

**CITY OF CEDARBURG
BOARD OF APPEALS
MARCH 18, 2025**

**BOA20250318-1
UNAPPROVED**

A regular meeting of the City of Cedarburg Board of Appeals was held Tuesday, March 18, 2025 at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers and online via Zoom.

Chairperson Aaron Olejniczak called the meeting to order at 6:00 p.m.

Roll Call: Present - Aaron Olejniczak, Tom Mesalk, Megan Torres, Douglas Yip, Tim Schelwat, Mark Schwantes

Also Present - Building Inspector Jeffrey Thoma, City Clerk Tracie Sette, City Attorney Michael Herbrand

STATEMENT OF PUBLIC NOTICE

City Clerk Sette acknowledged that the Board of Appeals agenda was posted and distributed in compliance with the Wisconsin Open Meetings Law. Notice of the public hearing was published in the *News Graphic* and mailed to property owners within 300' of the subject property.

APPROVAL OF MINUTES

A motion was made by Mr. Mesalk, seconded by Ms. Torres, to approve the minutes of the September 25, 2024 meeting as presented. Motion carried without a negative vote with Mr. Olejniczak abstaining as he was absent from the September 25, 2024 meeting.

PUBLIC HEARING – REQUEST FOR VARIANCE – HILGEN AVENUE- PARCEL 13-112-01-04-000

Chairperson Olejniczak opened the Public Hearing, inviting Jacob Schneider to explain his request. Mr. Schneider explained that he would like to replace his current aging driveway and widen it to better accommodate the size of current vehicles, the size and style of waste & recycle bins, and improve the current challenges of snow removal. The home is located at W59N412 Hilgen Avenue and is approximately 100 years old. The driveway is much narrower than newly built homes. A new driveway would enhance visual quality and overall curb appeal, winter accessibility, safety and comfort.

Building Inspector Thoma explained the current setbacks required of a new driveway are three (3) feet between the edge of driveway and lot line.

- Mark Cicotello: W59N401 Hilbert Avenue – spoke in support of the variance request
- Val Sorchy: N40W6086 Jackson Street – spoke in support of the variance request

Mr. Schneider spoke with the neighbor directly to the north who was also supportive of the request.

Mr. Schneider also requested the driveway approach be widened as well.

DELIBERATION AND ACTION ON THE REQUEST FROM JACOB AND CAMILLE SCHNEIDER – HILGEN AVENUE; PARCEL 13-112-01-04-000

The Board deliberated the following points to arrive at a decision. The Board decided the applicant met all five points of findings:

- a. 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 district.
- b. Exceptional Circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the property that do not apply generally to other properties in the same district, and the granting of the variance should not be of such general or recurrent nature as to suggest that the Zoning Code should be changed.
- c. 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 the variance. A recent change in State law requires that the property owner must demonstrate that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.
- d. Preservation of Property Rights. The variance must be necessary for the preservation and enjoyment of the substantial property rights possessed by other properties in the same district and same vicinity.
- e. 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 the Zoning Code or the public interest.

A motion was made by Mr. Mesalk, seconded by Ms. Torres, to approve the variance as requested. Motion carried without a negative vote.

PUBLIC HEARING – REQUEST FOR VARIANCE – BRIDGE ROAD; PARCEL 13-050-01-12-000

Chairperson Olejniczak opened the Public Hearing, inviting the applicant to explain the request for variance. Kyle Ross, home owner, explained his request to replace the current one-car garage with a two (2) story attached garage, and add a mudroom/breezeway to connect the new garage to the existing home. Keith Barnes, Architect, further explained the plans in detail.

Building Inspector Thoma explained the additional square footage proposed will exceed the 36% floor area ratio (FAR) and the 30% lot coverage the City allows. Also, the proposed 2-story attached garage does not meet the minimum twenty-five (25) foot rear yard offset and the minimum four (4) foot side yard offset.

- Ben & Bobbie Recob-W64 N727 Washington Avenue-submitted a letter in support of the variance request
- Joe & Linda Pigeon-N70W6462 Bridge Road – submitted a letter in support of the variance request

DELIBERATION AND ACTION ON THE REQUEST FROM KYLE AND NATALIE ROSS, BRIDGE ROAD; PARCEL 13-050-01-12-000

The Board deliberated the following points to arrive at a decision. The Board decided the applicant did not meet all five points of findings:

- a. **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 district.
- b. **Exceptional Circumstances.** There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the property that do not apply generally to other properties in the same district, and the granting of the variance should not be of such general or recurrent nature as to suggest that the Zoning Code should be changed.
- c. **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 the variance. A recent change in State law requires that the property owner must demonstrate that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.
- d. **Preservation of Property Rights.** The variance must be necessary for the preservation and enjoyment of the substantial property rights possessed by other properties in the same district and same vicinity.
- e. **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 the Zoning Code or the public interest.

A motion was made by Mr. Olejniczak, seconded by Mr. Schelwat, to deny the requested variance due to lack of preservation intent and lack of exceptional circumstances present. Motion carried without a negative vote with Mr. Yip abstaining as he is friends with the applicant.

ADJOURNMENT

A motion was made by Mr. Mesalk, seconded by Ms. Torres, to adjourn at 6:43 p.m. Motion carried without a negative vote.

Tracie Sette
City Clerk