

MINUTES  
BOARD OF ZONING APPEALS  
May 6, 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, Peter Wagner. Talwinder Kang, excused. Also in attendance was Kari Papelbon, Senior Planner, Melanie Perez, Planner and Karolyn Lipp, Secretary.
3. Larry Bodette, seconded by Richard Yerkey, moved to approve the minutes of the April 1, 2024 meeting. On roll call, Bodette, Jakubczyk, Yerkey, Wagner, Gregorek voted aye. Henne abstained.
4. **Case #24-0004, 10804 S. Richard Road** – Paul Tarczewski & Kris Skenandore-Tarczewski, appellants/owners, are requesting a variance from Oak Creek Municipal Code Section 17.0301(a), Table 17.0301(a) which requires property in the Rs-3 zoning district to have a minimum interior side setback of 10 feet.

Also, a variance from Oak Creek Municipal Code 17.0414 (a)(2) which states: “On residential lots less than or equal to 0.5 acre the aggregate maximum area of all accessory buildings shall not exceed 1,000 square feet or 75% of the livable area of the principal building, whichever is less. Livable area shall not include basements.”

The Board heard testimony from Paul Tarczewski, Appellant. John Coury gave sworn testimony in favor of and no testimony was provided against the requests.

5. The Board discussed the case and the criteria for each of the “Findings of Fact” regarding the **size** of the parcel as follows:
  - a. Preservation of Intent: Garages are a permitted use in an Rs-3, Single-Family Residential district.
  - b. Exceptional Circumstances: This lot is so close to meeting the .51 acre minimal requirement (871 square feet to be exact) for a 1,200 square foot building to be allowed that we could justify this unique circumstance because not every lot in an Rs-3 district is so close to that threshold.
  - c. Economic Hardship and Self-Imposed Hardship not Grounds for Variance: Do not apply.
  - d. Preservation of Property Rights: Granting of the variance for the size would be allowed for the preservation of the appellant’s property rights.

- e. Absence of Detriment: Granting of the variance for the size (increase of 184 square feet) would not be of any detriment to adjacent properties as confirmed by none of the surrounding neighbors opposed this variance request (Exhibit A).
  - f. Additional Requirements in a Floodplain District: Does not apply.
6. Stacey Henne, seconded by Richard Yerkey, moved to **grant** the variance of 184 square feet requested per Findings of Fact discussed by the Board to construct a 1,184 square foot accessory building (garage). On roll call, Bodette, Jakubczyk, Henne, Yerkey, Gregorek voted aye.
7. The Board discussed the case and the criteria for each of the “Findings of Fact” regarding the **setback** request as follows:
- a. Preservation of Intent: The variance request for the reduced interior setback is inconsistent with the purpose of the setback requirements.
  - b. Exceptional Circumstances: There are no unique circumstances.
  - c. Economic Hardship and Self-Imposed Hardship not Grounds for Variance: Do not apply.
  - d. Preservation of Property Rights: The appellant has other options.
  - e. Absence of Detriment: If the variance was granted there would not be any detriment.
  - f. Additional Requirements in a Floodplain District: Does not apply.
8. Stacey Henne, seconded by Larry Bodette, moved to **deny** the variance request of 4.48 feet for the interior side setback per the Findings of Fact discussed by the Board. The appellant has other options where he can meet the 10 foot side setback as required by the zoning code. On roll call, Bodette, Jakubczyk, Henne, Yerkey, Gregorek voted aye.
9. Kari Papelbon handed out a draft of the “Appeal and Variance Hearings Scheduling Policy” to all Board Members with an explanation and discussion.

Stacey Henne, seconded by Richard Yerkey, moved to adjourn the meeting at 8:10 p.m. On roll call, all voted aye.