

**Minutes
City of Monona
Zoning Board of Appeals
Thursday July 21, 2022**

Chair Moore called the meeting of the Monona Zoning Board of Appeals to order at 5:50 pm.

Present: Alder Moore (Chair), Mr. Schweiger, Ms. Piliouras & Mr. Patton (2nd Alternate)

Excused: Mr. Conrad, Ms. Steele & Mr. Davies (1st Alternate)

Also Present: City Planner Douglas Plowman

Approval of Minutes:

A motion by Ms. Piliouras, seconded by Mr. Patton, to approve the minutes of May 19, 2022 carried with no corrections.

Appearances:

None.

New Business:

Public Hearing: Tom and Marykay Zimbrick, 5011 Tonyawatha Trail are requesting variances from Monona Municipal Code of Ordinances Sec. 480-24(d)(7)(c)(4) Accessory Building in the Shore Yard and Sec. 480-24(d)(7)(d) Accessory Building and Structures Lot Coverage to increase the maximum lot coverage of accessory structures in order to build a seasonal removable pier, and a permanent in-ground pool within the shore yard. (Case No. Z-005-2022)

Mr. Zimbrick introduced himself, and the variance requests. Mr. and Mrs. Zimbrick plan to make this property more handicap accessible and their forever home, which is the reason behind the request. Mr. Racinowski, the applicant's architect introduced the project and the variance requests. The project is in two parts; the first part is the construction of a new boathouse, replacement of an in-ground swimming pool and the addition of a new pier, and the second is the construction of the new house. The three additions total more than the allowable accessory square footage, and the swimming pool cannot be located within the shore yard. Mr. Racinowski outlined the challenging site conditions that exist due to the steep slope, and the difficulty this creates for a safe path from the house to the lake.

Mr. Racinowski shared that there is an existing 1960's swimming pool that is beyond its usable life. The current location is too close to the house and creates pinch points for wheelchair access. The new pool would relocate beyond the house towards the lake. The proposed 1,000 square foot boathouse would be supported by a removable pier. The boathouse design includes a lift for wheelchairs to access the lake. Mr. Racinowski discussed previous variance applications, and if in-ground pools (entirely below ground) should be considered a building. He added that views are minimally impacted by these plans given they are at or below grade. Mr. Racinowski shared that the application includes signatures from both adjacent neighbors in support of the project. Finally, he added that the current pool has a water slide and fence around the perimeter, both of which are to be removed as part of the proposed project. There were no other appearances and the public hearing was declared closed.

Consideration of Action: Tom and Marykay Zimbrick, 5011 Tonyawatha Trail are requesting variances from Monona Municipal Code of Ordinances Sec. 480-24(d)(7)(c)(4) Accessory Building in the Shore Yard and Sec. 480-24(d)(7)(d) Accessory Building and Structures Lot Coverage to increase the maximum lot coverage of accessory structures in order to build a

seasonal removable pier, and a permanent in-ground pool within the shore yard. (Case No. Z-005-2022)

City Planner Plowman outlined the two elements requested. The Ordinance allows boathouses and piers in the shore yard, but swimming pools are not permitted. The second element is the maximum lot coverage for all accessory buildings and structures on the entire lot. The maximum area is 1,000 square feet. The proposed boathouse is 1,000 square feet, so both the pier and the pool would require variances to exceed this amount. This pier will also require a DNR permit as it is located in Lake Monona. The City has dimensional standards for piers, which the proposed design complies with (other than total lot coverage). Planner Plowman met with the applicant and design team prior to the submitting their variance application to discuss the project. Chair Moore raised the question of the applicant's intention to age in place at the property, and the need for future accessibility improvements being grounds for a variance. Mr. Zimbrick responded that this is a current and not a future need as he has a family member who is wheelchair bound. Mr. Racinowski added that the boathouse plans include wheelchair accessibility considerations, allowing for storage of two boats and turning radii within the structure for a wheelchair.

Mr. Patton raised the previous pool approval, and that the purpose of the setback is to maintain views. He added that the proposed pool does not obstruct views, and meets the purpose of the zoning restriction. Mr. Schweiger asked for clarification of the hardship that is particular to the parcel of land that is different to other parcels. He added that the desire for a larger garage and a larger boathouse is not reason to grant a variance. Mr. Racinowski responded that the shoreline grading is challenging, and that there is a steep grade change across the rest of the lot as well, which is why there is an exposed basement. There was discussion of the existing pool, and if it is an existing non-conforming element. Mr. Schweiger asked how the slope necessitates the need for a larger boathouse. Mr. Racinowski responded that it is to accommodate a wheelchair lift and space within the structure to maneuver. Mr. Schweiger asked if the boathouse could be modified to accommodate one boat and still be accessible. Mr. Racinowski responded that he would need to review the designs to answer that question. Mr. Patton was unsure about the unique physical property limitation.

