

**VILLAGE OF PLEASANT PRAIRIE  
ZONING BOARD OF APPEALS  
Tuesday, January 17, 2006  
5:00 PM**

Members Present: Christine Genthner, Chairperson; Bill Morris, Secretary /Acting Chairperson; Mark Riley; Jennie Holman; Sheryl Berner; and David Hildreth. Tom Glassman was excused.

Also Present: Peggy Herrick, Assistant Village Planner and Zoning Administrator; Tom Shircel, Assistant Village Planner and Zoning Administrator; and Elaine Eppers, Clerical Secretary.

1. **CALL TO ORDER.**
2. **ROLL CALL.**
3. **CORRESPONDENCE.**
4. **CITIZEN COMMENTS.**

Christine Genthner:

Both gentlemen in the audience will be given an opportunity to speak at a public hearing on the agenda item that you're here for. But seeing nobody else at citizen comments, we'll have the minutes to consider at the last meeting.

5. **CONSIDER THE MINUTES OF THE SEPTEMBER 20, 2005 BOARD OF APPEALS MEETING.**

Christine Genthner:

Does anybody have any additions, deletions or corrections? Seeing none, do I have a motion to approve?

Bill Morris:

I'll so move to accept as presented.

David Hildreth:

I'll second that.

Christine Genthner:

All in favor say aye.

Voices:

Aye.

6. NEW BUSINESS

- A. **PUBLIC HEARING AND CONSIDERATION OF A VARIANCE:** The request of Richard Wagner, P.E. of Jenkins Survey and Design, agent for the Kenosha Unified School District for a variance from Section 420-126 G (1) of the Village Zoning Ordinance related to the required 30-foot street setback Specifically, the petitioner is requesting a 10.2-foot variance to construct the proposed addition to the Prairie Lane School located at 10717 47<sup>th</sup> Avenue 19.8 feet from the 47<sup>th</sup> Avenue property line.

The subject property is located in a part of the Northeast One Quarter of U.S. Public Land Survey Section 26, Township 1 North, Range 22 East of the Fourth Principal Meridian in the Village of Pleasant Prairie, County of Kenosha, State of Wisconsin and is further identified further identified as Tax Parcel Number 92-4-122-261-0400.

Christine Genthner:

With that, would staff like to present an application?

Peggy Herrick:

Yes.

Christine Genthner:

Do you swear to tell the truth, the whole truth and nothing but the truth?

Peggy Herrick:

I do. Again, this is the request of Richard Wagner of Jenkins Survey and Design, agent for the Kenosha Unified School District who are requesting a variance from Section 420-126 G (1) of the Village Zoning Ordinance related to the required 30-foot street yard setback for principle buildings.

Specifically the petitioner is requesting a 10.2 foot variance foot variance to construct the proposed addition to the Prairie Lane School located at 10717 47<sup>th</sup> Avenue. They proposing to locate it 19.8 feet from 47<sup>th</sup> Avenue property line, wherein again 30 feet is required by the zoning ordinance.

The subject property is located in a part of the Northeast One Quarter of U.S. Public Land Survey Section 26, Township 1 North, Range 22 East of the Fourth Principal Meridian in the Village of Pleasant Prairie, County of Kenosha, State of Wisconsin and is further identified as Tax Parcel Number 92-4-122-261-0400. Please note that there was an error in the legal parcel number on the agenda. This is the correct number.

According to the application, the variance is being requested in order to make the classrooms line up and to leave room for future expansions to the school as shown in Exhibit 1.

According to KUSD, Prairie Lane School was built in 1953 with additions constructed in 1957 and 1960. Just for information, the zoning ordinance in effect in the Town of Pleasant Prairie, Kenosha County, went into effect in 1959, so the original school was built prior to any zoning in the Town of Pleasant Prairie.

According to KUSD, the proposed addition is needed to address KUSD immediate and critical elementary school overcrowding issues. The addition and renovation will provide life safety and infrastructure improvements at Prairie Lane Elementary School.

The application as shown in Exhibit 1 states the following reasons that this request will not have a negative impact on the adjacent streets:

- a. The setback distance is to a triangle of land purchased by the Department of Transportation for a larger intersection that will provably never be built. As you may recall this used to be a State highway, State highway 74 and it's now a County highway.
- b. If the intersection is reconstructed in the future, 47<sup>th</sup> Avenue will most likely be turned to the west to make a 90 degree intersection, which will put the road farther from the school property.
- c. The school addition will not interfere with the vision triangle of the intersection.
- d. The DOT never made use of the triangle and the school's fence still follows the old right-of-way lines as shown on the Exhibit attached to the application.

According to the petitioner, the existing school is located 108.7 feet from the road pavement of 47<sup>th</sup> Avenue and 148.8 feet from the road pavement of Springbrook Road. If the addition is constructed as shown on Exhibit 1, the addition will be located 81.9 feet from the road pavement of 47<sup>th</sup> Avenue and 101.6 feet from the road pavement of Springbrook Road.

On December 21, 2005, the Village received an e-mail from Gary Sipsma, Director of Public Works with Kenosha County, related to the request and that's shown as Exhibit 3. I'm going to read that into the record. Exhibit 3 states: Again, this is from Gary Sipsma, Kenosha County Public Works. "I have completed my review of the variance request for the Prairie Lane School addition. The following are my comments. I have verified that the ownership of the triangular piece of property in the southeasterly part of the intersection was transferred from the School to the County for highway purposes. The documents ir recorded in Volume 401, Page 346-7 in the register of deeds. The Right of Way Setback Exhibit completed by JSD appears correct. I am in agreement with Richard Wagner's assessment of the situation. Except I do not agree with 1) of his 12/20/05 memo referring to the triangle of land being purchased for future construction. The triangular piece of land was purchased for vision purposes and still serves a useful purpose in that respect. I agree that if the 47<sup>th</sup> Avenue intersection were ever to be reconstructed, it would move westerly. Therefore, it is very unlikely that any additional right-of-way would be needed easterly of the intersection. Based on the above information, the Kenosha County Department of Public Works has no objection to the highway setback variance request, subject to the Unified Schools agreeing to relocate the existing chain link fence off of County owned Right-of-way."

