

VILLAGE OF CALEDONIA ZONING BOARD OF APPEALS

Village Hall, 5043 Chester Lane, Racine, WI 53402

Tuesday, January 30, 2024, at 9:00 a.m.

1. Meeting called to order

Chairperson Kuemmel called the meeting to order at 9:00 a.m.

2. Roll Call: Board Members in attendance: Joan Rennert, Richard Mielke, Jacob Lovdahl, Rosanne Kuemmel, John Barnes.

Staff Present: Development Director Peter Wagner, Todd Roehl Planner/Zoning Administrator

3A. Approval of Minutes

Motion by Mielke to accept the minutes of the January 30, 2024, replacing “All but Rennert voted aye to adjourn” with “All voted aye to adjourn.” Seconded by Barnes. Motion carried.

4A. Public Hearing. Kuemmel read the variance request and the meeting process.

Public Hearing

Jude Tindall
555 Sara Lane
Racine, WI 53402

Requesting a variance from Section 16-6-6(b), which requires a principal structure to have a rear yard setback of 30 feet in the R-4, Single-Family Residential District. The applicant is requesting a variance to allow for a rear yard setback of 14 feet for a proposed 18’ x 16’ sunroom addition attached to the existing single-family home located at 555 Sara Lane.

Kuemmel opened the Public Hearing portion of the meeting at 9:03 a.m.

Todd Roehl swore in appellant Jude Tindall, 7147 Big Bend Rd, Waterford, WI 53185.

Tindall explained the request for a variance. He explained the homeowner would like to build a 16’ x 18’ sunroom addition in the background. Already, technically, the house is within the 30-foot setback requirement. The house across the street is encroaching the 30-foot setback and the zoning has changed since the houses were built. That limits the ability to expand their house. They are a corner lot, thus have a bigger side yard setback requirement than would normally be required in the R-4 zoning district. They have quite a distance from the other setbacks. They are unique in that behind the house is a vacant lot with wetlands. They have a beautiful backyard because of that and would like to enjoy it with the sunroom. In the spirit of the rule is to keep houses from looking into the back of another house. This would never be the case as the lot to the south is unbuildable. With the size of the house on the property now they are well within their required percentage of lot coverage. They are not over condensing the lot in the R-4 and encroaching neighbors. They feel it is not doing a disservice to the neighborhood to approach that setback in the rear yard. There is a letter from an adjacent neighbor to the east in support.

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

In Favor: Brian Ramczyk, 555 Sara Lane, Racine, WI 53402.

Ramczyk stated he has been living on the property for 34 years and they take good care of the lot. They had a deck there that rotted, and they removed it and hoped to replace the deck with a four-season room to enjoy year-round. He stated he was unaware that a setback variance would be required for the four-season room and perhaps would not have removed the deck had he known.

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

Against: Mark De Check, 4403 Ruby Avenue, Racine, WI 53402.

De Check stated he owned the land to the south of 555 Sara Lane. He stated that the lot behind 555 Sara Lane is not unbuildable. He stated he feels extending the building allowance to 14 feet from his lot line diminishes the value of his land and will allow every other house on Sara Lane to expand toward their lot lines. He expressed concerns that there has not been a less than respectful approach to his lot line from residents on Sara Lane. He expressed his objection to the Village granting a variance and does not want a building 14 feet from his lot line. He noted that zoning rules exist for a reason, to maintain a rural atmosphere in Caledonia. Kuemmel asked if his lot south of 555 Sara Lane is buildable. De Check stated that the lot is technically buildable if subdivided. Roehl displayed an image of the lot that included the location of the wetlands delineated by the Wisconsin Department of Natural Resources in 2010. De Check noted that the map was incorrect, and he had the wetlands delineated and the boundaries of the wetlands do not match. Mielke noted that we should not use the WDNR information due to its inaccuracy. Wagner noted that there are wetlands on the site, though they may not match the WDNR map. Wetlands would need to be taken into consideration if the lot was developed. Wagner noted that the lot has the dimensions to be a buildable lot.

Kuemmel asked if the Zoning Administrator wanted to provide any testimony. The Zoning Administrator stated no.

Kuemmel asked if the applicant wanted to provide additional testimony. The applicant stated he does not agree that the lot to the south of 555 Sara Lane is buildable due to the presence of wetlands, as a builder.

Kuemmel asked if there were any additional comments. De Check stated that whether he develops his property or not, he does not want a building that close to his property. De Check stated again that his lot is buildable. He is also concerned that others will build that close to a lot line if the variance is approved.

Kuemmel asked if there were any additional comments. Ramczyk commented that trees have fallen on his property from the property to the south and that he cleaned them up. Barnes asked for clarification on the source of the trees being from De Check's property. De Check confirmed. Ramczyk stated he is trying to make things look nice and did not realize his addition would cause an issue with the neighbor De Check. He is just looking to replace the deck, which was never an issue, with a four-season room.

