

**VILLAGE OF PLEASANT PRAIRIE
ZONING BOARD OF APPEALS
Tuesday, July 6, 2010
6:00 PM**

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

Also Present: Peggy Herrick, Assistant Zoning Administrator; and Jan Petrovic, Clerical Secretary.

1. CALL TO ORDER.

2. ROLL CALL.

Christine Genthner:

With that, it appears we have four members present. It's my understanding that that constitutes a quorum.

3. CORRESPONDENCE.

Peggy Herrick:

I have none tonight.

4. CITIZEN COMMENTS.

Christine Genthner:

Is there anybody who would like to come forward at this time and address the Board?

5. CONSIDER THE MINUTES OF THE APRIL 27, 2010 AND JUNE 29, 2010 BOARD OF APPEALS MEETINGS.

Mark Riley:

I'll make a motion to approve.

Christine Genthner:

Mr. Riley has made a motion to approve. Do I have a second?

Sheryl Berner:

I'll second.

Christine Genthner:

Ms. Berner has seconded that motion. All in favor say aye.

Voices:

Aye.

6. UNFINISHED BUSINESS

- A. PUBLIC HEARING AND CONSIDERATION OF A VARIANCE from Section 180.16 P of the Village Municipal Code. Section 180.16 P of the Village Ordinance requires that the proposed areas of the building to be remodeled and the proposed addition be equipped with automatic fire sprinklers and a fire alarm system. Specifically Rev. Joyce M. Rinehart Pastor of United Methodist Church, owner of the property located at 8405 104th Avenue is requesting a variance from the requirement to install automatic fire sprinklers within the proposed addition and remodeled area.**

The subject property is located at 8405 104th Avenue in a part of U.S. Public Land Survey Section 8, Township 1 North, Range 22 East in the Village of Pleasant Prairie and further identified as Tax Parcel Number 91-4-122-083-0030.

Christine Genthner:

With that, do I have an application by staff?

Peggy Herrick:

Yes.

Christine Genthner:

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

Peggy Herrick:

I do.

Christine Genthner:

Please proceed.

Peggy Herrick:

1. Reverend Joyce M. Rinehart, Pastor of United Methodist Church, owner of the property located at 8405 104th Avenue is requesting a variance from the requirement to install automatic fire sprinklers within the proposed addition and remodeled area within the

church. Specifically the petitioner is requesting a variance from Section 180.16 P of the Village Municipal Code. Section 180.16 P of the Village Ordinance requires that the proposed areas of the building to be remodeled and the proposed addition be equipped with automatic fire sprinklers and a fire alarm system. Exhibit 1 attached to your packet is the application and related materials.

2. The subject property is located in a part of U.S. Public Land Survey Section 8, Township 1 North, Range 22 East in the Village of Pleasant Prairie and further identified as Tax Parcel Number 91-4-122-083-0030.
3. On April 12, 2010, the Village of Pleasant Prairie Plan Commission conditionally approved a Conditional Use Permit and Site and Operational Plans for an addition and interior remodeling at the United Methodist Church. Specifically the first floor addition including 720 square feet and remodeling of 310 square feet, and this will provide a parent/child nursery, ADA restrooms, administration room, pastor office and media room. The basement addition of 720 square feet and remodeling of 342 square feet will provide a classroom, ADA compliant restrooms and ADA access from the first floor to the basement. As a condition of that approval was compliance with the Fire Chief memo dated March 15, 2010, and that is included as Exhibit 2 in your packet. Again, that was one of the conditions of that approval on April 12th by the Plan Commission.
4. Pursuant to the Fire Chief March 15, 2010 memo, which again is Exhibit 2, since the proposed addition is greater than 25 percent but less than 50 percent, the area remodeled and the area added shall be equipped with automatic fire sprinklers and a fire alarm system, as described in that memo.
5. Section 18-35 (5) of the Village Code, allows the Board of Appeals the authority to hear and to decide applications or interpretations, upon appeal of the specific case, from § 180-16 of the Municipal Code, regarding automatic fire sprinkler systems, when owing to special circumstances a literal enforcement of the provision will result in an unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done. The appeal of the variance shall not be contrary to the public interest.
6. The petitioner has provided a written statement related to their request. I'm going to read that into the record right now just so we have all the information into the record and can be presented to you. This is part of Exhibit 1 in your packet.

