

## Zoning Board of Appeals Minutes

July 6, 2021

- 1) Site Inspections: Viewed the following properties at 5:00pm:
  - a. Variance – Riley – W6495 Firelane 8.
- 2) Return to Village Hall: Returned to Village Hall from site inspections at 5:20pm.
- 3) Call to Order: Meeting was called to order at 5:25pm.
- 4) Roll Call: Present: Craig Majewski, John Jung, Tom Capper, Scott Chicoine, Dan Garber.  
Staff present: Mark Mommaerts, AICP (Planner).
- 5) Pledge of Allegiance: Pledge was recited.
- 6) Approve Minutes: Motion (Capper/Garber) to approve the June 1, 2021 minutes. Motion carried unanimously.
- 7) Public participation: There was no public comment.
- 8) Convene Meeting and Enter Public Hearing: The Public Hearing was opened at 5:30pm. The following petitions were heard:
  - a. Variance – Riley – W6495 Firelane 8. Testimony was taken from Jim Sehloff, Davel Engineering, agent for the Petitioner, who spoke in favor of the variance request stating the petitioner is seeking a reduced setback from the Firelane 8 boat landing. It was stated that an access restriction agreement is proposed for this side. ZBA Jung asked about the drawing. Mr. Sehloff explained that a pool and pergola are proposed within the current setback distances. ZBA Garber asked if the property was surveyed. Mr. Sehloff stated that Martenson & Eisele completed a topographic survey and found monuments and that the wall is on the property approximately 1-foot. No testimony was given in opposition. Staff memo to the Zoning Board of Appeals dated July 6, 2021 was included.
- 9) Close Public Hearing and Reconvene Regular Meeting: The Public Hearing was closed and the regular meeting reconvened at 5:34pm.
- 10) Items for Discussion and Possible Action: The following items were discussed:
  - a. Variance – Riley – W6495 Firelane 8. The Zoning Board of Appeals found the following:
    1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this [Zoning] ordinance. The ZBA finds that the reduced setback will not negatively affect the public right-of-way because of the existing stone wall.

2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.  
The ZBA finds that the proposed use of the property will not change.
3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.  
The ZBA finds that the adjacent public right-of-way is utilized as a park rather than a typical street. The ZBA also finds that the existing stone wall is utilized as a side yard wall/fence rather than a wall/fence adjacent to a public right-of-way which typically limits wall/fence height to 4-feet tall and limits wall/fence to 50% open maximum.
4. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.  
The ZBA finds due to the increased setback area, the property owner is limited on how the property can be utilized, especially considering the width of the property is the same or less than many properties on Firelane 8.
5. The hardship is not shared generally by other land or buildings in the area.  
The ZBA finds that the property is unique due to the being adjacent to the public right-of-way being utilized as a park rather than a typical street.
6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.  
The ZBA finds that the variance is not self-created.

Motion (Jung/Garber) to conditionally approve the variance request from a 25-foot setback to a 7.5-foot setback with the following conditions:

- 1) The property owners enter into an access restriction agreement along the west property line.
- 2) The property owners agree to keep and maintain the existing stone wall.

Motion carried unanimously.

11) Items for Discussion: None.

12) Announcements/Correspondence/Meeting Attendance: There were no correspondence or announcements.

13) Set Next Meeting Date: Next meeting set for August 3, 2021 at 5:00pm.

14) Adjourn: Motion (Garber/Majewski) to adjourn at 5:41pm. Motion carried unanimously.

*Dated: July 7, 2021*

*Prepared by: Mark Mommaerts, AICP, Planner*

 11/2/21

Craig Majewski, Secretary      Date

Zoning Board of Appeals