

**MINUTES OF THE REGULAR BOARD OF
BUILDING AND ZONING APPEALS MEETING
Thursday May 26, 2016**

Call to Order

Chairperson Chris Tarr called the meeting to order at 6:30 p.m. located in the Board Room of the Mukwonago Municipal Building, 440 River Crest Ct.

Roll Call

Members Present: Sarah Szejn
Dave Mades
Jack Dexter
Chris Tarr

Members Excused: Don Fischer

Also present: John Beauchamp, 1st Alternate Member
Joe Hankovich, Supervisor of Inspections/Zoning Administrator
Robert Harley, Building Codes Official
Bruce Kaniewski, Village Planner
Steven Braatz, Jr., Clerk/Treasurer

1st Alternate John Beauchamp filled the vacant seat on the Board due to the excused absence of Board member Fischer.

Minutes

Clerk Braatz noted there were minor modifications to the minutes, including the addition of the meeting location and shifting some wording around. The content was not changed. Motion by Szejn/Mades to approve the April 20, 2016 regular meeting minutes as amended carried.

Public Hearing

A public hearing to consider a request by Charlie Miller, Citizens Bank, for a variance of 2.6 feet to allow an interior side yard setback of 7.4 feet for a lot line adjustment, as opposed to the required minimum interior side yard setback of 10 feet, pursuant to Section 100-152(d)(2) of the Municipal Code of the Village of Mukwonago for the property located at 505 and 507 Main Street, known as MUKV1976164 and MUKV1976165; and a variance of 34 feet to allow a lot width of 66 feet at the street yard building setback line for a lot line adjustment, as opposed to the required minimum lot width of 100 feet in the B-2 zoning district, pursuant to Section 100-152(d)(1) of the Municipal Code of the Village of Mukwonago for the property located at 505 and 507 Main Street, known as MUKV1976164 and MUKV1976165 opened at 6:32 p.m.

No comments from the public.

Public hearing closed at 6.33 p.m.

Charlie Miller, Citizens Bank, presented the plans to adjust a portion of the lot line between MUKV1976164 and MUKV1976165. The bank took over ownership of both of these properties, which were formerly owned by one common owner. Currently the property line between the two properties goes through the north end of the existing commercial building, which is mainly

located on MUKV1976165. The bank would like to adjust a portion of this lot line north by 15 feet so the commercial building will be entirely within MUKV1976165. They would like to sell both properties independently. The electrical service unit and the dumpster enclosure are located on the residential property but service the commercial building, but there were never any formal easements put into place to allow for the commercial property to utilize these. There is also a garage located on the residential property, but there was no formal easement put into place to allow for access to Blood St. Mr. Miller is asking for variances to allow for this adjustment to occur. He considered the notion of making the properties condominiums, but two separate realtors stated that it would be virtually impossible to sell. If the variances were not granted, the residential property would have to be removed, which would reduce the tax base.

Hankovich stated both lots are zoned B-2 (General Business District). He noted that the commercial building was built over the lot line sometime after WWII, prior to zoning regulations. He stated that MUKV1976164 has a lot width of around 66', making the lot an existing non-conforming lot pursuant to Sec. 100-152 (d)(1), which requires a minimum lot width of 100'. Sec. 100-22 of the Municipal Code restricts a lot from being reduced so as to not meet the provisions of Chapter 100 (Zoning Code). This lot line adjustment would make a sub-standard lot more sub-standard.

Motion made by Szejn/Dexter to grant a variance of 2.6 feet to allow an interior side yard setback of 7.4 feet for a lot line adjustment, as opposed to the required minimum interior side yard setback of 10 feet, pursuant to Section 100-152(d)(2) of the Municipal Code of the Village of Mukwonago for the property located at 507 Main Street, known as MUKV1976165.

The reasons for granting the variance are:

1. Special circumstances apply to property. The existing structures were built sometime between 1941 and 1950, prior to the implementation of zoning ordinances in 1960. The previous owner created the hardship by constructing a building across lot lines of properties that were both owned by the same owner, prior to the implementation of the zoning code.
2. The variance will not alter the character of the neighborhood.
3. The current uses of this parcel and MUKV1976164 will not change.
4. There were no objections.
5. The variance is the minimum that will afford relief.
6. Under 2005 Wisconsin Act 112, the existing property could be rebuilt in the same footprint.

The conditions of the variance are:

1. The dumpster needs to be removable.
2. The lot lines cannot move from the illustrations presented at the meeting on May 26, 2016.
3. A deed restriction shall be prepared, subject to the Village Attorney's review, and recorded to communicate that if the commercial building were to be destroyed or removed, it cannot be built in the same location. Rather, the setbacks for the new building will be calculated based on the original lot line.
4. A right of first refusal shall be placed on this property to allow the owner of MUKV1976964 to purchase back, at fair market value, the 15' x 120' piece of property being added that property as a result of the lot line adjustment.

5. The applicant shall pay all tax listing recording fees, is responsible for recording the documents, and shall provide a copy of the recorded documents to the Village Clerk.

Motion carried unanimously upon a roll call vote.

Motion made by Szejn/Dexter to grant a variance of 34 feet to allow a lot width of 66 feet at the street yard building setback line for a lot line adjustment, as opposed to the required minimum lot width of 100 feet in the B-2 zoning district, pursuant to Section 100-152(d)(1) of the Municipal Code of the Village of Mukwonago for the property located at 505 Main Street, known as MUKV1976164.

The reasons for granting the variance are:

1. Special circumstances apply to property. The existing structures were built sometime between 1941 and 1950, prior to the implementation of zoning ordinances in 1960. The previous owner created the hardship by constructing a building across lot lines of properties that were both owned by the same owner, prior to the implementation of the zoning code.
2. The variance will not alter the character of the neighborhood.
3. The current uses of this parcel and MUKV1976164 will not change.
4. There were no objections.
5. The variance is the minimum that will afford relief.
6. Under 2005 Wisconsin Act 112, the existing property could be rebuilt in the same footprint.

The conditions of the variance are:

1. The dumpster needs to be removable.
2. The lot lines cannot move from the illustrations presented at the meeting on May 26, 2016.
3. A deed restriction shall be prepared, subject to the Village Attorney's review, and recorded to communicate that if the commercial building were to be destroyed or removed, it cannot be built in the same location. Rather, the setbacks for the new building will be calculated based on the original lot line.
4. A right of first refusal shall be placed on this property to allow the owner of MUKV1976964 to purchase back, at fair market value, the 15' x 120' piece of property being added that property as a result of the lot line adjustment.
5. The applicant shall pay all tax listing recording fees, is responsible for recording the documents, and shall provide a copy of the recorded documents to the Village Clerk.

Motion carried unanimously upon a roll call vote.

Adjournment

Meeting adjourned at 7:45 p.m.

Respectfully submitted,

Steven Braatz, Jr.
Clerk/Treasurer