“We have been a religious presence in the Pleasant Prairie community for a long time. The land our church is built on, located in the original Village of Pleasant Prairie, was purchased by the United Methodist Church (formerly known as the Methodist Episcopal Church) in 1836. Our current building was constructed in 1912. We are proud to be this presence in the Pleasant Prairie area and committed to continuing this presence into the future. At this time we are asking for a variance from the required sprinkler system for our approved building plan. Although our request may not be the usual request, we respectfully ask that you consider the following points that affect our ability to build under the current requirements.”

1. Of primary importance is the fact that our building is not currently fully accessible and our new addition will change this. It is currently impossible for someone who cannot transfer from a wheel chair to the available stair chairlift to attend worship and other church functions. Others are unable to use this stair lift because of weight restrictions. In addition anyone with difficulty walking is limited in their ability to fully participate in the life of our church.”

“For example, one of our members has been struggling with severe knee problems and has recently had knee replacement surgery. She has not been able to attend worship and other church activities for the past 8 months. Before her surgery she was not able to gain access to our only bathroom in the basement. This continues to be an obstruction to her participation since her surgery as she is in the recovery process. Our current non accessible basement bathrooms are not reachable for folks with a variety of disabilities. Those who cannot climb the stairs or use the chair lift are also not able to reach the sanctuary for worship.”

2. It is important to note that the portion of the building that will require us to install a sprinkler system does not include either the sanctuary or the church hall – the two areas where most gatherings are held. The area required to have sprinklers includes the bathrooms, offices and one classroom. The additional cost to reinforce the structure for the current requirements would be more than our small congregation can financially support. In addition, the structure in the sanctuary and church hall would also need to be reinforced in order to support a sprinkler system is required.”

3. Because we are a small congregation of about 50 members and 30 friends of the church, we are limited in our financial resources. We currently have raised enough money to successfully complete this new addition. The cost of the sprinkler system itself would add \$40,000.00 and to increase the water main line to the building would be an additional \$20,000.00. When you then add the cost of the above mentioned structural reinforcements, this project becomes financially beyond our abilities. The additional cost increases the cost of the project by more than 30%.”

“We do not have the funds for a complete fire alarm system that will include the entire church building and we plan to increase the number of fire extinguishers available throughout the entire building. We will also provide the required Knox Box. The structure does not need to be modified to support the fire alarm system; therefore, the financial burden by the church is decreased and feasible.”

4. We are aware that other churches in the area have complied with the requirements for a sprinkler system as they have built new churches or additions. As we look around our community, we see that our

congregation differs in capacity and ability. We are a very small congregation with limited resources seeking to build a small addition. Churches such as St. Ann's with 800 families and greater financial support have very different circumstances."

"As a congregation, we care deeply about our community and are very committed to reaching out to Pleasant Prairie with a relevant and viable ministry. Our new addition will greatly enhance this ministry. However, the high cost of a sprinkler system, water main upgrade and structural reinforcements will make this project beyond our current financial potential."

5. Of course, the safety of our congregation, visitors and community is our top priority and our ultimate goal is to assure that safety to the best of our ability. This is why our new addition will provide a third exit route that will be available from both floors of the church building in addition to the two we already have. The new exit route also provides an area of refuge. This will offer more options should we have a fire."

Again, that was part of their application that I read from as part of Exhibit 1.

7. Fire Chief Paul Guilbert, Jr. has the attached memorandum dated July 6, 2010 related to the petitioner request and that he would like to read into the record.

Christine Genthner:

Chief Guilbert, do you swear to tell the truth, the whole truth and nothing but the truth.

Chief Guilbert:

I do.

Christine Genthner:

Please proceed.

Chief Guilbert:

On May 20, 2010, I received a letter via e-mail from the United Methodist Church Building Committee to inform me they had received approval from the Village Plan Commission of their request for a conditional use permit including a site and operational plan. This approval will allow them to construct an addition to their existing church.

Also within the letter, the Church Building Committee indicated they were requesting a variance from the requirements to install automatic fire sprinklers.

