

**AGENDA
CITY OF STURGEON BAY
ZONING BOARD OF APPEALS**

Tuesday, February 26, 2019

12:00 Noon

Council Chambers, City Hall

421 Michigan Street

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from October 2, 2018.
4. Public hearing: Petition for a side yard variance from s. 20.27(2) of the Municipal Code to allow a parcel, located at 532 N. 8th Avenue, to be divided into two lots with a minimum side yard of 5.5 feet.
5. Consideration of: Petition for a side yard variance from s. 20.27(2) of the Municipal Code to allow a parcel, located at 532 N. 8th Avenue, to be divided into two lots with a minimum side yard of 5.5 feet.
6. Adjourn.

NOTE: DEVIATION FROM THE AGENDA ORDER SHOWN MAY OCCUR.

ZBA Board Members

William Murrock, Chair

James Goodwin

Andrew Starr

Wayne Spritka

Bill Chaudoir

Dave Augustson, Alternate

Justin Kirwin, Alternate

2/21/19

8:30 a.m.

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ZONING BOARD OF APPEALS
Tuesday, October 2, 2018

The City of Sturgeon Bay Zoning Board of Appeals meeting was called to order at 12:00 noon by Chairperson William Murrock in the Council Chambers, City Hall, 421 Michigan Street.

Roll call: Members James Goodwin, William Murrock, Wayne Spritka, Andrew Starr, and Alternate Dave Augustson were present. Excused: Member Bill Chaudoir. Also present were Community Development Director Marty Olejniczak, Planner/Zoning Administrator Chris Sullivan-Robinson and Community Development Secretary Cheryl Nault.

Adoption of agenda: Moved by Mr. Spritka, seconded by Mr. Augustson to adopt the following agenda:

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from August 28, 2018.
4. Public Hearing: Petition for variance from Section 20.34(1) of the Municipal Code (Zoning Code), to construct a new residential home with a 10-foot setback, at its closest point, from Highway 42/57 right-of-way, located at 920 Tacoma Beach Road.
5. Consideration of: Petition for variance from Section 20.34(1) of the Municipal Code (Zoning Code), to construct a new residential home with a 10-foot setback, at its closest point, from Highway 42/57 right-of-way, located at 920 Tacoma Beach Road.
6. Adjourn.

Carried.

Approval of minutes from Tuesday, August 28, 2018: Moved by Mr. Starr, seconded by Mr. Goodwin to approve the minutes from August 28, 2018. All ayes. Carried.

Public Hearing: Petition for variance from Section 20.34(1) of the Municipal Code (Zoning Code), to construct a new residential home with a 10-foot setback, at its closest point, from Highway 42/57 right-of-way, located at 920 Tacoma Beach Road: Chairperson Murrock opened the public hearing at 12:05 p.m.

Andrew Hockberger, representing Midwest Design Homes in Kaukauna, stated that they have applied for a variance from the highway setback. The required 50-foot setback would go through the center of the property. It currently goes through the existing home. It would not allow for any structure to be built. All of the electrical facilities along the highway are adjacent to their property and on the other side of the gravel pathway and proposed bike trail.

Karen Daanen, 920 Tacoma Beach Road, is the owner of the property with her husband,

Greg. They thought that the setback was a state ordinance and that the state dropped the ordinance. She said the existing home is not sustainable.

Greg Daanen, 920 Tacoma Beach Road, stated that the previous owners were his parents. It was a family sale.

Ms. Daanen added that this is a hardship because they were thinking that they were able to rebuild. The property is unique, as the property is not visible from the highway. The proposed dwelling would not obstruct anyone's view.

Mr. Sullivan-Robinson stated that the proposed dwelling is a little less than 4000 square feet in size and is to be built on the waterfront side of the property with a 10-foot setback from the highway right-of-way, which means they would be encroaching 40 feet into the setback. According to the non-conforming regulations, the existing home could be rebuilt using the current setback line and could be expanded up to 50% of the original floor area. The unique hardship is where the highway setback is along the side yard of the property.

Mr. Olejniczak stated that the ordinance requiring additional setback from the highway dates back to the 70's when the bypass came through. The existing home became non-conforming at that time. The hardship was not self-created. The current dwelling is approximately 1800 square feet and could only be reconstructed using the current setback line, but only up to 1 ½ times its current size. The new home could be reconstructed up to 2,604 square-feet if using the existing setback.

