

VILLAGE OF CALEDONIA ZONING BOARD OF APPEALS
Village Hall, 5043 Chester Lane, Racine, WI 53402

Tuesday, August 25, 2020 at 9:00 a.m.

Chairperson Rosanne Kuemmel called the meeting to order at 9:01 a.m.

1. Roll Call

Board Members in attendance: Rosanne Kuemmel, Richard Mielke, Judy Tomachek, and Joan Rennert

Absent: John Barnes

Staff Present: Development Director Peter Wagner and Village of Caledonia Administrator Tom Christensen.

2. Review and Possible Approval of Minutes from June 30, 2020

Richard Mielke motioned to approve the minutes from June 30, 2020. Judy Tomachek second. Motion carried unanimously.

Rosanne Kuemmel reviewed the meeting process and that Board members may have visited the site before this meeting.

3A. Public Hearing

Philip Hines Jr.
5015 Crystal Spring
Racine, WI 53406

Request a variance from Municipal Code Section 20-298 which states that the minimum rear setback for a home in the R-3 zoning district is 50 feet.

Peter Wagner read from his report:

Philip Hines Jr.
104-04-22-36-442-000
5015 Crystal Spring
Racine, WI 53406

The applicant is requesting a variance from Section 20-298 which states that the minimum rear setback for a principle dwelling in the R-3 District is 50 feet. The applicant is proposing to construct a sunroom addition on the back of the home. Once added, the rear setback of the home will be 45 feet. This does not meet the minimum setback requirement. In 2004, the homeowner removed a deck and added a basement and a kitchen addition to the rear of the home with a setback 50 feet from the rear lot line. This is illustrated in the applicant's submitted site plan titled "PRESENT" and is also shown in the zoning permit issued in 2004. Included with this report is the applicant's rationale as to why a variance of five feet should be granted for the property located at 5015 Crystal Spring.

The Fire Department and Engineering Department stated they have no concerns regarding the requested variance. Planning & Zoning Staff does not make a recommendation regarding zoning variance requests.

The following criteria should be used by the Zoning Board of Appeals to make a decision. An applicant does not need to meet all the criteria, however, an explanation of how the variance request applies to each one should be incorporated as part of the Board's deliberation.

Preservation of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

Exceptional Circumstances: There must be unique circumstances or conditions applying to the lot or parcel or structure that do not apply generally to other properties of uses in the same zoning classification, and the granting of the variance should not be of so general or recurrent nature as to suggest that the zoning ordinance should be changed.

Economic Hardship and Self-Imposed Hardship Not Grounds for Variance: No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

Preservation of Property Rights: The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and same vicinity.

Absence of Detriment: No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this ordinance or the public interest.

If the Board agrees that the applicant met criteria for granting a variance, the Board can make a motion to grant a variance allowing the applicant to construct a 12'x16' sunroom addition to the back of the home with a rear setback of 45 feet for the property located at 5015 Crystal Spring with Parcel ID No. 104-04-22-36-442-000 including the findings of fact found by the Board.

Planning & Zoning Staff does not make a recommendation regarding zoning variances. Included in your packet is a document that describes the criteria in which the Board should base their findings of fact. To assist the Board with findings of fact, I've included an example of how the variance criteria were used to determine whether a variance should be granted.

Philip Hines Jr. –5015 Crystal Spring- The applicant explained he and his wife are retired and would like to stay here in Racine to enjoy their home and yard by creating a sunroom. Hines believed their old deck and new kitchen addition exceeded the minimum rear setbacks.

Peter Wagner clarified after reviewing the Zoning Permit for the kitchen addition it had met the minimum rear setbacks.

Mary D Hines – 5015 Crystal Spring – the additional square footage would extend their current enjoyment of their property.

Peter Wagner's permit denial letter:

Dear Philip Hines Jr.:

I have reviewed the building permit application for a 12' X 16' sunroom addition to your home located at 5015 Crystal Spring. I am unable to approve the building permit application because the proposed rear set back does not meet the minimum 50-foot rear setback requirement for a home in the R-3, Suburban Residential Zoning District.

Municipal Code Section 20-298 states that the minimum rear setback for a home in the R-3 Zoning District is 50 feet. Please consider this letter as an official denial to construct a 12' X 16' sunroom addition to your home at 5015 Crystal Spring. You have the right to appeal this decision per Section 20-31 of the Municipal Code, which allows a person to request a variance from the zoning before the Zoning Board of Appeals. Within thirty (30) days of written notice of the decision of the Zoning Administrator.

Rosanne Kuemmel asked three times for anyone in opposition.

Daniel Elmer 5021 Crystal Spring – is not against the variance if it doesn't create a drainage issue.

William Livesey 5020 Crystal Spring – spoke for the **Architectural Control Committee Westview Village South Subdivision-** questioned if the Village of Caledonia is aware of the covenants and restrictions this subdivision follows. Livesey asked if the Architectural Control Committee was to receive the notification of the variance in question.

Peter Wagner responded the Village of Caledonia won't enforce the Subdivisions Committee covenants and restrictions just the rules and regulations the Village of Caledonia holds. Wagner said the Village of Caledonia doesn't need to notify the Architectural Control Committee of the applied variance in question only the surrounding neighbors to the applicant.

The Board of Appeal Members questioned the applicants' exceptional circumstance. They expressed concern if the measurements were done correctly. Board Members asked if all other neighboring properties have additions or just decks and patios.

Hines – replied this variance would give us additional enjoyment that we already currently have for our yard and with living on a hill it minimizes our ability to place it somewhere else. The surrounding properties don't have additions only decks and patios.

Joan Rennert made a motion to adjourn the Public Hearing portion of the meeting Judith Tomachek second. Motion carried unanimously.

Public Hearing portion of the meeting ended at 9:52 a.m.

4. Board Meeting

A. Decision on preceding petition.

Joan Rennert – speaks that there are no objections from the neighbors. They would like to enjoy their property as they see fit.

Rosanne Kuemmel – exceptional circumstances are their properties topography prevents them from doing something different. Preservation of intent is the property owners right to enjoy and add an addition to their property.

Richard Mielke– agrees with the exceptional circumstances due to the topography but there are other ways to use and enjoy their property.

Joan Rennert motioned to grant a variance allowing the applicant to construct a 12'x16' sunroom addition to the back of the home that would result in a rear setback of 45 feet. In accordance with the findings of fact this variance would not cause a substantial detriment to properties surrounding it. The applicants' preservation of intent is that the structure would be for the enjoyment of their property. The property has exceptional circumstances as it has unique topography which limits the applicant's ability to add a sunroom elsewhere to the home. Granting the variance preserves the intent of the code to allow the addition of a sunroom onto a residential dwelling Judith Tomachek second.

Roll Call:

Rosanne Kuemmel	Aye
Richard Mielke	Nay
Judy Tomachek	Aye

Joan Rennert	Aye
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Motion carried 3/1

B. Other business as authorized by law

No other business.

C. Adjourn

Joan Rennert made a motion to adjourn the meeting. Judith Tomachek second. Motion carried unanimously.

The meeting adjourned at 10:17 a.m.

Respectfully submitted,
Erika Waege
Building/Engineering Admin.
Village of Caledonia