

City of Elkhorn  
Zoning Board of Appeals Meeting  
Council Chambers, 311 Seymour Ct., Elkhorn, Wisconsin  
April 25, 2024

The Zoning Board of Appeals meeting was called to order at 6:15 p.m. followed by Roll Call.

ROLL CALL

Present: Tom Stotko, Gary Welsh, Desirae Skelton  
Absent: James Boardman, Dan Duchemin  
Also Present: Allison Schwark, Timothy Pruitt, Matt Lindstrom  
Visitors: Warren Hansen, Joe Doherty

APPOINTMENT OF CHAIRMAN

Motion (Welsh/Skelton) to nominate Member Stotko as Chairman. Motion carried unanimously.

ADJOURN INTO PUBLIC HEARING/READING OF PUBLIC NOTICE

Motion (Welsh/Skelton) to adjourn into a Public Hearing at 6:18 p.m. Motion carried unanimously.

Chairman Stotko called this public hearing to order at 6:18 p.m. to hear comments by the public concerning a variance request to allow a 10 foot rear yard setback in the M-1 Light Manufacturing District for a vacant parcel of land located off County Trunk Highway "H" and Proctor Drive (Tax Key No. YA414900001) submitted by Joseph Doherty. It was noted that the M-1 Light Manufacturing District requires a 25 foot setback and a 50 foot setback when adjacent to residential properties. The Chairman read the public hearing notice aloud for the record.

ZONING ADMINISTRATOR COMMENTS

The Zoning Administrator provided the board members a Memorandum dated April 17, 2024. The applicant, Joseph Doherty, submitted a Site Plan and Conditional Use Permit Application dated February 20, 2024, to the City of Elkhorn Building and Zoning Department for the construction of rentable mini warehouse storage units located on a vacant lot off County Trunk Highway "H" and Proctor Drive. Upon zoning review, it is noted that the new proposed site plan did not meet the current rear yard setback requirements set forth in Section 17.5-3 of the Municipal Code for the M-1 Light Manufacturing District, which requires a 25 foot rear yard setback. The permit application was denied due to the above findings, and the applicant applied for a variance to request approval to build within 10 feet of the rear yard setback.

On April 18, 2024, the Plan Commission convened, and tabled the Site Plan review and Conditional Use permit for the proposed project until revisions are made to the proposed plan, and the variance determination is finalized. The Zoning Administrator mentioned that included in the April 10, 2024 Staff Report presented at the Plan Commission meeting she had noted that specific items required additional attention (not in compliance with current ordinances), which included concerns regarding fire protection, the City Engineer had provided concerns in the April 1, 2024, Kapur Memorandum, and project revisions to these comments had been submitted at by the applicant on April 10, 2024, which staff had not had sufficient time to review besides awaiting a decision regarding the variance requested.

The Zoning Administrator stated that findings to be made by the Zoning Board of Appeals should address the five points to be considered upon making a decision for a variance request and should be based on: 1) Preservation of Intent; 2) Exceptional Circumstances; 3) Economic Hardship and Self-Imposed Hardships which are not grounds for variance; 4) Preservation of Property Rights; and 5) Absence of Detriment.

PRESENTATION BY PETITIONER OR AGENT

Warren Hansen, representing Joseph Doherty, petitioner, presented the request to grant a variance for a 10 foot rear yard setback to construct rentable mini warehouse storage units on the parcel of vacant land located on County Trunk Highway “H” and Proctor Drive (Tax Key No. YA414900001). Mr. Hansen mentioned that he had also addressed this proposed reduction in the rear yard setback at the April 18, 2024 Plan Commission meeting. Discussion.

COMMENTS BY INTERESTED PROPERTY OWNERS OR AGENTS

There were no interested property owner or agents present to provide comments.

REBUTTAL

Warren Hansen felt that the applicant meets codes and requested the variance be approved.

REBUTTAL BY OPPOSITION

There was no public opposition, therefore, there was no rebuttal.

CLOSE HEARING

Motion (Welsh/Skelton) to close the hearing at 6:41 p.m. and adjourn to closed session. Motion carried unanimously.

DELIBERATION BY BOARD OF APPEALS MEMBERS

Timothy Pruitt, City Attorney, suggested that the Zoning Board of Appeals not adjourn into a Closed Session. After a brief discussion, members agreed and the consensus by the board was to deliberate in Open Session.

ACTION BY BOARD ON VARIANCE REQUEST

Motion (Welsh/Skelton) to deny the applicant's request for a variance to allow a 10 foot rear yard setback in the M-1 Light Manufacturing District for a vacant parcel of land located off County Trunk Highway "H" and Proctor Drive (Tax Key No. YA414900001) submitted by Joseph Doherty based on the fact that there is no hardship and the variance request does not meet the other points previously outlined by the Zoning Administrator which include: 1) Preservation of Intent; 2) Exceptional Circumstances; 3) Economic Hardship and Self-Imposed Hardships which are not grounds for variance; 4) Preservation of Property Rights; and 5) Absence of Detriment. Discussion. Roll Call Vote. Welsh-Yes; Stotko-Yes; Skelton-Yes. Motion carried unanimously.

DISCUSSION/UPDATES TO BOA ORDINANCE

It was noted that the City Attorney is working on updating the Zoning Board of Appeals ordinance which is outdated and when completed it will be forwarded to the City Plan Commission for further action.

ADJOURNMENT

Motion (Skelton/Stotko) to adjourn at 6:55 p.m. Motion carried unanimously.

Shari McKinney  
Zoning Board of Appeals Secretary