



VILLAGE OF WILLIAMS BAY

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OFFICIAL MINUTES ZONING BOARD OF APPEALS 5/16/2023 MEETING TUESDAY, MAY 16, 2023 AT 6:30 PM

I. Call to Order

Trustee Vlach called the meeting to order at 06:30pm.

II. Roll Call

Present: George Vlach, Robert Umans, Tom Lothian, Matt Robbins

Also Present: Zoning Administrator Bonnie Schaeffer, Clerk Tina Kolls

Excused: Dennis Costello, Mike Fieweger, Roy Grada

III. Pledge of Allegiance

The Pledge of Allegiance was recited by all.

IV. Minutes

A. Zoning Board of Appeals Meeting Minutes of 4/18/2023

The motion to approve the Zoning Board of Appeals Meeting Minutes of 4/18/2023 was initiated by Trustee Umans and seconded by Commissioner Robbins. Unanimously carried.

V. Variance Application

A. Motion to Open Public Hearing - All interested in this matter are invited to attend

APPLICANT(S): Ryu Family Trust (Owner), Kevin Kruger (Agent)

TAX KEY NUMBER: WL2 00007

STREET ADDRESS: 72 Lower Loch Vista, Williams Bay, WI 53191

Applicant requests a variance to zoning code section 390-0212 to construct a 12' x 17' patio having a proposed rear yard setback of 15' (minimum of 20 feet required).

Trustee Vlach opened the public hearing at 06:33 pm.

Kevin Kruger (Kruger Landscape 3062 Theatre Rd Delavan, WI 53115) explained the applicant currently has a house addition that is grandfathered in at 15 feet from the rear lot line. Kruger explained they have a service sidewalk at 15-18 feet from the lot line servicing the back door. Kruger explained that they are requesting to fill in the corner to have a usable outdoor space of 17x12 feet which would make the house appear like a rectangle. Kruger explained they would be able to pitch the patio to the west and direct water away from the home as it sheds off the roof. Kruger explained that since the sidewalk was existing it was permissible for it to be replaced at, that three-foot width. Kruger explained that the question would be from fifteen to eighteen feet, then from eighteen to twenty, to twenty-seven feet against the back north side of the house could all be one patio surface.

Trustee Umans inquired if the stone and brick seen in the picture were meant to hold the water back.

Kruger explained that he is the contractor for the proposed patio, so he is not quite sure what those are there for other than to dam water, but he couldn't say for sure.

Trustee Umans explained that there didn't seem to be a humongous water problem despite the slope but, obviously, it needs to be improved. Trustee Umans questioned whether the concrete spillaway would be touched, if the whole sidewalk is being replaced all the way to the road and if they were proposing to step it down.

Kruger explained that from the back door of the house it gradually comes up to the northwest corner and then slopes down, so they are trying to pitch everything away from the house.

Commissioner Lothian questioned the accuracy of the pictures, specifically the door.

Kruger explained that the picture was fish-eyed and the door is 32 inches or 34 inches and the sidewalk is three feet wide currently.

Commissioner Lothian questioned how much closer the patio would be to the tree.

Kruger explained that the patio is proposed to go to the outer edge of the sidewalk.

Trustee Vlach asked Zoning Administrator Schaeffer for her evaluation .

Zoning Administrator Schaeffer explained that, as Kruger explained, the applicant could put a patio on the property that would meet the code, which would be 7'x17', which would be behind the existing sidewalk towards the house. Zoning Administrator Schaeffer explained that the applicant could also replace the existing sidewalk. Zoning Administrator Schaeffer explained that there was this little middle ground in there that seemed a little petty to say they needed a variance because they really only needed a variance of two feet. Zoning Administrator Schaeffer explained that the current space is not currently a patio by definition due to scattered gravel, not having any pavers or concrete, so it was decided the applicant would need a variance. Zoning Administrator Schaeffer explained that as far as a hardship, she didn't feel that the request was excessive and a patio is a permitted use in residential areas. Zoning Administrator Schaeffer explained that the patio would be filling space not currently being used as greenspace. Zoning Administrator Schaeffer explained that she doesn't feel it affects any property owners or neighborhood characteristics and feels it meets the standards.

Trustee Vlach asked if there was anyone to speak in favor.

There was none.

Trustee Vlach asked if there was anyone to speak in opposition.

There was none.

B. Motion to Close Public Hearing

Trustee Vlach closed the public hearing at 06:44 pm.

C. Consideration and possible action on recommendation of Variance

Commissioner Lothian questioned if the applicant could run the patio from the house all the way to the concrete sidewalk without a variance.

Zoning Administrator Schaeffer explained that it would stop two feet short.

Commissioner Lothian questioned if the applicant could make the sidewalk two feet wider.