Mr. Olejniczak added that the Department of Transportation adopted an administrative rule called Trans 233 back in the 90's that had a number of restrictions on development along highways including the 50-foot setback. It was enforced for a while and then later rescinded. The City's setback ordinance both predates and stayed in existence. Staff offered options such as rebuilding using the current setback line, build with no size restrictions toward Tacoma Beach Road, or seek the variance.

Mr. Olejniczak said that the setback protects the government if there is a need to expand, such as adding a 4-lane bridge. It also protects the property owner if there were accidents, noise, etc. The roof of the proposed dwelling would be below the elevation of the road surface. He didn't see a problem eliminating the 50-foot setback.

Mr. Goodwin read one letter in support of the variance from Bob and Nancy Peterson, 938 Tacoma Beach Road. There were no letters in opposition.

Mr. Hockberger also mentioned that there was only going to be a crawlspace and no full basement. A few trees would have to be removed for the driveway and the home. He said the trees that would be removed are pretty much dead trees.

Mr. Olejniczak added that there are no floodplain issues.

Mr. Murrock asked the Daanens if they have any rebuttal testimony.

Ms. Daanen expressed that this has been a lifelong dream to build this house. They intend to plant several trees for a sound barrier. The proposed home will be more in line with the other homes in the neighborhood.

The existing detached garage will eventually be torn down. It is used for storage now. They would like to build something more toward the road.

Chairperson Murrock closed the public hearing at 12:33 p.m.

Consideration of: Petition for variance from Section 20.34(1) of the Municipal Code (Zoning Code), to construct a new residential home with a 10-foot setback, at its closest point, from Highway 42/57 right-of-way, located at 920 Tacoma Beach Road:

Mr. Olejniczak pointed out that they can build 1 ½ times the size of the existing home. They can't build toward the highway. If the 50-foot setback didn't exist, they could build 10 feet from the lot line. A condition could be placed on approval that the garage would have to be taken down after a certain period of time.

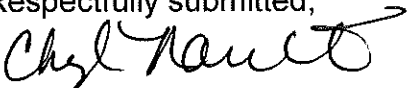
Mr. Daanen said the plan is to have the house completed in spring of 2019.

Board members discussed the variance request. Moved by Mr. Starr, seconded by Mr. Augustson to approve the variance request based on the hardship that the large highway setback running along the side of the property is a burden; there already is an existing non-conforming structure; Mr. Daanen's parents previously owned the lot prior to the highway and setback requirement; and the buildable area for a home to utilize the waterfront is overly restricted. The approval is subject to removal of the detached garage within two years of occupancy of the new home.

Roll call vote: All ayes. Carried.

Adjourn: Moved by Mr. Spritka, seconded by Mr. Starr to adjourn. All ayes. Carried. Meeting adjourned at 12:39 p.m.

Respectfully submitted,



Cheryl Nault
Community Development Secretary



MEMO

To: Zoning Board of Appeals
From: Christopher Sullivan-Robinson
Date: February 19, 2019
Subject: Wiltfang – Side Yard Variance

The applicant is requesting a variance be granted from section 20.27(2), which defines area and dimensional requirements for buildings and lots based on the zoning district. The subject property is in a General Commercial (C-1) zone located at the corner of 8th Ave and Georgia St. The C-1 zone requires a minimum side yard setback of 10 feet.

The subject lot contains a commercial building and is surrounded by general commercial and single-family uses. The property contains a vacant commercial building and a single-family dwelling. This is a grandfathered uses of the property and is considered legally non-conforming.

The plan is to split off part of the lot so that the house can be sold. A site plan is located in your packet. The minimum side yard on one lot would be 6.5 feet, 6.89 feet to the other lot, and 7.6 feet to the house.

In 2015, The Zoning Board of Appeals considered the same request from a prior owner and unanimously approved the request with the reasoning being that the building existed prior to the ordinance. The one condition was that the garage must be removed along with the concrete driveway and sidewalk within one year of the grant of the variance.

Staff concurs with the previous ruling.