BACKGROUND

During the last quarter of 2008, I had occasion to communicate with Mr. Arlo Gough, a representative of the United Methodist Church, via e-mail and telephone communication. In addition, on approximately December 1, 2008, I met Pastor Rinehart and Mr. Gough at the church to discuss this project and to tour the church as well.

On March 15, 2010, the Fire & Rescue Department prepared a report which is attached as Exhibit 2 regarding the request of the United Methodist Church to construct an addition to their existing church. The United Methodist Church proposed a project that will add 2,092 square feet to the existing 4,830 square foot church. In addition the existing church will be renovated.

The size of the proposed addition represents an increase of 43 percent in size when compared to the existing church. Village Ordinance 180.16 P (2), automatic fire sprinkler, fire suppression and fire alarm systems and fire hydrants, specifically addresses this project, in which there is an addition and remodeling.

Additions, remodeled buildings, and change of use. All existing public buildings or places of employment and all additions shall conform to this section, as follows:

- (1) More than 50% remodeled or added: if more than 50% of the gross area of a building is remodeled and/or added, the entire building shall be provided with the requirements in this section, provided that the Village determines the existing water supply is adequate.
- (2) Twenty-five percent to 50% remodeled or added: if 25% to 50% of the gross area of a building is remodeled and/or added, that part of the building which is remodeled and/or added shall be provided with the requirements of this section, provided that the Village determines the existing water supply is adequate.
- (3) Less than 25% remodeled or added: if less than 25% of the gross area of a building is remodeled and/or added, the requirements in this section need not be provided unless the remodeling includes dwelling units.
- (4) If the percentage remodeled or added is done from this date forward, all percentages are added together to get the total percentages remodeled.
- (5) Change of use. If the use of an existing building is changed to a new use and the building undergoes physical remodeling, the building shall comply with the percentages established in Subsection P(1) to (3) and sprinklers shall be updated.

Automatic fire sprinklers are a highly effective means to provide for fire protection in buildings. Fire sprinklers save lives and properties, producing large reductions in the number of fire deaths and injuries per year. Fire sprinklers reduce the amount of property damaged by fire.

The National Fire Protection Association (NFPA) reports that when fire sprinklers are present in the fire area, they operate in 93% of all reported structure fires large enough to activate sprinklers, excluding buildings under construction. When they operate, they are effective 97% of the time, resulting in a combined performance of operating effectively in 91% of reported fires where

sprinklers were present in the fire area and fire was large enough to activate sprinklers.

Simply stated, fire sprinkler systems that are properly designed and maintained are a consistent, effective and an immediate means of fire protection that saves lives, property and minimizes overall damage to property.

The Pleasant Prairie Village Board adopted Village Ordinance 180.16, automatic fire sprinklers, fire suppression, and fire alarm systems and fire hydrants in September, 1994.

In anticipation of the fact that through the life of the fire sprinkler ordinance, buildings within Pleasant Prairie would experience remodeling or additions, we drafted language into the original version of the ordinance, 180.16, specifically 180.16 P. Our intent was that as buildings not protected by automatic fire sprinkler systems were to undergo a remodel, addition or both we would review and apply 180.16 P accordingly. Such is the case with the United Methodist Church.

The Village of Pleasant Prairie has demonstrated a strong belief in automatic fire sprinkler protection by installing such protection within the Roger Prange Municipal Building, the Pleasant Prairie RecPlex, the Sheridan Road Booster Station; and by retrofitting existing village owned buildings that include this one, the Village Hall and Fire Station 1 and Fire Station 2.

We have had at least three additional projects where buildings were retrofitted with automatic fire sprinklers in compliance with our ordinance since 1994:

Town & Country Shopping Center, East Building
7513 43rd Avenue
Pleasant Prairie, WI 53158

Victory Baptist Church
3401 Springbrook Rd
Pleasant Prairie, WI 53158

Good Shepherd Lutheran Church
4311 104th St
Pleasant Prairie, WI 53158

The Pleasant Prairie Plan Commission approved the plans submitted by the United Methodist Church allowing for the increase in the size of the building by 43%. The 46% as in your document is a typo. In applying our existing ordinance, the addition and any area remodeled must have automatic fire sprinklers installed. Had the increase in size been, again a typo, to 7% larger, the entire building would then have to be retrofitted with fire sprinklers.

