

**CITY OF EDGERTON
ZONING BOARD OF APPEALS MINUTES**

August 26, 2024

A regular meeting of the Zoning Board of Appeals (“ZBA”) was called to order at 6:35 p.m. at the Edgerton City Hall, 12 Albion Street, Edgerton, Rock County, Wisconsin on August 26, 2024.

Present and responding to the roll call in person were ZBA Members Chairperson James Kapellen, Christopher Leitz, Russell Jorstad, Jim Long and Veronica Ellingworth and ZBA alternates Dave Esau and Mark Wellnitz.

Also present in person was City Administrator Ramona Flanigan and City Attorney William Morgan.

Chairperson James Kapellen opened the meeting.

The first order of business was confirmation of appropriate meeting notice. City Administrator Ramona Flanigan confirmed that the meeting notice was posted in the appropriate places as required under the Wisconsin Statutes.

An opening statement was given by Chairperson Kapellen regarding the general purpose of the ZBA.

City Attorney Morgan provided a brief explanation of variances and the appropriate standard to be applied to the requests being considered at the meeting.

Staff provided a brief explanation of the request and the reason for the need for a variance for the property located at 310 Chaucer St. The ZBA was also provided with additional information and pictures of the property which was the subject of the application.

A motion to open the Public Hearing was made by ZBA Member Long, seconded by ZBA Member Jorstad, and passed by unanimous voice vote at 6:41.

The ZBA went into a public hearing on the variance application of Kaleb Wynn for a variance to Section 450-33 E.4(a)[1] to allow the construction of a 1,166 sf detached garage, 900 sf being the maximum allowed under the Code, or in the alternative, to allow the Applicant to construct a 266 sf gazebo, 150 sf being the maximum allowed under the Code adjacent to a garage yet to be constructed on his property located at 310 Chaucer St.

The Applicant presented as to the need for the variance. The preferred solution is for the construction of the detached garage with an open-air pavilion. The request is being made to provide additional storage and a gathering place. The Applicant stated that it will be constructed in the same materials as the house, but it will not be generally visible from the

street and only one neighbor. The Applicant believes a covered area with a TV and smoker would increase the value of the property. The Applicant further stated that they have already invested \$13,500 in the project due to a tree removal and pre-work which has been done. The Applicant did not understand that the amount of the square footage would be an issue when he commenced the project but now understands that the open-air covered porch area is considered to be part of the square footage. If the Applicant's primary request is denied, he would look to construct a stand-alone gazebo like structure. He does not think that such a solution would have as much curb appeal.

Larry Cutting, a neighbor (308 Chaucer St.), spoke in favor. He does not believe it will have any negative impact on the neighborhood.

No one else spoke regarding the application during the public hearing.

A motion to close the public hearing was made by ZBA Member Jorstad, seconded by ZBA Member Ellingworth at 6:47 p.m. Motion carried on a unanimous vote.

Administrator Flanigan presented the Staff Report and recommendations. The staff report recommended that the variance be denied granted due to the fact that there was nothing unique about the property and the property could continue to be used in its present state. The Administrator noted there is an attached garage already which would result in more storage than is normal. The requested structure, which would be an accessory structure, would be the same size as some of the nearby houses.

ZBA Member Ellingsworth asked what the enclosed structure size would be. The Applicant indicated the enclosed portion would be 900 sq. ft. and further noted that the add-on was for convenience. Applicant emphasized that the covered area would not be enclosed, with only room for seating and perhaps a firepit.

After further brief discussion, a **motion to deny** the variance for the construction of a detached garage with a covered pavilion as requested was made by ZBA Member Long, seconded by ZBA Member Ellingsworth (**Motion Approved** 5-1, ZBA Member Jorstad voting against).

Further discussion was then had as to the request to construct a gazebo. It was noted that there would be the same amount of concrete for the gazebo as was proposed for the open-air portion of the requested detached garage. ZBA Member Ellingsworth asked what hardship would be in having a smaller gazebo. The Applicant said it was simply to get more use out of it and due to wanting more area. ZBA Member Long made a **motion to approve** the request for a variance as to the gazebo. The motion was seconded by ZBA Member Jorstad. After further discussion, **Motion Failed** (5-1, ZBA Member Jorstad voting against)

ZBA Member Long made a **motion to reconsider the initial motion**, ZBA Member Jorstad seconded the motion. On a roll call the **motion for reconsideration failed**. Both applications were therefore denied.