Zoning Administrator Schaeffer explained that the ordinance does not address that.

Commissioner Lothian questioned if the sidewalk was ADA compliant.

Zoning Administrator Schaeffer explained that the sidewalk was ADA compliant.

Trustee Vlach questioned if this variance was not granted, would the applicant be able to have the sidewalk, two feet of grass and the patio anyway.

Zoning Administrator Schaeffer explained that Trustee Vlach was correct.

Trustee Umans explained that the area of the property is out of sight and no one can see it. Trustee Umans explained that he would do this if this was his property. Trustee Umans explained that he feels this would help with the water problem.

Commissioner Robbins explained that he feels this would fix the water issue that is obviously there. Commissioner Robbins explained that the neighbors are in favor and it is out of sight.

Trustee Vlach explained that the applicant wants the water issues solved and feels the patio would do that. Trustee Vlach explained that both the sidewalk and the patio are allowed and he feels it would be unreasonable to ask the applicant to leave two feet of space open.

The motion to Approve the Variance was initiated by Trustee Umans and seconded by Commissioner Lothian. Unanimously carried.

VI. Variance Application

A. Motion to Open Public Hearing - All interested in this matter are invited to attend

APPLICANT(S): Charlotte Harrington (Owner)

TAX KEY NUMBER: WA383800001

STREET ADDRESS: 203 Circle Parkway, Williams Bay, WI 53191

Applicant requests a variance to zoning code section 390-0213 to construct an upper patio and lower patio having a proposed rear yard setback of 10' (minimum of 20 feet required).

Trustee Vlach opened the public hearing at 06:48 pm.

Charlotte Harrington (203 Circle Parkway) explained that her backyard is long and narrow and has a four-foot pitch from the top to the bottom. Harrington explained that the reason for the two levels on the request would be to put a kitchen on one level, then there is a retaining wall and you walk down a few steps and there would be a lower patio below that. Harrington explained the reason for the ten-foot setback is they have landscaping along the house they would like to keep and landscaping along the stone ditchwall that they would also like to keep, so they are proposing to nestle the patio in between the landscaping without changing it. Harrington explained that it is hard to grow grass due to erosion. Harrington explained it usually comes right down the hill and there is usually a lot of mud. Harrington explained that they are proposing to use permeable pavers up above the retention wall as well as permeable pavers down below and a drain tile around the outside of the pavers going into two flow wells to catch any overflow before it goes out to a drain tile on either side.

Trustee Umans explained that he visited the property and took some pictures. Trustee Umans explained that he tried to estimate the square footage because he didn't have a tape measure. Trustee Umans explained that the first thing he noticed was the four-foot drop from the neighbor on the south, which he believed was 211.

Harrington explained that the property was owned by her parents.

Trustee Umans explained that he didn't see any drainage pipes coming out of the natural stone wall on that slope.

Harrington explained that the wall was existing and there was no drainage that she was aware of.

Trustee Umans explained that he was concerned with the square footage that would be covered between the proposed

patio as well as the existing patio the neighbor has. Trustee Umans was questioning where the water would go as there would only be a ten-foot space for the water.

Harrington explained that she had Cardinal Engineering do a drainage study on the property with the help of Kevin Kruger. Harrington explained that they had proposed to have a drain tile that goes along the edge of the patio, taking everything that is coming down and putting it into two flow wells at the end next to where the shed is, where the path starts. Harrington explained that the wells will capture anything that sheds down.

Trustee Umans questioned where the water goes after it is captured.

Kruger explained that NES makes a system called Flow Well. Kruger explained that they look like 55 gallon drums and they are perforated. Kruger explained that the intention was for each one to hold 250 gallons of water. Kruger explained that there is #6 clear stone around the wells, which is 35% void space. Kruger explained that they are proposing two of these wells to be placed below grade, which will hold approximately 750 gallons of water. Kruger explained that the infiltration that is below grade will store the water and allow it to perk down. Kruger explained that if there were a higher volume event there would be a perforated drain tile acting as a french drain that would go between the house and the neighbor to the north. Kruger explained that the french drain will also act in an infiltration capacity.

Trustee Umans explained his main concern was the location of the shed as it didn't leave room for the water and he didn't want it to go over the wall and flood the neighbors.

Kruger explained that he understood his concerns and explained how the Flow Well system, stone, and tile were proposed to help prevent the flooding issues.

Commissioner Lothian explained that a hardship is required and inquired as to why they are asking for the variance at twenty feet.

Harrington explained that she is trying to create an area that is not smacked up against the house and so it is landscaped all the way around. Harrington explained that the hardship is getting rid of the erosion as well as making it a usable space because it is currently not flat. Harrington explained that because it is not flat they can not put a chair back there because it would tip over. Harrington explained the reason for the proposed setback is to give enough width to actually have a patio but still keep the landscaping up against the house and up against the fence. Harrington explained the variance would allow for it to look nice and work better.