In providing automatic fire sprinklers within the addition and remodeled portion of the United Methodist Church, the public will then be provided with the benefit of increased life safety and the real property will be protected from damage by fire, and in compliance with Village Ordinance 180.16 will be achieved.

If I just may further add, when I researched other fire sprinkler ordinance prior to drafting the

original ordinance in 1994, I soon realized that many communities in Southeast Wisconsin, both cities and villages, had fire sprinkler ordinances that were quite similar, almost exact. I was able to trace these similar ordinances to the City of Greenfield that enacted the first fire sprinkler ordinance in Wisconsin in 1974. I would like the Board of Appeals to know that the language found in our ordinance was not language that I wrote but that I took from the similar ordinance, hence the section of our ordinance describing additions, remodeled buildings and the change of use came from those similar fire sprinkler ordinances.

We as a Village have found that by the application of our ordinance fire sprinklers will protect people and property. If this request for variance is granted whereby the United Methodist Church would not be required to install fire sprinklers as they proceed with their addition, we as the Village will be assuming those liabilities for damage for property, injuries or the loss of life that could be caused because fire sprinklers were not required. It may be such that the congregation of the United Methodist Church would not pursue legal action after a fire, but that does not preclude their insurance company where the victim or the estate of the victim to pursue such. And that is because the Village did not follow its own ordinance currently in effect.

I bring to your attention that that was the case in the City of Madison after what was known as the cheese fire, the Central Storage Warehouse, a cold storage freezer warehouse which also has a facility in Pleasant Prairie was storing government surplus cheese. A fire occurred in 1991 and the building was rapidly engulfed in fire although protected by fire sprinklers. The insurance company for Central Storage Warehouse brought suit against the City of Madison for not enforcing their own fire sprinkler ordinance. Central Storage Warehouse expanded their building and allowed for a different type of storage, but they were not required to design a sprinkler system to be modified to protect the changes that had occurred. The Central Storage Warehouse did prevail and the City of Madison was held liable for those damages.

Members of the Board of Appeals, that is the position of the Fire & Rescue Department.

Christine Genthner:

Thank you. Anything else?

Peggy Herrick:

Yes, let me just go to number 8 in the findings of facts.

8. All of the abutting and adjacent property owners within 300 feet of the church property were notified of this request and the public hearing on June 9, 2010 via regular U.S. mail and that's provided to you in Exhibit 4. The Board of Appeals agenda was published in the *Kenosha News* on June 15, 2010. As you may recall, this was originally scheduled for the June 29, 2010 meeting, although we did not have a quorum so the June 29th agenda could not be heard. This item was then tabled as unfinished business until tonight's meeting of July 6, 2010 at 6 p.m.

With that there is a public hearing being held tonight. The petitioner is in the audience as well as other members.

Christine Genthner:

Is there anybody else who would like to come forward and address the Board at this time? Please step forward to the microphone. I'll swear you in first, but I need you to state your name and provide your address after I swear you in. Do you swear to tell the truth, the whole truth and nothing but the truth?

Arlo Gough:

Yes, I do.

Christine Genthner:

Please state your name for the record and your address.

Arlo Gough:

My name is Arlo Gough, and my address is 8510 82nd Street, Pleasant Prairie, Wisconsin.

Christine Genthner:

Please proceed.

Arlo Gough:

First, I'd like to set a couple of things straight with regards to what's added and what's added and remodeled. The 43 percent is the portion that's added and remodeled, not just the portion that's being added. It's actually 30 percent that's being added to the building just for the numbers sake. Now, to move forward, a lot of what I'm going to say is going to be a repeat of what's been heard, however I'd still like to continue. But before I start I have an outline here of what I'm about to say.

Christine Genthner:

Can you provide a copy to Ms. Herrick for the record.

Peggy Herrick:

Also to the secretary as well.

Christine Genthner:

You may proceed.

