

Dane County Board of Appeals
Appeal 3707 – Thomas and Kimberly Walz
3071 Sunnyside Street

Applicants' Proposed Findings of Fact, Conclusions and Motion

Findings of Fact:

1. Applicants need relief because of the unique condition that their house was built in violation of the aggregate side yard requirement.
2. Applicants did not create the unique condition, and did not know about the unique condition when they purchased the property.
3. Because of the unique condition, it will be burdensome for Applicants to comply with the 15-foot aggregate side yard requirement.
4. The burden is not necessary because the requested variance will not harm the public interest, the neighborhood or the adjacent properties.
5. The requested variance is minimal (approximately six inches in width, approximately 11 square feet in area).
6. The variance will not extend further into the side yard than the existing structure.
7. The variance will meet the minimum side setback for the lot.
8. The variance will be consistent with the prevailing side yards in the neighborhood.
9. Applicants do not have a reasonable alternative to the variance.
10. The Town and Applicants' neighbors have no objection to the variance.

Conclusions:

1. Unique Condition: Applicants need relief from the aggregate side yard requirement because of the unique condition that the existing house was built in violation of the aggregate side yard requirements.
2. Public Interest: The Walzes have met their burden of showing that the proposed variance will not harm the public interest in any of the purposes of the Zoning Ordinance.
3. Unnecessary Burden: Building new exterior walls that are inset by 6-10 inches, or with 6-10 inch “jogs” would be a burden on the Applicants. That burden is unnecessary because granting a variance will not harm the public interest.
4. Hardship not Created by Present Owners. The unique condition (the setback violation) was created by a former owner of the property, and not by the Applicants.
5. Substantial Detriment to Adjacent Property. The variance will not have a negative effect on the value of adjacent properties.
6. Compatible with the Neighborhood. The variance is compatible with the neighborhood, which generally has side setbacks of five feet.

Motion: To grant Applicants a variance under Section 10.251(5)(b)3.a. of the Dane County Ordinances reducing the minimum aggregate side yard under that section from 15 feet to 14.4 feet, with the condition that the new concrete foundations be built on a straight line with the existing concrete foundation.