**CITY OF STURGEON BAY
VARIANCE APPLICATION
ZONING BOARD OF APPEALS**

Date Received:	<u>2.6.19</u>
Fee Paid	\$ <u>350.00</u>
Received By:	<u>CHHS</u>

	APPLICANT/AGENT	LEGAL PROPERTY OWNER (if different)
Name	<u>Chris Wiltfang</u>	
Company	<u>ATTN: HEATHER</u>	
Street Address	<u>PO Box 278</u>	
City/State/Zip	<u>ALGOMA, WI 54201</u>	
Daytime Telephone No.		
Fax No.		

STREET ADDRESS OF SUBJECT PROPERTY: 532 N. 8th Ave
Location if not assigned a common address: _____

TAX PARCEL NUMBER: 281-46-16130101

CURRENT ZONING CLASSIFICATION: C-1 General Commercial

CURRENT USE AND IMPROVEMENTS:

Residential - House
Corner Building - Vacant

IDENTIFY MUNICIPAL CODE SECTION PERTINENT TO REQUEST AND STATEMENT OF SPECIFIC ITEM BEING REQUESTED FOR REVIEW: S. 20.27 (2) which requires 10'

sideyard. The request for a side yard of 5.5'

ZONING AND USES OF ADJACENT SURROUNDING PROPERTIES:

North: C-1 Vacant restaurant
South: C-1/R2 Single family dwellings
East: R2/Vacant lot
West: C1 - Bordean - Farm market stand

VARIANCE STANDARDS

Please address how the proposed variance meets each of the three required standards for authorizing variances. (Attach additional sheets, if necessary)

1. Unnecessary hardship: House and restaurant predate zoning and are slightly too close to split in compliance with today's zoning code.
2. Unique physical property limitation: Property is unique as both the house and restaurant are located on the same parcel.
3. Protection of public interest: A. The creation of the new lot line has no impact on the distance between the buildings because they already exist. B. The variance will allow the dwelling to be split from the commercial restaurant to separate these two different uses.

HAVE THERE BEEN ANY VARIANCES, CONDITIONAL USE PERMITS, ETC. GRANTED PREVIOUSLY FOR THIS PROPERTY? yes IF YES, EXPLAIN: _____

Attach an 8-1/2" X 11" detailed site plan (if site plan is larger than 8-1/2" x 11", also include 15 large sized copies), full legal description (preferably on disk), 8-1/2 x 11" location map, construction plans for the proposed project, and Agreement for Reimbursement of expenses. Site plan shall include dimensions of property, pertinent structures and buildings, proposed site improvements, signature of person who drew plan, etc.

Property Owner (Print Name)

Signature

Date

Wendy Neubauer

[Signature]

2/6/19

Applicant/Agent (Print Name)

Signature

Date

I, _____, have attended a review meeting with at least one member of staff and understand that I am responsible for sign placement and following all stages listed on the check list in regard to the applicant.

2.6.19

Date of review meeting

Applicant Signature

[Signature]

Staff Signature

Attachments:

Procedure & Check List

Agreement For Reimbursement of Expenses

STAFF USE ONLY

Application conditions of approval or denial:

Date

Community Development Director

Site Sketch

LOCATED IN:

BLOCK 13 IN THE NE 1/4 OF THE SW 1/4 OF SECTION 5,
T. 27 N., R. 26 E., CITY OF STURGEON BAY,
DOOR COUNTY, WISCONSIN

SURVEYOR'S NOTE:

BEARINGS REFERENCED TO THE EASTERLY
RIGHT-OF-WAY OF NORTH 8TH AVENUE BEARING
S 01°08'00" E BASED FROM A KENNETH J. BREY, JR.
SURVEY, MAP #014684, DATED APRIL 11, 1995.

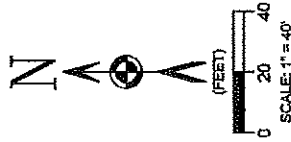
PREPARED FOR:

