

**VILLAGE OF PLEASANT PRAIRIE
ZONING BOARD OF APPEALS
Tuesday, July 18, 2006
5:00 PM**

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

Is there anybody who'd like to address the Board other than on an item that's on the agenda tonight?

5. **CONSIDER THE MINUTES OF THE APRIL 18, 2006 BOARD OF APPEALS MEETING.**

Christine Genthner:

Are there any corrections, deletions, changes anybody would like to make before we take a motion? Seeing none do I have a motion.

David Hildreth:

Motion to accept as written.

Christine Genthner:

I have a motion by Mr. Hildreth to accept as written. Do I have a second?

Jennie Holman:

I second.

Christine Genthner:

Ms. Holman seconds. All in favor of the motion to accept the minutes as written?

Voices:

Aye.

6. NEW BUSINESS

- A. PUBLIC HEARING AND CONSIDERATION OF A VARIANCE:** The request of Neki Murati, owner, for a variance from Section 420-139 B. (2) (a) of the Village Zoning Ordinance related to average street setbacks for principal structures. Specifically, the petitioner is requesting a 0.5-foot variance from the averaged 22 foot street setback, to construct a new single-family dwelling 21.5 feet from the 81st Street street property line.

The subject property is located in a part of the Southwest One Quarter of U.S. Public Land Survey Section 11, 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 91-4-122-113-0253.

Christine Genthner:

With that, staff, do we have a recommendation?

Tom Shircel:

Yes, I'll have a report for you if you want to swear me in.

Christine Genthner:

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

Tom Shircel:

I do. These are the findings of facts of this case.

1. The request of Neki Murati, owner, for a variance from Section 420-139 B. (2) (a) of the Village Zoning Ordinance related to average street setbacks for principal structures. That's Exhibit 1 in your packet.
2. The undeveloped subject property is located in a part of the Southwest One Quarter of U.S. Public Land Survey Section 11, 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 91-4-122-113-0253. Refer to Exhibit 2.
3. Specifically, the petitioner is requesting a 0.5 or a half foot variance from the averaged 22 foot street setback, to construct a new single-family dwelling 21.5 feet from the 81st

Street street property line, which is synonymous with the 81st Street right-of-way line. Refer to Exhibit 3.

4. The property is zoned R-4, Urban Single Family Residential District.
5. Although this lot is nonconforming in that it lacks the required 125 feet of lot depth and the required 15,000 square feet of lot area for the R-4 District, it is a lot of record on which a new single-family dwelling could be constructed.
6. There are no wetlands, floodplain or shoreland jurisdiction on the subject property.
7. The R-4 District allows for one single family dwelling to be constructed per property provided it meets the zoning and building codes and ordinances in effect at the time of permit issuance, which includes the minimum setback requirements. The pertinent setback requirement as it relates to this variance request is the averaged street setback. Pursuant to Chapter 420-108 G. (1) of the Village Zoning Ordinance, the R-4 District requires a minimum 30 foot street setback from a non-arterial street of which is 81st Street is, a non-arterial, for the principal structure, that being the house. However, Chapter 420-139 B. (2) (a) of the Village Zoning Ordinance allows a decrease in the required street setback distance for principal structures within a single-family residential zoning district by averaging the existing street setback distances of the abutting principal structures, but in no case shall that distance be reduced to less than 15 feet from the road right-of-way line.
8. The existing house to the immediate east of the subject property, at 5107 81st Street which is Tax Parcel Number 91-4-122-113-0255, is setback 13.92 feet from the 81st Street right-of-way line. The existing house to the immediate west of the subject property at 5213 81st Street, which is Tax Parcel Number 91-4-122-113-0252, is set back 30.07 feet from the 81st Street right-of-way line. You can refer to that as Exhibit 4. Therefore, the averaged street setback for the property is 22 feet.
9. The R-4 District also requires that single-family dwellings have a minimum rear setback of 25 feet, a minimum side setback of 10 feet and a minimum house width of 28 feet.
10. Depth wise, the subject property is very narrow. The lot narrows from east to west, with the east side property line being 75.15 feet in length and the west side property line being 63.20 feet in length. Refer to Exhibit 4.
11. Given the narrowness of the lot, in order to meet the required minimum 28 feet of house width, a new dwelling will have to be constructed as close to the east property line as possible, which is the widest portion of the lot, while still maintaining the required minimum 10 feet side setback. Pursuant to Exhibit 4, the depth of this lot at the required minimum 10 feet side setback is 74.68 feet. In order for a house to meet the required street setback which is the 22 foot averaged street setback in this case, the minimum 28 foot dwelling width and the minimum 25 foot rear setback, this lot would need to have 75 feet of depth at the minimum required 10 foot setback from the east side property line setback. This lot is short of this needed lot depth by 0.32 feet which is the same as 3.84

inches, thus the need for the half foot variance request from the averaged 22 foot street setback.