Trustee Umans explained that the Board has to find a hardship and the proposed second patio is thirty feet by eighteen feet which is a huge patio, so maybe what Commissioner Lothian is trying to say is to scale it back.

Commissioner Lothian asked Kruger if there was a reason from a water control issue that this patio had to be twenty feet wide. Commissioner Lothian explained that this is a large patio going way into the setback and they needed to see a hardship.

Kruger explained that the upper patio has a step that comes out about two feet, then there will be an eight and a half foot drop and then another eight foot drop on this eight by eight and then there is a three-foot retaining wall, so the applicant is proposing keeping the footprint of the retaining wall in the same spot. Kruger explained that it is broken up into two levels, which therefore increases the square footage instead of it being one level to have usable outdoor space.

Commissioner Lothian explained that the problem is, as he looked at the drawing, there is an eight by eight patio and there is a retaining wall that is at the ten-foot marker from the property line and then we step down from that towards the other area that is currently all grass.

Kruger explained that it was mostly mud and that they had to replant grass seed every year.

Commissioner Lothian asked if the retaining wall would be removed when they put in the upper deck.

Kruger explained that it is going to be rebuilt. Kruger explained that it is cobblestone. Kruger explained that the current eight by eight patio coming out of the house is about three feet above the grade. Kruger explained that the house steps down and the foundation steps down. Kruger explained that it is currently retaining the eight by eight patio. Kruger explained that if the retaining wall came down, the soil and base would erode away. Kruger explained that instead of changing the grade and making a medium sized patio they are keeping it bi-level.

Harrington explained that by making it bi-level it kind of tears up the usable space. Harrington explained that they have a large family. Harrington explained that if they had to stay twenty feet from the lot line, she would be ten feet from the house because it is only thirty feet from the back lot line and, in that ten feet the house curves in and out, she wouldn't have enough of a patio to even make it worth doing.

Trustee Vlach asked Zoning Administrator Schaeffer for her evaluation.

Zoning Administrator Schaeffer explained that in the application the applicant talked about decreasing the landscape area and Cedar Point Park District is the only one in the Village that doesn't have a landscape surface ratio minimum. Zoning Administrator Schaeffer explained that Village Residential District is 50%. Zoning Administrator Schaeffer explained that if the applicant were in that district they would need a variance specific to the fact they are asking to decrease the landscape ratio to 38%. Zoning Administrator Schaeffer explained that the applicant is proposing to cover 62% with the house, the patios, and everything else that is not greenspace. Zoning Administrator Schaeffer explained that there is a reason we want to have greenspace in the village. Zoning Administrator Schaeffer explained that she did look at the property and noticed the house was built right at the thirty-foot setback, so when it was built they were not planning for a patio back there. Zoning Administrator Schaeffer explained that if it were a more reasonable request, like fifteen feet from the rear lot line, she felt it would be a more reasonable request but, this request seemed to be excessive. Zoning Administrator Schaeffer explained that as far as the drainage, if the proposed, was approved as submitted, it would need to be sent to the village engineer for his review, as they are talking about pretty substantial changes in the way the lot is graded and the subsurface drainage systems. Zoning Administrator Schaeffer explained that Cedar Point Park did send an email approving the plan.

Trustee Vlach asked if there was anyone to speak in favor.

Kurt Kristmann (41 Cedar Point Drive) explained he was representing Cedar Point Park Association. Kristmann explained that they did go out and look at the property. Kristmann explained that the association does not enforce a percentage of greenspace. Kristmann explained their main concern was runoff. Kristmann explained that he looked at their engineering drawings. Kristmann explained that the applicant's backyard is a muddy mess and she has to do something because it is an unusable yard. Kristmann explained that their concern was the water runoff and water retention and, after looking at the engineering study, they, as a building committee, were okay with that. Kristmann explained that they did give the applicant a suggestion, which was to make the pavers permeable and the applicant accepted that. Kristmann explained that the size of the patio should not affect the neighbors. Kristmann explained that the Association is happy with the plan. Kristmann explained that they spoke with several of the applicants' neighbors who had no complaints. Kristmann explained that they understand the village's concerns about the size of it, but in looking at the yard and how it's landscaped, it will look nice. Kristmann explained he doesn't think anyone will see the patio other than the applicants' parents.

Vlach asked if there was anyone to speak in opposition.

There were none.

Harrington asked Kruger if they would still have usable space if they made it narrower.

Kruger explained that they would if they made it all one level. Kruger explained that they would need a lot of retaining walls and railings because the drop off would be greater than two feet.