CURRENT OWNER:
JAMES E. REGNER, JR.
1719 ERIE STREET
STURGEON BAY, WI 54235

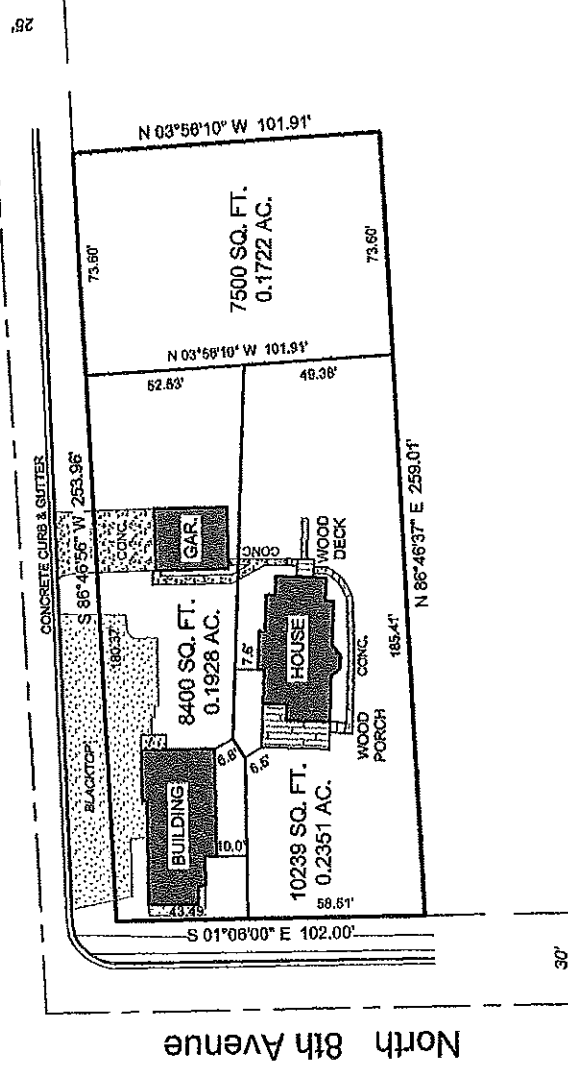
PROPERTY ADDRESS:
532 NORTH 8TH AVENUE

PREPARED BY:

BRIAN FRISQUE SURVEYS INC.
BRIAN D. FRISQUE
REGISTERED LAND SURVEYOR
3121 MATHEY ROAD
STURGEON BAY, WI 54235
(920) 743-7183



Georgia Street



S-6-15
D-042815-SS.dwg
Drawn By: D.F.H. II
JOB#: D-042815

Georgia Street

.25

CONCRETE CURB & GUTTER

S 86°46'56" W 253.96'

BLACKTOP

180.37'

BUILDING

43.49'

8400 SQ. FT.
0.1928 AC.

GAR.

CONC.

52.53'

N 03°56'10" W 101.91'

73.60'

7500 SQ. FT.
0.1722 AC.

73.60'

CONC.

WOOD

DECK

HOUSE

10239 SQ. FT.
0.2351 AC.

58.51'

WOOD PORCH

CONC.

185.41'

N 86°46'37" E 259.01'

S 01°06'00" E 102.00'

North 8th Avenue

NOTICE OF PUBLIC HEARING

The City of Sturgeon Bay Zoning Board of Appeals will hold a public hearing in the Council Chambers, 421 Michigan Street, Sturgeon Bay, Wisconsin on Tuesday, February 26, 2019, at 12:00 noon or shortly thereafter, regarding a request from property owner Chris Wiltfang, for a variance from Section 20.27(2) of the Municipal Code (Zoning Code), which requires a minimum side yard setback of 10 feet. This request is to allow the parcel to be divided into two lots with a minimum side yard of 5.5 feet. The subject property is located at 532 N. 8th Avenue, tax parcel #281-46-16130101. The variance application is on file with the Community Development Department and can be viewed at City Hall, 421 Michigan Street weekdays between 8:00 a.m. and 4:30 p.m. The public is invited to attend the hearing and give testimony in favor or against the proposed variance either in person at the hearing or in writing.

By order of:

City of Sturgeon Bay Zoning Board of Appeals

LOCATION MAP PUBLIC HEARING - WILTFANG VARIANCE REQUEST



 SUBJECT_AREA



Note: Public hearing to be held on February 26, 2019



532 N. 8th Avenue



ZONING BOARD OF APPEALS

Tuesday, May 12, 2015

The City of Sturgeon Bay Zoning Board of Appeals meeting was called to order at 12:00 noon by Chairperson Bill Murrock in Council Chambers, City Hall, 421 Michigan Street.

Roll call: Members Bill Murrock, Jack Gigstead, Bill Chaudoir, and Alternate Wayne Spritka were present. Excused: Members Andrew Starr and James Goodwin. Also present were Community Development Director Marty Olejniczak and Community Development Secretary Cheryl Nault.