Lovdahl asked the owner of 555 Sara Lane if his fence runs along the rear lot line. Ramczyk confirmed. Lovdahl, asked if the footprint of the deck would be the footprint of the addition. Ramczyk confirmed, stating all they wanted to do is close it in and make a four-season room. Mielke asked if a permit was issued for the deck. Ramczyk noted it was 30 years ago and was not sure but believes he did. Rennert noted that there was no process for a deck permit 30 years ago. Barnes agreed. Ramczyk stated that the deck was built by a contractor. Lovdahl again asked if the sunroom would be in the same location as the deck. Ramczyk confirmed.

Barnes stated that the home is already at the 30-foot rear yard setback, and the sunroom is 16' x 18', the applicant is asking for a 16-foot or 18-foot variance, not a 14-foot variance. Tindall clarified that the sunroom would be 14 feet from the lot line, hence they are requesting a 14-foot setback variance.

Mielke asked if there were any other houses on Sara Lane to the east that were built closer to the rear lot line. Ramczyk stated he is unaware.

Lovdahl inquired about a white colored structure currently in the rear yard. Ramczyk stated the structure is a shed. Lovdahl asked for its setbacks. Ramczyk stated that he is not aware of the setbacks of the shed and that it was built 15 years ago. Mielke asked if the shed meets code. Board members noted that it is an older

subdivision built prior to current ordinances. Ramczyk noted that the builder set the home back further on the lot to be higher to avoid water issues. Tindall noted that the house has a larger setback to Erie Street and that the home across Sara Lane to the north is an example of homes not meeting setback requirements. Wagner noted that the property across Sara Lane to the north is also a corner lot. Corner lots have two street yards, one rear yard, and one side yard. Unlike 555 Sara Lane with its rear yard to the south and side yard to the east, the property across Sara Lane to the north is oriented with its rear yard to the east and side yard to the north. The setbacks for the house across the Sara Lane to the north does meet setback requirements. Lovdahl inquired as to how side and rear yards were determined. Wagner stated that because of the small setback of the house to the east lot line, it by default is considered the side yard. The rear yard is the larger of the two setbacks. Wagner further clarified that the rear yard setback requirement in the old code was 25 feet, and the deck was legal non-conforming, and a variance would have been needed to allow a deck. Lovdahl requested the east (side yard) setback for 555 Sara Lane. Roehl noted the setback is ~19 feet and the minimum is 10 feet and the street yard setback to Erie Street is 38 feet and the minimum is 30 feet. Discussion continued as to what is a side yard and what is a rear yard. Mielke stated that they are required to follow the code.

Mielke asked why the applicant does not want to build the addition in the street yard facing Erie Street where there is room. Ramczyk stated that the Erie Street side of the house has too much traffic and lacks privacy, also it would not be aesthetically pleasing.

Lovdahl inquired about the maintenance of rear lots for properties to the east of 555 Sara Lane and encroachment into the property to the south. Rennert asked about the location of the fence along the rear lot line. Ramczyk noted the fence is along the rear lot line. Rennert asked the distance from the fence to the proposed sunroom. Ramczyk noted the distance would be 14 feet. Rennert clarified that the sunroom addition will have the same footprint as the recently removed deck. Ramczyk confirmed. Lovdahl asked the owner how long the owner had the deck. Ramczyk stated they had the deck for 30 years.

Kuettel reviewed the appeals process to the applicant and then asked if there were any other questions. Ramczyk stated he has lived there 30 years and the lot to the south has always been vacant. In addition, he stated that an engineer from the Village stated that the lot to the south is not buildable due to the presence of wetlands.

Mielke noted that if the lot to the south is not buildable, and the owner to the south had no objection that he would be in favor of the variance. However, the neighbor to the south states the lot to the south is buildable. Mielke asked the applicant for rationale as to why the variance should be granted. Tindall noted that being a corner lot is unusual and is restricted by greater setbacks than non-corner lots. In addition, the home is pushed to the east to stay clear of Erie Street.

Kuettel asked about setbacks and the positioning of the home on the lot for the property across Sara Lane to the north. Wagner noted that the lot to the north across Sara Lane is larger and conformed to the zoning requirements when built. Wagner noted that 555 Sara is a smaller lot but must meet street yard setbacks similarly to all corner lots in the Village. The position of the house on the lot dictates which is the side and rear yard.

De Check noted that the wetland designation was unjustified, and he has not witnessed standing water on the property for more than 20 years. De Check noted the property is not a swamp and that the trees died due to disease. De Check expressed his concern that if this variance is granted, others on Sara Lane would seek similar variances.

Lovdahl asked if having a corner lot required the property to have two street yards. Wagner confirmed stating that corner lots have two street yards, both required to meet the street yard setback of the district to maintain the appropriate setback from the street. Wagner stated that this applies to all corner lots. Lovdahl asked how 555 Sara Lane compares in size to the parcels to the east on Sara Lane. Wagner confirmed that

lots to the east on Sara Lane are of similar size to 555 Sara Lane. Lovdahl noted that the subject lot has more restrictions, being a corner lot and, other than expanding toward Erie Street, there are no options to expand without a variance. Roehl noted they may expand to the east into the side yard by approximately 9 feet. Lovdahl noted that the current home is less than 30 feet from Sara Lane and the rear lot line since the change in zoning.