12. While the variance could have been requested from the minimum dwelling width requirement or from the minimum 25 foot rear setback requirement, instead of from the requested averaged street setback, the Village staff and the petitioner feel the variance, as requested, makes the most sense. There is an existing dwelling located immediately south of the subject site at 8053 Cooper Road that is relatively close to the subject property's rear property line; thus, it seems logical to maintain that required 25 foot rear setback to preserve that separation distance between the existing dwelling to the south and the future dwelling on the subject property. You can see that on Exhibit 5. Additionally, decreasing the minimum 28 foot dwelling width would not seem to be reasonable given the narrowness and related small building footprint for the subject property. The 0.5 foot variance request from the averaged street setback seems the most logical given the fact that the variance request is nominal and the fact that the existing dwelling to the immediate east has a street setback of only 13.92 feet.
13. According to the variance application, the petitioner generally states the following special site conditions and unnecessary hardships/practical difficulties that pertain to this property. These can also be seen on Exhibit 6:
 - a. Without the variance, the lot will be unbuildable.
 - b. Without the variance, the lot does not have depth to accommodate a new dwelling due to setback requirements.
 - c. Without the variance, the lack of depth of the subject property presents a practical difficulty/hardship that would prevent a single-family dwelling from being constructed without the granting of the requested variance.
14. It is important for the applicant to understand that if the requested variance is granted by the Board of Appeals tonight, that all other setback requirements for a new single-family dwelling on this property must be compliant with the Village Zoning Ordinance.
15. 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.
16. All of the abutting and adjacent property owners within 100 feet of the subject property were notified via regular U.S. Mail on July 5, 2006. That letter is Exhibit 7. And the Board of Appeals agenda was published in the *Kenosha News* on July 5, 2006.

With that I'll turn it back to the Board, and the applicant is in the audience.

Christine Genthner:

Thank you. Any questions of staff by any Board members? Seeing none, would the applicant like to come forward? Could you state your name for the record?

Neki Murati:

Neki Murati.

Christine Genthner:

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

Neki Murati:

I do.

Christine Genthner:

Please state your business address or home address.

Neki Murati:

4518 20th Avenue.

Christine Genthner:

And you're seeking a variance tonight?

Neki Murati:

Yes, ma'am.

Christine Genthner:

Is there anything you'd like to add over and above what the staff has provided tonight?

Neki Murati:

I think he mentioned everything. I need a half inch of variance to build the house on, and I think we could do it with that half an inch.

Tom Shircel:

Just to clarify a half a foot.

Neki Murati:

Half a foot, I'm sorry. Six inches.

Christine Genthner:

Any questions for the applicant? Thank you, sir. With that, staff, do we have a recommendation?

Tom Shircel:

Yes. Based on the Finding of Facts that I just read, the variance application filed, and the circumstances and hardships or practical difficulty that are presented in this case, it is the Village staff's opinion that the application meets the requirements for the granting of the requested variance. That being a variance for a half (1/2) foot variance or six (6) inches from the averaged 22 foot street setback, to construct a new single-family dwelling 21.5 feet from the 81st Street street property line.

If the Board of Appeals finds that the application and the facts presented warrant the granting of the requested variance, then the following four (4) conditions as noted in the staff report should apply.

Christine Genthner:

Thank you. Any questions from staff then based on the recommendation before I close the public hearing? Seeing none, I'll close the public hearing. Do I have a motion?

Sheryl Berner:

I make a motion that we accept the staff's recommendation and the four conditions set forth.

Christine Genthner:

We have a motion by Ms. Berner to approve the recommendation by staff subject to the four (4) conditions set forth on our recommendation sheet.

David Hildreth:

I'll second.

Christine Genthner:

Mr. Hildreth seconds. Roll call vote. To approve.

Jennie Holman:

Approve.

Sheryl Berner:

Approve.

David Hildreth:

Approve.

Christine Genthner:

With that the matter is approved.

7. SUCH OTHER MATTERS AS AUTHORIZED BY LAW.

8. ADJOURNMENT.

Jennie Holman:

I'll make that motion.

Christine Genthner:

Ms. Holman has made a motion to adjourn. To I have a second?

Sheryl Berner:

I'll second.

Christine Genthner:

Ms. Berner second.

Tom Shircel:

One more item. We do have another Board of Appeals meeting scheduled for August 15th I believe if you want to mark it on your calendars. And we'll remind you as well.

Christine Genthner:

Thank you. With that all in favor of adjourning?

Voices:

Aye.

Christine Genthner:

We're adjourned.