Ms. Piliouras asked by how much the plan exceeds the 1,000 square feet value. Planner Plowman responded that the boathouse is 1,000 square feet, the pier is approximately 150 square feet and the pool is 500 square feet. Ms. Piliouras asked if there is a way to redesign the pool to decrease the variance. Mr. Racinowski responded that the proposed design is the most efficient design that still allows for a decent sized pool. Mr. Schweiger asked about the condition of the pool and what repairs are necessary. Mr. Racinowski responded that the pool needs to be relined, but the location should be changed to allow for safe passage around it. A clarifying question was asked about storage buildings, pool cover and additional above ground structures associated with the pool. The project architect confirmed there would be no additional buildings, and that a pool cover would be installed. Mr. Patton shared that the difficulty as he perceives is the area variance request to exceed 1,000 square feet for accessory structures. Mr. Racinowski responded that the boathouse is critical to the applicant. He referenced the adjacent property and the pool and boathouse that was constructed. Ms. Piliouras added her concern with the scale of the request, and how it could be justified. Mr. Schweiger added that the prior variance from 2016 was approved by different Zoning Board members, and the request was to construct a pool, with no variance requested for the boathouse.

Mr. Zimbrick asked if it makes a difference that the request is improving a 60-year old element. The pool heat comes from a single-source oil tank within the current house. The plans would remove the oil heater as part of the overall design alleviating any environmental concerns. Mr. Schweiger acknowledged the repairs and updates, but added that they add to the public interest element. He still had trouble with the unique property limitation element of the request, as well as the magnitude. Planner Plowman clarified that the proposed plans would comply with City Ordinances for impervious percentages.

Mr. Patton raised the question of the pool being defined as a structure. Planner Plowman responded that the permitted buildings in the shore yard include boathouses, piers and boat shelters. Allowable structures appear related to the water, with storage sheds also prohibited in the shore yard. Previously the Board had discussed the intent may have been the impact of cross views. The previous approval for a swimming pool included a condition that no additional elements be included above the pool. The only way the new pool would be possible would be to enclose the pool indoors instead. Mr. Racinowski responded that there is no definition of an accessory building, and that is open to interpretation. He asked for interpretation of the pool as a structure (completely below grade), but not as a building. Planner Plowman responded that the City Attorney recently confirmed the interpretation and need for a variance before bringing any of these requests before the Board. There was discussion if the pool would be defined as an accessory building or structure. Planner Plowman responded that the two terms are used somewhat interchangeably in the Ordinance. The subheading of this Ordinance section includes both building and structures. The pool is not defined, but the elements allowed in the shore yard are specifically outlined with the pool not being one of those. Mr. Zimbrick responded that if not mentioned specifically, it should revert to the restricted definition. Planner Plowman added that this interpretation has held consistent, including the aforementioned 2016 case, and this was confirmed with the City Attorney. Mr. Wanta, the applicant's general contractor asked about the origins of the 1,000 square feet accessory total. Planner Plowman responded that Ordinance predates his time with the City, but that it is likely to retain the accessory nature of these elements versus the primary use or structure. Mr. Wanta added that the layout and design has been very intentional. The accessibility and usability is very important, as is the integrity of the shoreline. A shoreline design that is sustainable is very important to the applicant. He added the proposed design is low impact, and that the area calculation should be addressed on a case-by-case basis.

Chair Moore reiterated that State Statute binds the Board, and specifically the unique physical property limitations must be considered. Within the Statute, the circumstances of the applicant including elderly parents or desire for a larger garage are not legitimate factors. The consideration is not the unique nature of the design, but the unique limitations of the property. Mr. Racinowski added that there is a limit to the amount of grade that may be impacted for the house construction. The pool location would affect the future house location, which influences the property site conditions. Mr. Patton responded that the existing slope does limit alternative locations for the pool. Mr. Schweiger added that the Building Ordinance does treat pools as an accessory building as to statutory construction. He added that the pool is included in the accessory area limitation, and he added that condition that no aboveground structures be allowed. Each application is unique, and no precedents are set. Mr. Schweiger struggled with both hardship and unique property limitations of this request. Ms. Piliouras added that single-family residences are not regulated by ADA compliance laws, and that cannot be a reason to move the pool. She added that the pool could be located in the same footprint, even if it is not ideal. Mr. Racinowski responded that ADA accessibility is a hardship for the applicant, and the reason for their request. Mr. Zimbrick asked if substantially changing the layout and the potential impact on neighbors is a hardship. The current layout is in-line with the neighbors, but alternatives could have a great impact. Ms. Piliouras responded that it may be considered under public interest, but the Board must consider what is unique to the applicant's property, and not the neighbors. Mr. Zimbrick asked if the City Attorney interpretation was for a pool specifically, or for a pier and pool. Planner Plowman responded that the question was asked specifically about the pool. The pier is permitted within the shore yard, but just subject to the area calculation.