Arlo Gough:

Thank you. Chief, Appeals Committee members and Village of Pleasant Prairie citizens. Thank you for being here and giving us the opportunity to present our case for requesting a variance. As

stated earlier in Exhibit 1, we have been a religious presences in the Pleasant Prairie community for a long time. The land our church is built on located in the original Village of Pleasant of Prairie was purchased by the United Methodist Church formerly known as the Methodist Episcopal Church in 1836. Our current building was constructed in 1912. We are proud to be this presence in the Pleasant Prairie area and committed to continuing this presence into the future.

At this time we are asking for a variance from the required sprinkler system. We respectfully ask that you consider the following points and believe that following our presentation you will see that a variance should be granted.

The first point, accessibility. The focus of the addition in remodeling was to create an enclosed office for the Pastor, provide a quiet room for those with infant children, but most importantly provide ADA accessible restrooms at the upper and lower levels and to provide ADA accessibility to the building in general for the upper and lower levels. A person permanently in a wheelchair cannot currently gain access to the church either upper or lower levels. If they cannot transfer to the stir lift they cannot attend worship.

How many of you are familiar with the pancake breakfast and the porkchop dinner at the Pleasant Prairie church? Any of you familiar with that? I definitely welcome you to come out when those occur in May and October. But those who want to participate and they're in a wheelchair they cannot participate.

My personal friend and a friend of the church, Vern, he's in a wheelchair because of some illnesses and he cannot transfer to the stir lift. I know that he would love to be able to participate in some of the events that go on at the Pleasant Prairie United Methodist Church but he can't because he can't transfer to the stair lift, cannot gain access and be sociable with everybody else.

The stair lift also has a weight restriction of 300 pounds which do not allow some of the patrons to currently gain access to the upper or lower levels of the church. The addition will have a lift that will more than exceed the capacity required by our patrons. As a couple of examples or cases, Pastor Joyce, would you be so kind as to come up and describe case number 1?

Christine Genthner:

Sir, at this point let's just have one of you at the microphone at a time. The Pastor can come forward when you're done, okay? But for purposes of proceeding we'll have the Pastor come on and she can make a presentation after yours.

Arlo Gough:

Okay, I apologize.

Christine Genthner:

That's okay. We just want to keep this so we have a full record.

Arlo Gough:

No problems. Case number one would be Adra Rinehart and Arda Robinson of whom were touched on previously, and then case number two Jeremy Pember and Pastor Joyce later will describe the issues with their accessibility to the church.

Moving on to number two, other churches in the community, we are aware that other churches in the community have complied with requirements as set forth by the local code. We believe that our congregation differs in capacity and ability. We are a very small church with about 50 members and 30 friends of the church. With this small capacity we are limited in our resources especially financially. We understand that St. Ann's has about 800 families associated with it and, therefore likely to have greater financial support. And also with St. Ann's being a new church they were able to incorporate a fire sprinkler system within the design without having to create structural modifications after the fact. Even though we are requesting a variance from the required sprinkler system, we'd like to bring to your attention that the Pleasant Prairie United Methodist Church has complied with all requirements that have been set forth by each of the fire inspections performed to date.

Number three, sprinkler system required in the addition and remodeling areas. The required sprinkler system is not required to be installed in the sanctuary and church hall as indicated previously where the most gatherings are held and where the most people congregate at one time. The sprinkler system is required in the bathrooms, offices, classes and narthex where the fewest amount of people congregate and areas not used as often as the sanctuary and church hall.

Item number four, the additional cost. We have currently raised enough money to successfully complete the addition and remodeling without the sprinkler system requirements. It has taken three years to raise these funds. The sprinkler system itself will add an additional \$40,000. The water main from the road is not large enough to sustain the required amount of pressure and water to adequately service a sprinkler system. The additional cost for upgrading the water main is approximately \$20,000. In addition, the existing church does not have the capacity to support the loads of a sprinkler system. This includes the remodeling area, sanctuary if it's required and church hall if required. Reinforcing the structure will also include disconnecting, reconnecting, raising and/or lowering of mechanical, plumbing and electric conduits, pipes, etc. already running through the ceiling space. Without a destructive inspection the additional fee for this is unknown.

As mentioned earlier, the Pleasant Prairie United Methodist Church has limited financial resources due to our small size of about 50 members and 30 friends. The additional cost of the sprinkler system increases the cost of the entire project by more than 30 percent which would be beyond the capacity of the limited resources we have.