The next order of business was the consideration of the variance request by the David and DeEtta Shanklin Revocable Trust, as to Parcel Number: 6-26-99, 1 Head St., Edgerton.

A brief description of the request was provided by staff.

The ZBA went into a public hearing at 7:20 p.m. upon the motion of ZBA Member Lietz, seconded by ZBA Member Ellingsworth, on the variance application of by the David and DeEtta Shanklin Revocable Trust for variances to Section 450-33 C(1)(a) and 450-33 C(3)(a) to allow the construction of a fence 6 feet tall (maximum height allowed is 4 feet); and to allow the construction of a fence that is 100% opaque (maximum opaqueness allowed is 50%).

The Applicants presented on the need for the variances. The Applicants noted that the request was is actually for their daughter's home. The home had been recently purchased and the Applicants are trying to improve the property. The Applicants noted that their daughter is mentally ill. They presented three letters, including letters from their daughter's treatment providers supporting the request. The Applicants stated that their daughter has PTSD, and that unless there is a fence, she will not have the same enjoyment of her property as would an individual without PTSD. To minimize the impact of the request, they are proposing a fence which will blend in with the trees. The Applicants argued that if the fence is placed as is required by the Code, that the fence would not provide significant area for her to work. They also noted that it is a corner lot with two front yards which affects the location of the fence.

Nicholas Lowe (3 Head St.) spoke in opposition to the request on basis of the beauty and aesthetics of the neighborhood would be negatively affected. Lowe stated that his kitchen is only 12' off of the back corner of where the fence would be located. Lowe stated that he would be okay if the fence was pushed in from his kitchen window.

Larry Witzel (316 Crescent St.) also spoke in opposition to the request. Witzel said that the fence would have a negative impact on the neighborhood. He feels bad about the Shanklin's situation but does not support the request.

No one else spoke regarding the application during the public hearing.

A motion to close the public hearing was made by ZBA Member Ellingsworth and second by ZBA Member Lietz. [ZBA Member Long indicated that he would be abstaining] The motion passed by a voice vote at 7:29 p.m.

Administrator Flanigan presented the Staff Report and recommendations. The staff report recommended that the variance be denied granted due to the fact that there was nothing unique about the property and the property could continue to be used in its present state. She noted that part of the fence can be 6' and opaque but not portion which is along the street. The Administrator also noted that this is a very large lot meaning that there is a lot of space that can accommodate outside activities. It was acknowledged that there are no visibility issues associated with the request. The reason to deny is based on hardship.

ZBA Member Ellingsworth asked why the extra 25' of fencing is necessary. The Applicants stated that the additional length would allow the fence to enclose a treehouse that their daughter would liked to use.

After further discussion, a **motion to approve**, but only to only to the extent necessary to encircle the treehouse, was made by ZBA Member Ellingsworth and seconded by ZBA Alternate Wellnitz, for the purpose of discussion. After further discussion, ZBA Member Ellingsworth made a **motion to amend the motion** to limit the fence to 15'. The motion to amend **died for lack of a second**.

After further discussion, the **original motion was denied** (4-1 – ZBA Member Jorstad voting against; ZBA Member Long abstaining)

After further brief discussion, a **motion to approve a limited variance** with the following conditions: fence to be at least 15' from the ROW(10'variance from Code), up to 6' in height, and may be 100% opaque, was made by ZBA Member Leitz and seconded by ZBA Alternate Wellnitz. The motion was **approved** by roll call vote (ZBA Member Long abstaining)

The next order of business was the approval of the minutes of the June 27, 2024, Zoning Board meeting. A motion to approve the minutes as presented was made by ZBA Member Jorstad, seconded by ZBA Member Long. Motion was approved on unanimous voice vote.

There being no further business of the Board, a motion was made by ZBA Member Long, seconded by ZBA Member Ellingsworth to adjourn. The motion was approved unanimously. The meeting was adjourned at 7:50.

Dated this 18th day of September 2024.

Respectfully submitted,

CITY OF EDGERTON

/ss/ William E. Morgan

By: William E. Morgan, City Attorney