Harrington explained that they had originally proposed a one-level deck but by the time they pushed the deck out, they were four feet above the ground and like a ship above all the neighbors. Harrington explained they would prefer to have it tucked down and in. Harrington explained that the problem with having two levels is you lose usable space in the stairwell portion of it. Harrington explained that she could shave it back a couple feet but wouldn't be able to make it usable less than that.

Kruger explained that if there were any concerns about the water, he could explain the permeable patio again.

B. Motion to Close Public Hearing

Trustee Vlach closed the public hearing at 07:14 pm.

C. Consideration and possible action on recommendation of Variance

Trustee Vlach explained that the reduction in landscape surface area to 38% caught his eye right away and he was surprised to hear that Cedar Point Park doesn't have anything.

Commissioner Lothian explained that part of the problem within Cedar Point is the challenges with the size of the lot. Commissioner Lothian explained that if you build a house on a lot, you don't have the ability to maintain that number, so that's why there is not one.

Trustee Vlach explained that he was impressed with the plan to catch the water. Trustee Vlach explained that even though they are entitled to have a patio, it is not stated anywhere what the minimum or maximum size of the patio is to determine what is reasonable. Trustee Vlach explained he understood that the back area is basically useless as far as trying to plant grass because it gets muddy. Trustee Vlach explained that he is having a hard time pinpointing the hardship.

Commissioner Lothian explained that if you say it makes sense for the upper patio because of the retaining wall, well, then it logically makes sense to carry that line on the patio to the north. Commissioner Lothian explained that limiting it seems arbitrary. Commissioner Lothian explained that he doesn't like it being ten feet from the lot line and that if they allowed the same, for the person behind would have two patios twenty feet apart and that is too close, which is what this is designed to prevent. Commissioner Lothian explained he was looking for a hardship.

Commissioner Robbins explained that he was struggling with the hardship. Commissioner Robbins explained that he kept coming back to the water runoff. Commissioner Robbins explained that putting in the patio could make it better. Commissioner Robbins explained that Cedar Point Parks approval was helpful. Commissioner Robbins explained that he wouldn't want to butcher it trying to do something that was right that was not right.

Trustee Vlach explained that the water could be a hardship.

Commissioner Lothian, Trustee Vlach and Zoning Administrator Schaeffer discussed what the code states in regard to if you have a right to a garage as well as a patio.

Trustee Vlach explained that there is a difference between having a right to a garage and wanting a huge garage.

Commissioner Lothian explained that the Village allowed the patio and the retaining wall and now the applicant would like to fix it up, so unlike the person who wanted the huge garage who didn't already have a structure there is already something here.

The Commissioners discussed the existing retaining wall already being to the end of the setback.

Trustee Umans explained that he was concerned about the green space and didn't see a hardship.

Trustee Vlach explained that he was fine with the upper patio but couldn't see the hardship of going into the setback for the lower patio.

Zoning Administrator Schaeffer explained that they were looking at the proposed plan not an existing plan and there was not a retaining wall already, into the setback.

Commissioner discussed what size the patio would need to be in order to fit within the setbacks.

Trustee Umans explained that none of the neighbors would be affected but, he couldn't see a hardship.

Commissioner Robbins asked what the requirements would be if they voted tonight, what would have to happen for the applicant to not have to wait a year?

Zoning Administrator Schaeffer explained that the applicant would need to make significant changes to the plans. Zoning Administrator Schaeffer explained that she would need to decide if the changes were significant enough. Zoning Administrator Schaeffer explained that if they came back and downsized it in a significant way then they may not have to wait a year. Zoning Administrator Schaeffer explained that they also had the option to reach an agreement at this meeting. Zoning Administrator Schaeffer explained that they could adjust their application as they were sitting there.

Trustee Vlach explained that they could table the application and allow the applicant to come back next month with a revised plan. Trustee Vlach explained that the applicant could let them vote which didn't look good or they could revise the size right now or they could table the application and bring it back next month revised and they could take another look at it then.

Commissioner Lothian explained that it doesn't matter if you are going fifteen feet or twenty feet into the setback you still need to be able to find a hardship. Commissioner Lothian explained that before we say we should think about a revised plan, he is wondering, of the board, what the hardship is that would allow for a fifteen-foot setback and not a twenty-foot setback.

Trustee Vlach explained that he agreed with Commissioner Lothian.

Trustee Umans explained that we don't want to set a presidents for big patios.

The motion to Deny the Variance was initiated by Trustee Vlach and seconded by Commissioner Lothian. Unanimously carried.

VII. Adjournment

The motion to adjourn was initiated by Trustee Umans and seconded by Commissioner Lothian at 07:41pm. Unanimously carried.

/s/ Tina Kolls, Village Clerk

These are not official Minutes until approved by the Governing Body.