Number five, safety. Of course, the safety of our congregation, visitors and community is top priority, and our ultimate goal is to make sure of that safety to the best of our ability. This is why our addition will add a third exit route from the lower and upper level of the church. All exits will be clearly marked and well lit in case of a fire during occupancy. We would also like to mention that the church is within close proximity to the fire station. Additionally, the third exit will have an additional area of refuge.

Furthermore, we are providing and offering alternatives to the required sprinkler system, and I'll

go into those alternatives. First, instead of the sprinkler system in a limited area of the building, we would like to install a fire alarm system not just in the addition or the remodeling area but throughout the entire building including the sanctuary and church hall. We are already planning to increase the number of fire extinguishers to accommodate the additional square footage of the building and additional enclosed spaces. As required, we are also planning to add a Knox Box. In occupancy areas where extra fire safety may be of concern, we are prepared to provide upgrades to our assemblies, the assemblies being ceilings, floors, walls, to be rated assemblies based on approved UL or Underwriters Laboratory ratings. The UL designations if approved as an alternative will be provided on the plans.

Now I'd like to go ahead and do my closing statement. Once again, I'd like to thank you all for being here and opening up your minds to the opportunities that lie ahead for Pleasant Prairie United Methodist Church and its community. We have presented to you our reasons for requesting a variance which include the necessity for accessibility for those like Vern, Adra, Arda and Jeremy. We understand that the safety of those who occupy the building is of the utmost importance and that is why we are offering to provide alternative measures for fire safety and provide additional measures above and beyond that required including the fire alarm system in the entire building, increased number of fire extinguishers, Knox Box and fire rated assemblies.

With the information provided to you today, we believe that you will see beyond a doubt that a variance should be granted. Thank you. And now if Pastor Rinehart could come up.

Christine Genthner:

Let me ask if there's any questions? No questions? Okay, Pastor Rinehart if you'd like to come forward, thank you. Pastor, do you swear to tell the truth, the whole truth and nothing but the truth?

Pastor Rinehart:

I do.

Christine Genthner:

Please state your name for the record and provide an address.

Pastor Rinehart:

Pastor Joyce Rinehart, 8405 104th Avenue, Pleasant Prairie, Wisconsin.

Christine Genthner:

You may proceed.

Pastor Rinehart:

I thank you for this opportunity also to at least come and to plead our case with you and to talk to you about what we have planned. I wanted to talk to you about two specific family situations.

Our lay leader, which is an important position in our congregation, has not been able to come to church for many, many months now partly because of the knee surgery that we talked about. But also during that time she had some bladder issues which meant that she needed to get to the bathroom quickly, and the bathroom is in the basement where she couldn't get to because of her knee issues. Our new addition would have a bathroom right outside the sanctuary that would help with that issue.

This Saturday I have a wedding for Jeremy Pember's sister, and Jeremy is going to have to be carried into the church to be an usher for his sister's wedding. Jeremy's family was a member of the church many years ago. Jeremy was born with cerebral palsy, and when he got old enough that it was hard to carry him and his wheelchair up the stairs they had to leave the life of the congregation. Now they're coming back for a wedding and to get him into the church he'll have to be carried into the church.

So this is something that's really deep for us. And as we know, all community organizations and all public places are very concerned about accessibility. We've done the best in the past we could with a chair lift but it's just not enough to continue to grow as a congregation, to continue to offer opportunities to people in our community. We want to continue to grow. We want to continue to be a vital presence in the community. We want to be able to say to folks you can come, our doors are open, you're welcome, you can get in. So we're in a catch 22 because on the other hand we have limited financial resources at this point and it's very difficult.

I just wanted to make a statement about the liability issue. Before I came I sort of thought that that might be part of the issue because I can see that from your perspective. I also know that people can sue for anything and that they could sue even if we put the sprinkler system in because the sanctuary and the hall weren't provided with sprinkler systems. That's where people will be if there's a fire most likely.

So I think it limits the safety of our building to require it in the way that it's required, and that's a concern for me, too. I wish we could sprinkle the whole building. We would if we could because we understand the vital importance of sprinkler systems. We understand how they save lives and how important they are. But I do think that the liability issue is one in question in terms of—I mean people could sue anyway even if we do it.

