

MINUTES
BOARD OF ZONING APPEALS
March 4, 2024 7:00 p.m.

1. The meeting was called to order at 7:00 p.m. by Chairman Randy Gregorek.
2. On roll call the following Board members were present: Larry Bodette, Vice Chairman Dan Jakubczyk, Stacey Henne, Chairman Randy Gregorek, Richard Yerkey, Talwinder Kang. Peter Wagner, excused.
Also in attendance was Senior Planner, Kari Papelbon.
3. Stacey Henne, seconded by Larry Bodette, moved to approve the minutes of the 12/4/23 meeting. On roll call, Bodette, Jakubczyk, Henne, Gregork, Yang voted aye. Yerkey abstained.
4. **Case #24-0001, 8500 S Sharon Drive** - Joshua Checkai, appellant/owner, is requesting a variance from Oak Creek Municipal Code Section 17.0301(a), Table 17.0301(a) which requires property in the Rs-4 zoning district to have a minimum front/street facing side setback of 25 feet.

The Board heard testimony from the Appellant and other sworn persons (neighbors) who provided testimony in favor of the variance with no testimony against.

5. The Board discussed the case and the criteria for each of the “findings of fact” as follows:
 - a. **Preservation of Intent:** Granting the variance would not cause any negative findings. The intent remains pure.
 - b. **Exceptional Circumstances:** The contractor built the addition without the owners’ knowledge or consent, nor a valid contract or permit.
 - c. **Economic Hardship and Self-Imposed Hardship not Grounds for Variance:** The Board is not using economic hardship as grounds; it is not self-imposed.
 - d. **Preservation of Property Rights:** Granting the variance would allow for the preservation of property rights.
 - e. **Absence of Detriment:** There is no detriment to the neighborhood. All letters from neighbors were in support of appellant.
 - f. **Additional Requirements in a Floodplain District:** Non-applicable, property is not in a floodplain.
6. Larry Bodette, seconded by Richard Yerkey moved to grant the variance requested to continue the permit review with the remodel/addition front setback at 21 feet to the west property line. On roll call, all voted aye.

7. **#24-0002, 9080 S Shepard Avenue** - James Lawrence, the appellant/owner is requesting multiple variances as follows:
 - a. A variance from Oak Creek Municipal Code 17.0507(a)(1), which states in part: “Vinyl-coated chain link may be utilized in rear yards only.”
 - b. A variance from Oak Creek Municipal Code 17.0507(a)(4), Front yard fences, which states: “Fences are prohibited in front yards.”
 - c. A variance from Oak Creek Municipal Code 17.0507(a)(5), Street-facing side yard fences, which states in part: “Fences are permitted in the street-facing side yards of corner lots in single-family districts...”
 - d. A variance from Oak Creek Municipal Code 17.0507(a)(6)(b), Side and rear yard fences, which states in part: “Fences shall not extend into the front yard.”

The Board heard testimony from the Appellant and no testimony was provided against the requests.

8. The Board discussed the case and the criteria for each of the “findings of fact” as follows:
 - a. **Preservation of Intent:** Granting the variance is consistent with the overall use of the property. Fences are allowed in the district.
 - b. **Exceptional Circumstances:** The home was constructed with a larger setback prior to the surrounding homes in the subdivision.
 - c. **Economic Hardship and Self-Imposed Hardship not Grounds for Variance:** The Board is not using economic hardship as grounds; it is not self-imposed.
 - d. **Preservation of Property Rights:** Granting the variance would allow for the full use of the yard for personal enjoyment.
 - e. **Absence of Detriment:** There is no detriment to the neighborhood. The homeowners on either side of the property agree with the proposal.
 - f. **Additional Requirements in a Floodplain District:** The fence is not in a flood plain.
9. Richard Yerkey, seconded by Stacey Henne, moved to grant the variances allowing the appellant to construct a 6 foot tall black vinyl-coated fence as presented with landscaping required on the street-facing side yard according to Oak Creek Municipal Code 17.0507(a)(5). On roll call, all voted aye.

Stacey Henne, seconded by Richard Yerkey moved to adjourn the meeting at 9:16 p.m. On roll call, all voted aye.