

VILLAGE OF CALEDONIA ZONING BOARD OF APPEALS

Village Hall, 5043 Chester Lane, Racine, WI 53402

Tuesday, June 27, 2023, at 9:00 a.m.

1. Meeting called to order

Chairperson Richard Mielke called the meeting to order at 9:10 a.m.

2. Roll Call: Board Members in attendance: Joan Rennert, Richard Mielke, Jacob Lovedahl.

Excused: Roseanne Kuemmel, John Barnes.

Staff Present: Development Director Peter Wagner

3A. Approval of Minutes

A motion is in order to accept the minutes of the April 26, 2022, Meeting Minutes; however, as no quorum was present, no motion was made.

Mielke read the variance request and the meeting process.

4A. Public Hearing

Donald and Jane Christensen
3738 Buckley Road
Racine, WI 53405

Request a variance from Section
16-6-6(b) reducing the street
yard and the rear yard setbacks
from the minimum 30-foot
requirement.

Mielke opened the Public Hearing portion of the meeting at 9:10 a.m.

Peter Wagner swore in appellant Donald Christensen, 4413 Northwestern Ave., Mt. Pleasant, and Professional Land Surveyor Mark Madsen, 1458 Horizon Blvd.; Racine.

Madsen explained their reason for the variance request referencing the appellants' letter that was submitted with the variance request and included in the Meeting Packet. The property owners have been planning to build a new home on the parcel for a few years. A new road was required by the Village and has now been constructed. When the owners submitted their permit, they learned that the minimum setbacks had been reduced when the Village adopted a new code in December 2022.

Madsen noted there is a permanent Turnaround-T at the end of Buckley Road, which means the Village owns the right-of-way outside of the usual 33-foot section. It is not a temporary T where there is an easement that wouldn't affect the setbacks. Setting the house 25 feet from permanent T would bring it in line with the existing homes. The situation is unique and approving the variance would not likely set a precedence.

Christensen said the plan would have complied with the setbacks if the T not been an issue. The plan otherwise complies with Zoning rules. The property abuts Racine County Conservation land so there will not be an issue of any future building in that area.

Mielke asked three times if anyone wanted to speak in favor of the variance.

Chalene Kunnen, 3600 Buckley Road, spoke in favor of the variance, noting the cleanup and improvements the owners have done to prepare the property for building.

Fay Rasmussen, 3610 Buckley Road, spoke in favor of the variance, echoing the sentiments of her neighbor, Chalene Kunnen.

Mielke asked three times if anyone wanted to speak in opposition of the variance.

None.

Rennart asked about the history of the proposal and the permit processes and why the appellants did not know about the new minimum setback.

Christensen explained the delay in building the road and getting a variance to leave the road unpaved until construction is complete.

Madsen spoke about submitting the grading plan to the Village Engineering Department in the fall of 2022 and said he was notified of the new minimum after they applied for the permit.

Christensen said they had been working on the house plan for a year or more. He had applied for the permit in April and was notified it was not approved at the beginning of May, just days before the excavation was scheduled.

Rennart asked about the Turnaround T, the driveway approach and the culvert.

Mielke asked if the appellants were ever notified the code was changing. Christensen said, no, they had not been notified.

Mielke closed the Public Hearing at 9:31 a.m.

5. Board Meeting

- A. Deliberate the request of Case No. 23-001, Donald and Jane Christensen
- B. Decision on Case No. 23-001, Donald and Jane Christensen
- C. Other business as authorized by Law - None

Mielke read the request.

The applicant is requesting a variance from Section 16-6-6(b) which states that the minimum street yard and rear yard setbacks for a principle dwelling in the R-4 District is 30 feet. The applicant is proposing to construct a new home and on the vacant parcel that would have less than the minimum street yard and rear yard setbacks.

Mielke said circumstances are exceptional and the timing of the process affected the current situation.

Lovedahl agree it is an exceptional circumstance.

Rennart noted there is an absence of detriment being that the neighbors do not object to the Village issuing the permit and are in favor of the variance.

Mielke said the structure would fit right into the neighborhood; the owners are not doing anything unusual by building a home on the street.

Rennart said a variance would preserve property rights.

Lovedahl pointed out that when project started, it fell under the same rules at the existing homes.

Mielke said the intent of the code is to build far enough from neighbors' properties and the proposal meets that intent. The requirement for the T caused the problem and the property should be grandfathered in.

Lovedahl made a motion to grant the variance allowing the construction of a single-family home with a street yard setback of 25 feet and a rear setback of 27 feet based on the findings of fact in the discussion.

Seconded by Rennart.

Mielke acknowledged the motion and called for a Roll Call Vote.

Motion approved anonymously.

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.

6. Adjournment

Lovedahl made a motion to adjourn the meeting. Joan Rennart seconded. Motion carried unanimously.

The meeting adjourned at 9:40 a.m.

Respectfully submitted,
Helena Dowd
Planning and Zoning Technician
Village of Caledonia