And this past week we saw an article in the *Kenosha News*, you were talking about Greenfield and some of the communities that have compliance systems similar to yours and ordinance similar to yours. And this past week in the *Kenosha News* there was an article about Bristol and a man who their requirement for dry hydrants if people are 500 feet or more beyond the roadway, and they granted a variance because a person could not afford that. So I think there's precedence both ways. There are communities that surround us that have provided variances for people who need them. So I ask you to consider who we are, what we need. I thank you for your time.

Christine Genthner:

Thank you. Any questions for the Pastor? Seeing none, thank you. Is there anyone else who would like to come forward? Hi. Before we get started, do you swear to tell the truth, the whole truth and nothing but the truth?

Gregory J. Tastad:

I do.

Christine Genthner:

Please state your name for the record and provide your address.

Gregory J. Tastad:

Gregory J. Tastad, 10609 69th Street, Kenosha.

Christine Genthner:

You may proceed.

Gregory J. Tastad:

Thank you. From what I hear I understand the Fire Chief is saying as far as the sprinkler system, yes, it is very good. One of the things not mentioned with that is the amount of water damage that happens when you use a sprinkler system and that has to be addressed by insurance companies as well. As we said, we want to put in a fire alarm system which I think the Chief will agree it's pretty good and has a very high safety rating for saving lives as well.

One of the things I'd like to suggest to the Board is to take a look at your ordinance and perhaps review it and perhaps change the language to say and/or a fire alarm. That would then give you guys freedom to not be sued because you've now honored what your ordinance says. Instead of having a sprinkler system and a fire alarm, you can go and/or and then somehow include the word variance or through a variance request. That gives you the ability to review and to decide whether or not it's something that's a hardship for us or not or for whoever is asking for a variance. Again, as I said, it does protect you because you've now fulfilled your ordinance through a variance request looking at it and saying, yes, we believe what you're doing is a good thing for the community, for your building. You're creating better access. You're meeting the needs more for everybody, and you're still doing something that is going to help protect people in case of a fire. So that would be what I'd like to request is that you look at your ordinance and perhaps consider maybe reviewing and changing your wording in there. That would protect you as well as allow us to have the variance.

Christine Genthner:

Thank you. Any questions? No questions. Thank you. Is there anybody else who would like to come forward at this time? I don't see anybody else who would like to come forward at this time. Does staff have a recommendation?

Peggy Herrick:

Yes. I just want to add something for clarification, and maybe the Chief can confirm this. The fire sprinkler ordinance, there's a number of 43 percent versus 30 percent. My understanding

with the fire code, and Chief you can correct me if I'm wrong, the code includes not only additions but areas being remodeled. And your 43 percent included both those. So 30 percent may have been the addition, the ordinance also applies to areas being remodeled and that's where we get to the 43 percent.

Christine Genthner:

Thank you for that clarification. Mr. Morris?

Bill Morris:

I just have one question then. Then basically the facts as presented tonight, the gross square footage of this building when they're done is the correct number?

—:

I don't think you have the gross footage of the building, do you?

Bill Morris:

Yes, 4,300 and something, here they tell you they're adding 2,092 square feet to an existing 4,830 so you're going to have a building here that's almost 6,800 square feet.

Peggy Herrick:

No, that's not correct. That 2,000 and some odd square feet includes the addition plus the area being remodeled. So the building addition that was approved was 720 square feet on the first floor and 720 square feet on the second floor. And the remodeling on the first floor includes an addition 310, and the remodeling in the basement includes an addition 342. So if you add all four of those numbers that comes up to the 2,000. So the building will increase only by 1,440 when it's totally—when the addition is done but the remodeling—

Bill Morris:

So 1,440 onto the existing 4,830?

Peggy Herrick:

Correct, that will be the size of the building. But the fire sprinkler ordinance kicks in and includes additions and remodeled areas.

Bill Morris:

Yes, but again we're going to be talking—basically what we're referencing here is a building well over 6,000 square feet. Alright.

Christine Genthner:

Anybody who'd like to add anything to that? With that do we have a staff recommendation? You're still under oath.