Kuettel asked if there were any further questions. Tindall asked if the decision comes down to the wetlands on the property to the south and questioned if it is buildable. He noted that it may need to be determined if a house can be built on that property. Wagner noted that the wetlands on a neighboring property is irrelevant to the granting of a variance for 555 Sara Lane. Only if there was a wetland on 555 Sara Lane would it be applicable.

Kuettel asked if anyone had any further statements or questions. Ramczyk noted that he had no idea how De Check felt about the addition, had never met him in the 34 years they lived there. Had he, he would have reached out to De Check. Ramczyk again stated that he had been told by the Village that the property to the south was unbuildable due to the presence of wetlands. Ramczyk noted that the addition in the rear yard will improve the aesthetics of the home and would look odd if built in the street yard toward Erie Street. Ramczyk noted how he has maintained his property and surroundings for as long as he's lived there. De Check acknowledged Ramczyk and stated that Ramczyk's house is on one of the smallest lots in that area and expanding the house beyond what is allowed by zoning is unreasonable and not appropriate.

Lovdahl asked if Ramczyk would have approached De Check regarding the addition had the Village not told him that De Check's lot is unbuildable. Ramczyk said yes and did not think there would be any issues, as there were none with his fence.

Kuettel asked if there were any further questions. None, Kuettel closed the public hearing at 9:53 a.m.

5. Board Meeting

5A. Deliberate the request of Case No. 24-001, Jude Tindall

Kuettel reviewed the request with the Board and opened the floor for Board discussion.

Lovdahl noted that the wetlands in the property to the south have no relevance. Mielke stated he would like to see the owner to the south sell some land to the owner of 555 Sara Lane to solve the issue, but that is not a matter for the Board. Mielke noted that, given that the existence of wetlands on the property to the south is irrelevant, he is unable to grant the variance given the testimony given.

Lovdahl noted the pre-existing deck with the exact same footprint should give them the right to have the addition, to recreate what already existed.

Mielke asked if anyone had reasons for granting a variance.

Rennert asked Mielke if he was in favor of granting the variance. Mielke stated he was, until he heard clarification on the buildability of the lot to the south and the objection from the neighbor.

Lovdahl questioned the impact of granting the variance on other properties in the area. Lovdahl noted that the other properties don't have the limitations of the subject property and therefore would not be granted a similar variance. Mielke noted a possible precedent set by granting a variance. Barnes noted that even under the old ordinance a 14-foot setback was too close. Board members agreed that it is not the changing of the ordinance that affected this property owner, it's the uniqueness of the property. Lovdahl noted that there was already a deck structure with a 14-foot setback. Mielke noted that the structure was a deck, not a sunroom. Lovdahl noted no difference between a deck and sunroom, both need a variance. Board agreed that it is an existing footprint. Rennert noted a "grandfather clause," as the proposed addition would be in the same footprint as the pre-existing deck.

The Board revisited discussions on the buildability of the lot to the south given the wetlands. Lovdahl noted that the buildability of the lot to the south was not relevant to the granting of a variance for 555 Sara Lane.

Lovdahl noted that the existing deck was in disrepair and questioned if a variance would be required to repair the deck. Wagner noted that if the deck were to be replaced, a variance would be needed. Lovdahl noted a hardship in that the property owner had a structure for 30 years and now is being told they cannot have that structure. Kuemmel agreed. Mielke noted that this is an addition, not a deck.

The Board went through the findings of fact criteria:

- **Complying with ordinance standards will result in unnecessary hardship:** The proposed sunroom addition would replace, in footprint, a pre-existing deck structure in need of repair that had been attached to the home for approximately 30 years with no issues. Not allowing the sunroom addition would be a taking of square footage from the property owner, resulting in a hardship.
- **The hardship is due to unique conditions of the property:** The property is a smaller sized corner lot and thus subject to greater setback requirements than similar sized non-corner lots. The greater setback requirements limit the expansion options otherwise available to non-corner lots.
- **The variance will not harm the public interest (ordinance purposes):** The variance will not result in any harm to the public interests.

5B. Decision on Case No. 24-002, Jude Tindall

Rennert made a motion to grant the requested variance for Case No. 24-001 for a reduced rear yard setback based on the Board's findings of fact.

Seconded by Barnes.

Roll Call

Barnes – Yes Mielke – No Rennert – Yes Lovdahl – Yes Kuemmel - Yes

The vote is 4-1 to grant the variance request. The motion carries.

5C. Other Business as Authorized by Law

None

6. Adjournment

Motion by Barnes to adjourn, seconded by Lovdahl.

Motion carried unanimously.

The meeting was adjourned at 10:17 a.m.

Prepared by,

Todd Roehl,
Planner/Zoning
Administrator
Village of Caledonia

Respectfully submitted,

Peter Wagner
Development Director
Village of Caledonia