All of the abutting and adjacent property owners within 100 feet of the properties were notified via regular mail on December 28, 2005 as shown on Exhibit 6, and the agenda was published in the *Kenosha News* on January 3, 2006.

Under State of Wisconsin Supreme Court case law pertaining to granting of variances, a variance may be granted only if the applicant can show that the standards set forth in the Statutes and interpretive case law for granting variances will be met. The Statutes provide that a variance may be allowed when it will not be contrary to the public interest; where owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.

Christine Genthner:

Thank you. Are there any questions by any of the Board members before we ask the audience to come forward? Is there anybody from the audience that would like to come forward and speak on this matter?

Richard Wagner:

I think everything is pretty clear but I'd be glad to answer any questions.

Christine Genthner:

Do you want to come up to the microphone? Please just state your name for the record and your business address.

Richard Wagner:

Certainly. My name is Richard Wagner. I'm with Jenkins Survey and Design. Business address is N22W22931 Nancy Court, Waukesha, Wisconsin, 53186.

Christine Genthner:

Do you swear that any of the information you provide will be true and accurate?

Richard Wagner:

I do.

Christine Genthner:

Are there any questions for Mr. Wagner from anybody on the Commission? You're asking us to approve this tonight, correct?

Richard Wagner:

Correct.

Christine Genthner:

Nothing further then. Do we have a recommendation from staff?

Peggy Herrick:

Yes, there might be an error in the staff report. This is supposed to be 18.9 feet from the right-of-way line, and we just want to make sure our map is correct. If we take 30 feet and subtract 18.9 we want to make sure it's not 11.1 which I think it is. I think there's an error in the staff report. The variance is instead of 10.2 feet 11.1. So there's still going to be 19.8 feet from the right-of-way, but there's just an error. It will be an 11.1 foot variance.

Christine Genthner:

So the findings of fact should be revised to reflect that?

Peggy Herrick:

Correct. So they're requesting an 11.1 foot variance to construct the addition 19.8 feet from the 47<sup>th</sup> Avenue right-of-way. I'm sorry, 18.9 feet--so comment number 2 should read the petitioner is requesting an 11.1 foot variance to construct the proposed addition to the Prairie Lane School located at 10717 47<sup>th</sup> Avenue 18.9 feet from the 47<sup>th</sup> Avenue right-of-way. So the drawing in the application is correct. There were some numbers transposed in our memo.

Christine Genthner:

Thank you. With that do we have a recommendation by staff?

Peggy Herrick:

Yes. Based on the Findings of Fact, the variance application filed, the Village staff finds that the application may meet the requirements for the granting of the requested variance to build the school addition to the Prairie Lane School 18.9 feet from the street property.

If the Board finds that the application and the facts presented warrant the granting of the variance requested, then the following conditions shall apply:

1. The variance does not waive any other requirements, which are imposed by the Village's Zoning or Land Division and Development Control Ordinances, Building or Municipal Codes.
2. The fence located within the right-of-way shall be relocated out of the right-of-way. Pursuant to the Village Zoning Ordinance, the fence shall be located a minimum of 15 feet from the right-of-way line. A fence permit shall be obtained prior to moving the fence. The fence shall be relocated prior to occupancy of the addition to the school. This fence could be removed, too. It doesn't have to be--they don't need a fence. A fence is not required so they could just remove it as well depending on how they lay out

their school.

3. No work construction activities shall commence on the property without approval of Site and Operational Plan and Conditional Use Permit and the Building Permit.
4. The Village staff shall prepare the required Variance Grant Document that shall be executed by the property owners and the owners shall pay the required recording and filing fees for variance to be recorded at the Kenosha County Register of Deeds Office. This variance shall be recorded prior to issuance of permits.
5. The petitioner shall provide the Village with a complete legal description of the property. The Kenosha County Register of Deeds Office will not record a document without a complete legal description of the property and the Village Ordinance requires the property owner to provide said legal description to the Village.
6. The owner/petitioner shall provide the Village with the name and title of the persons authorized to sign the Variance grant document that will be recorded at the Kenosha County Register of Deeds Office.

However, if the Board of Appeals determines that based on the facts and the information presented tonight that this petitioner has not proven the standards for granting of a variance, then the Board of Appeals shall clearly and specifically state on the record the reasons for such denial.

Christine Genthner:

Before I close the public hearing, does anybody on the Board have any questions for staff? Seeing none, I'll close the public hearing. Do I have a motion?

Mark Riley:

I'd make a motion that we approve it based on the fact that the right-of-way was given for vision purposes and that the addition will not impede or affect that vision line.

Christine Genthner:

I have a motion. Do I have a second?

Bill Morris:

I'll second.

Christine Genthner:

I have a second. Do I have any discussion on the motion. With that, do you want to do a roll call? I support the motion.

Bill Morris:

Support.

Mark Riley:

Support.

Jennie Holman:

Support.

Sheryl Berner:

Support.

Christine Genthner:

With that the variance has been approved subject to the conditions and recommendations set forth in the staff recommendation. Good luck. Do we have anything else?

## 7. ADJOURNMENT

Christine Genthner:

With that, move to adjourn. All in favor?

Voices:

Aye.