Peggy Herrick:

Yes. Village staff recommends the petitioner's request be denied based on the information presented in the memo from the Village Fire Chief dated July 7, 2010 and the additional information that he presented at the hearing. That is our recommendation.

Christine Genthner:

That is your recommendation?

Peggy Herrick:

Yes.

Christine Genthner:

Okay. With that, any questions of staff before I close the public hearing?

Sheryl Berner:

The one question that I had, and it was briefly touched on, is the issue that Chief Guilbert brought up and the Pastor brought up is about the insurance. How does insurance look at this from here's the recommendation for being safe. Are they going to still want to ensure you knowing that you're going contrary to what recommendations are? How do they look at it? I mean ultimately we could be sued, as you said, for anything, but how do they look at it? What is their interpretation?

Christine Genthner:

Is there anybody who—Pastor Rinehart? Pastor Rinehart, you're still under oath but you may proceed.

Pastor Rinehart:

All the United Methodist Churches in Wisconsin are insured by Church Mutual. They have very strict guidelines and very strict requirements. We have not checked with them to see. We had an initial conversation with them knowing there may be an addition and they will just automatically insure us. But they didn't ask any questions about details around ordinances or anything. So I guess we don't really have a clear understanding of that. I'm sorry that we don't.

Christine Genthner:

Any other questions before I close the public hearing?

Mark Riley:

I have a comment. I don't know if it's a question as much as a comment for Chief Guilbert. When you say the Village determines the existing water supply is adequate I'm assuming you're talking about the Village mains and not the water supply to the building?

Chief Guilbert:

That's correct, sir. There are some areas of the Village that are protected by another water utility. Those mains are older, and the Village feels they may not supply the amount of water needed either for a sprinkler system or even a fire hydrant to fight a fire outside of a sprinkler system.

Christine Genthner:

Any other questions of staff before I close the public hearing? Seeing none, at this time I would close the public hearing. Do I have a motion?

Bill Morris:

I'm going to move to concur with the staff recommendation and that of the Fire Chief to deny this request, and I believe primarily because of two or three issues. One, I believe the findings of facts as presented this evening which referenced numerous times financial hardship, and I think we have over a number of years looked at through many of our seminars and things that have been put on by the Village, and one of the things that the staff truly emphasizes is that financial hardship is not necessarily a justification for a variance to an ordinance.

Peggy Herrick:

Excuse me. May I interject one thing. That is for a variance for the zoning, a zoning ordinance requirement. So those statutory requirements do not have to be met for a variance from the fire code. I just want to make sure everybody is clear on that.

Bill Morris:

Okay, the second one I think which was more to me that really struck home was the Pastor's comments on the fact that they certainly recognize the benefits and importance of sprinklers. I think I have to concur that when you are having a facility of this type whether or not you're going to be able to or voluntarily or be mandated to sprinkler the worship area or not, I think that any time and in reading much of your data here where you're trying to accommodate young children, infants as you reference here, that makes the health and safety truly has got to be the focus of our community and I'm sure yourselves as well. So with that I would move to concur with the staff and that is to deny the request.

Christine Genthner:

At this time there is a motion on the floor to concur with staff recommendations to deny the request. Do I have a second?

Mark Riley:

I will second that.

Christine Genthner:

Mr. Riley has seconded it. At this time discussion on the motion before we take a vote? Seeing no additional discussion on the motion, the motion on the floor then stands to concur with staff to deny the petitioner's request. A roll call vote at this time?

Peggy Herrick:

Yes.

Christine Genthner:

I concur with the motion to deny the request.

Bill Morris:

I concur with the motion to deny.

Mark Riley:

Concur with the motion to deny.

Sheryl Berner:

Concur with the motion to deny.

Christine Genthner:

At this time it appears that the motion to deny is supported by all the Board members. Ms. Herrick, any additional action we need to take?

Peggy Herrick:

No, not at this time.

7. ADJOURNMENT.

Bill Morris:

So moved.

Mark Riley:

Second.

Christine Genthner:

I have a motion to adjourn and a second. All in favor say aye.

Voices:

Aye.

Christine Genthner:

With that the meeting is adjourned.