A motion was made by Mr. Schweiger, seconded by Ms. Piliouras to deny the requests for a shore yard setback variance to construct a new in-ground pool and removable pier, as well as to exceed the accessory building and structures lot coverage total. No unique physical property limitation or hardship was found by the Board. There are no unique physical property limitations as described by the applicant. No hardship exists that makes this parcel

different to others. The parcel is still economically suitable for a permitted purpose, and would accommodate a reasonable design for a permitted use if all yard and setback requirements were observed.

The motion carried unanimously.

Public Hearing: Emily and James Farwell, 4808 Shore Acres Road are requesting a variance from Monona Municipal Code of Ordinances Sec. 480-24(d)(4)(a) Street Yard Setbacks for the purpose of building a new addition to the east side of their property. (Case No. Z-006-2022)

Ms. Farwell introduced their variance application. They live in a small ranch at the corner of Lamboley Ave and Shore Acres Road. The garage, kitchen and breezeway are all non-conforming as they are constructed. Their young children have limited outdoor play space, without playing in the street. Ms. Farwell's car was totaled when parked on the street six years ago. The cars are currently parked on the street to add to the outdoor play area on the driveway, a problem that could be addressed with a two-car garage.

The applicants have been working with their contractor to design the addition. The final page of the packet shows the alternative design to comply with the Ordinance. This addition would be in the middle of the back yard and would cover up at least one or two windows in their daughter's bedroom making the house (by code) a two-bedroom structure. The proposed addition maintains the front line of the property, and meets the side yard setbacks to their neighbor. The house was built in 1952, and there is already limited living space, another element that the plans would address. Both entrances have at least five steps onto the property. This would also add to the accessibility of the property. There were no other appearances and the public hearing was declared closed.

Consideration of Action: Emily and James Farwell, 4808 Shore Acres Road are requesting a variance from Monona Municipal Code of Ordinances Sec. 480-24(d)(4)(a) Street Yard Setbacks for the purpose of building a new addition to the east side of their property. (Case No. Z-006-2022)

City Planner Plowman discussed the application and the yard designations as defined by the Zoning Ordinance. The proposed plan meets the eastern side yard setbacks, and the request is to encroach into the street yard setbacks along Lamboley Avenue to maintain the building line. Mr. Patton asked about the dimensions of the property, and if it is especially narrow. City Planner Plowman responded that this is somewhat typical, but the corner lot is likely a challenge the Board may wish to consider. Mr. Patton shared that the orientation of the house the corner lot, the existing non-conforming nature and limited alternatives make this a reasonable request. There are only positive impacts on adjacent neighbors. Ms. Piliouras added that the request also includes greater living space, and not just an additional garage to house their family. Ms. Farwell added that there is also a fire hydrant at the corner of the lot further limiting parking options. Mr. Schweiger asked if the building envelope is unusual for this type of a lot. City Planner Plowman responded that this is somewhat typical from a dimensional perspective; the challenge comes from the orientation. Mr. Farwell added that the property site lines do not change, and that the alternative is to place the garage in the back yard without a variance. Mr. Schweiger clarified that the property predates the Zoning Ordinance given it was built in 1952. He added the design is reasonable and meets a permitted use. Ms. Piliouras clarified the number of bedrooms in the house and that if the garage were moved back to comply it would cause one bedroom to be out of code compliance.

A motion was made by Mr. Schweiger, seconded by Mr. Patton to approve the request for a street yard setback variance to construct a new addition to the east side of the property. The hardship is present through the creation of the property prior to the passage of the Zoning Ordinance. While it could accommodate a structure elsewhere, it would harm the public interest by reducing the bedroom size of the house. There is an additional hardship through

Zoning Board of Appeals

July 21, 2022

Approved August 18, 2022

the relocation of the garage creating a pecuniary hardship. While not grounds in itself, it is a factor that can be considered. Losing a bedroom for a garage is not in the public interest, and there is no harm to the public interest with these plans. The orientation of the house is the unique physical property limitation in this instance.

The motion carried unanimously.

Upcoming Meetings:

Planner Plowman received an application for the August 18 meeting. The September 15 meeting is cancelled due to Board availability.

Updates/Discussion on Diversity, Equity and Inclusion (DEI) Efforts:

The Ad-Hoc Committee report is available on the City website after meeting for over 6-months. There has been a public forum to discuss the City's next steps.

Updates/Discussion on Sustainability Efforts:

None.

Adjournment:

A motion by Ms. Piliouras, seconded by Mr. Schweiger, to adjourn carried. (7:24 pm)

Respectfully submitted by:
Douglas Plowman, City Planner / Zoning Administrator