Administrator because they did not comply with the Zoning, Building or Sign Code of the City of Brookfield. There will be a Public Hearing held on June 9, 2022, at 7:00 pm at the Common Council Chambers for the express purpose of considering the following request(s) for variance. Please note that following the public hearing(s), the Board intends to take action by considering the request indicated.*

### New Business

#### 3A. LEO & ADRIENNE BUDNIK, 4745 CAMFIELD DR.: YARD MAINTENANCE BUILDING

The request of Leo & Adrienne Budnik, Lot 9, Blk 7 Imperial Estates PT of Sec 4 T7N R20E, to appeal Section 15.04.420 C.1.a. to permit a yard maintenance building at 4745 Camfield Drive. The proposed yard maintenance building is located in the side yard. The Code requires it to be placed in the rear yard.

Zoning & Building Administrator Larry Goudy introduced the request as stated in the notice.

Leo and Adrienne Budnik appeared before the Board. Mr. Budnik stated that the neighbor living at 4740 Camfield Drive submitted a letter in support. Mrs. Budnik stated there are many trees in the backyard as well as a playset. It is a corner lot. It is difficult to blend the maintenance building and make it aesthetically pleasing in the back yard. Placing the maintenance building in the side yard makes it a nicer view for her neighbors too. She stated she spoke with the neighbor across the street, and also the neighbors at 17375 Bedford. The owner prefers to have it in the side yard as it would keep it out of his view. There are water problems at their property. They have lived there for two years and have done many improvements. Mr. Budnik's work vehicle is parked in the driveway. Leo Budnik stated they hope to move the yard equipment out of the garage to park their second vehicle in the garage. Adrienne Budnik stated the house is not on an angle. It faces east which makes the backyard even smaller.

Mr. Marquardt suggested the owners revisit locations that would make the garden house location compliant. Mr. Budnik stated they chose this location because there is a tree, play structure and utility box in the way. There are a lot of trees in the backyard. Mrs. Budnik stated at the southwest corner of the lot, all water drains to that corner. There is a big flooding issue in that corner. Mr. Marquardt stated that the standards for a use variance are hard to meet. He hasn't heard anything that warrants a variance be granted. Mrs. Budnik stated there is no place to put in the backyard. Mr. Goudy clarified that this is an area variance, not a use variance.

Alderman Carnell asked what the maximum size for a shed is. Mr. Goudy replied 180 sq. ft. Mr. Carnell commented that the side yard can be used to park recreational vehicles or trailers and if the shed was there, that wouldn't be possible. The Budnik's indicated that they don't have any of those vehicles.

Mr. Krause asked have they considered expanding the garage. Mrs. Budnik replied yes, but it would cost \$40,000 and they have children. It would be too expensive.

The location and quantity of the trees were shown on a survey by the Budnik's.

Mr. Marquardt asked if the shed actually had to be located 20' from the side yard, rather than 5'. It was agreed that no one on the Board has seen this type of request before, and that answer was a bit unclear. Mr. Marquardt stated that the issue of neighbors' approval is not relevant to this board. However, it is nice to know they wouldn't be unhappy. The issue is that a permanent structure would be 17.8' from the lot line. Neighbors change and they then would need to deal with this. It was explained that the back corner is the main drainage for this property. It cannot be located there. Also, they would prefer the shed not be in their neighbors view at 17375 Bedford.

There were suggestions of other locations for the shed, but it would be quite the variance and wouldn't make sense. The rules that the city has followed has been in place for years and has worked for the community for many years. Mr. Marquardt explained that the reason for the location regulations, the city granted leeway to allow sheds 5' from rear yard properties so people could put them in places that weren't right by neighbors.

Mr. Goudy showed the aerial and the neighbor to the South is at a diagonal. Bill Carnell stated that there was 35' from the house and property line to the West.

- **Motion by Alderman Bill Carnell, seconded by Ald. Frank DeGuire, to deny the variance request because the proposed shed is closer than 20' to the side yard property line and doesn't meet standards of an area variance. There is room in the backyard. Motion carried unanimously.**

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3b. **Tyson Sieglaff, 1150 Lois Ave.: Deck**

The next item is the request of Tyson Sieglaff, Lot 11 Blk 11 Greenfield Heights Estates PT SE ¼ SEC 33 T7N R20E, to appeal Section 15.04.380 C. to permit a deck at 1150 Lois Avenue. The proposed deck is located within the required front setback, 32.21' from the front property line. The required setback is 35.07'.

Mr. Goudy introduced the request as stated in the notice. Mr. Tyson Sieglaff stated they are limited by setbacks. He stated that the two homes on either side of his are two of the furthest away from the front property line on block. He just needs a clear path to home. It's not a good way into house off the driveway. The side door goes into basement on 90° turn.

Alderman Wilson asked if concrete steps in neighborhood is allowed. Mr. Goudy replied stoops, uncovered are allowed. Mr. Sieglaff added that his brother is the licensed contractor. He thought he procured the permits. Alderman Carnell asked if it meets standards. Mr. Goudy replied he believes so, but if not, the plan review would catch any issues. Mr. Marquardt asked if this happens in more recent subdivisions. Mr. Goudy replied no, few are closer than 50'. It was brought out to meet the existing walkway. Mr. Marquardt stated there are few decks in front of homes. Mr. Sieglaff added that the backyard is very little. With this addition, they can sit and talk to the neighbors. Alderman Carnell was concerned that this could set precedent. Mr. Goudy stated that it was unlikely to be precedent setting since the board needs to act on these individually. Mr. Marquardt stated that there is nothing unique to this property. The neighbor has similar deck. They have concrete walk and approach. The situation has to be unique and specific. They already could do something similar as a patio approach. When adjusting setbacks, it makes neighboring able to move closer in the future. Mr. Marquardt stated proving a hardship is difficult, for example, very steep slopes, etc. Once a home is on lot, it proves it can be used for its intended purpose.

Mr. Sieglaff asked if it was torn down and done by concrete, does it affect the setback. Mr. Goudy replied flat work is allowed. Mr. Sieglaff asked if it is not covered, does that matter? Mr. Goudy replied not according to Code. Mr. Marquardt stated the patio doesn't change the site line, but a raised deck does. Mr. Sieglaff stated multiple homes on the block are even closer. The size of the deck is 16.5' north to south and about 9' in depth. A lot of this is about aesthetics. When they moved in, the deck was falling apart. It was unusable.

It was asked if required, if taking off 3' would make the deck usable as a sitting area. Mr. Sieglaff replied it would be very very narrow. He couldn't walk past someone. The proposed deck would match a lot of homes in the neighborhood. Mr. Marquardt replied if that many are like that, then it's a matter of changing the code. Alderman Carnell added that even if this was denied, the owners can decide if they want to take 2.8' off the deck to make it conforming. It may not meet their needs at that point. Mrs. Sieglaff agreed and stated they would have to redesign totally and have concrete done instead.

- **Motion by Mark Krause, seconded by Frank DeGuire, to deny the variance because there are no unique circumstances of the property to warrant an approved variance. Motion carried unanimously.**

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4. ADJOURNMENT

***Motion by Alderman Frank DeGuire, seconded by Alderman Kathryn Wilson, to adjourn the meeting at 7:55 pm. Motion carried unanimously.***

RESPECTFULLY SUBMITTED:

RENEE J. TADYCH, DEPUTY CITY CLERK

CITY CLERK'S OFFICE