Adoption of agenda: Moved by Mr. Gigstead, seconded by Mr. Spritka to adopt the following agenda:

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from October 28, 2014.
4. Public hearing: Petition for a side yard variance from s. 20.27(2) of the Municipal Code to allow a parcel, located at 532 N. 8th Avenue, to be divided into two lots with a minimum side yard of 5.5 feet.
5. Consideration of: Petition for a side yard variance from s. 20.27(2) of the Municipal Code to allow a parcel, located at 532 N. 8th Avenue, to be divided into two lots with a minimum side yard of 5.5 feet.
6. Adjourn.

Carried.

Approval of minutes from October 28, 2014: Moved by Mr. Spritka, seconded by Mr. Gigstead to approve the minutes from October 28, 2014. Carried.

Public hearing: Petition for a side yard variance from s. 20.27(2) of the Municipal Code to allow a parcel, located at 532 N. 8th Avenue, to be divided into two lots with a minimum side yard of 5.5 feet: Chairperson Murrock opened the public hearing at 12:07 p.m.

Roger Rockwell, 6050 Old Cty OR, stated that he asking for an imaginary line to separate the two properties. He has an agreed pending sale with buying the property at 532 N. 8th Avenue, keeping the house and selling the restaurant to Andrew Pfeffer. Both the restaurant and house are in disrepair. Nothing will be moved. There is not the 20' between the two buildings, and that is why he is asking for the variance. The house was built in approximately 1900 and the restaurant in 1960. He added that within one year the garage will be removed. Each lot would contain 8400 sq. ft.

Mr. Olejniczak stated that this is all one parcel now and Mr. Rockwell has indicated where the parcel would be divided.

The ultimate plan is to also seek to create a vacant lot on the east end. That would require a variance for the house lot at a future meeting due to the lot width requirement. There would then be another buildable lot for a single-family dwelling. The concrete driveway and sidewalk going to the curb and along the garage to the house will be removed.

Discussion took place regarding driveway access to the house. Mr. Rockwell mentioned that there currently is an access on 8th Avenue, but if the variance is approved, they talked about having an easement on the easterly side of the restaurant to get to the house.

Andrew Pfeffer, 4221 W. Lake Dr., stated that the driveway approach has already been cut out for the curb on 8th Avenue and would not be that steep to put a driveway alongside the house. They are looking at improving the neighborhood. The restaurant has been vacant for 10 years. He has a three-year plan. It should take approximately one year to remodel it. He would have to save up more funding to open a restaurant and educate himself to do a business plan with it.

Ms. Nault read one letter in favor from Rick Nielson, Bay Electronics. There were no letters in opposition.

Mr. Olejniczak reminded everyone that this variance is for a side yard variance, which is 10' minimum measured to the wall of the building. That rule is to protect adjoining properties, such as privacy, natural sunlight, and opportunities for landscaping, greenspace, and access around the building. The potential future vacant lot is not being acted upon at this time.

Mr. Gigstead added that if they or a future owner wanted to construct an addition on either building, it could be difficult with the side yard setback.

Mr. Murrock closed the public hearing at 12:40 p.m.

Consideration of: Petition for a side yard variance from s. 20.27(2) of the Municipal Code to allow a parcel, located at 532 N. 8th Avenue, to be divided into two lots with a minimum side yard of 5.5 feet: Members discussed the request. Mr. Chaudoir stated it certainly qualifies for a variance. Both buildings would be fixed up and would be beneficial to the City, as well as beneficial to the public interest. Mr. Gigstead added that he would like to see the garage removed, along with the concrete driveway and sidewalks.

After further discussion, it was moved by Mr. Gigstead, seconded by Mr. Chaudoir to approve the variance request, with condition that the setbacks be set as per site plan, with minimum setbacks on one lot to be 6.5 feet, 6.8 feet to the other lot and 7.6' to the house. The garage is to be removed, along with the concrete driveway and sidewalks within one year after the grant of variance. This qualifies for a hardship that these buildings exist and it is a reasonable request to separate the lot. The buildings have different uses.

Roll call vote. All ayes. Carried.

Adjourn: Moved by Mr. Chaudoir, seconded by Mr. Gigstead to adjourn. Carried. Meeting adjourned at 12:45 p.m.

Respectfully submitted,



Cheryl Nault
Community Development Secretary