

MINUTES
BOARD OF ZONING APPEALS
April 1, 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, Chairman Randy Gregorek, Richard Yerkey, Talwinder Kang. Peter Wagner. Stacey Henne, excused.
Also in attendance were Senior Planner, Kari Papelbon and Planner, Melanie Perez.
3. Richard Yerkey, seconded by Larry Bodette, moved to approve the minutes of the 3/4/2024 meeting. On roll call, Bodette, Jakubczyk, Gregorek, Yerkey, Kang voted aye. Wagner abstained.
4. **Case #24-0003, 1830 E Elm Road** – Brian and Tracy Kotecki, appellant/owner, are requesting a variance from Oak Creek Municipal Code Section 17.0403(d)(4)(g)(1)(a) which states: “The garage may be set ahead a maximum of five (5) feet from the front façade of the home, inclusive of porches, bay windows or other minor projections.

The Board heard testimony from Brian Kotecki, the Appellant.
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 is consistent with the use of the property as attached garages are a permitted use in the Rs-3 district.
 - b. **Exceptional Circumstances:** The proposed house is going to be set back 700 feet from Elm Road and the property is a 7 acre parcel.
 - 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.
 - f. **Additional Requirements in a Floodplain District:** Non-applicable, the proposed house is not in a floodplain.
6. Dan Jakubczyk, seconded by Larry Bodette moved to grant the variance requested to construct an attached garage that is 9.5 feet from the front façade, as measured from the front porch which is 4.5 feet beyond the maximum normally allowed. On roll call, Bodette, Jakubczyk, Gregorek, Yerkey, Kang voted aye. Wagner abstained.

7. Kari Papelbon explained to the Board that there is not a policy in place to limit the number of hearings that can be heard per meeting. The question to consider, is should a policy be created that says how many cases the Board will hear per meeting? She further explained the timing involved in going before the Board of Appeals as well as an appeal to the Circuit Court in the case of a denial by the Board and the need to avoid stepping on an appellant's rights. Kari gave the example that if the Board adopts a policy that says they would hear 2 cases at a meeting, there must also be a policy that states what happens if a 3rd or 4th, etc. case arises. There was discussion among the Board members about how often it has happened in the past that there were 2 or more cases per meeting. Peter Wagner made the argument that there should not be a policy put in place as it is a rare occurrence to have more than 2 or more cases per meeting. There was additional discussion to limit it to 2 cases per meeting and then push a 3rd and 4th (if necessary) to the second Monday of the month. There were problems with some of the Board members making a commitment to be available both the 1st and 2nd Monday of each month. Kari suggested that Staff draft a written policy based on tonight's discussion amongst the Board members that they then will adopt. The discussion ended with an agreement that the Board will hear 2 cases per meeting and if there are additional hearings they will be pushed to the following month. Kari will draft the policy and have the City Attorney look at it and will bring it to a future meeting.

Richard Yerkey seconded by Larry Bodette moved to adjourn the meeting at 8:02 p.m. On roll call, all voted aye.