

ACTION ON APPLICATION  
BY THE ZONING BOARD OF APPEALS

**ZONING BOARD OF APPEALS ACTION** (circle one): Approval    Approval with Conditions    Denial

Required Findings of Fact Municipal Code Sec. 114-48(a)

- 1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;**

Finding: There is nothing particularly unique topographically or because of the physical surroundings which create a hardship on the lot. The variance sought is related to a rear setback requirement. As generally summarized in the background section of this report, this home is one of the newer homes in the area, which was developed in the early to mid 1960's and under a different zoning ordinance. With the adoption of the current zoning ordinance in 1973, some non-conformities in the area related to rear setbacks were created. This is especially noted along the western side of the street, adjacent to the golf course. That being said, the homes east of Spring Valley Drive generally meet the rear setback requirements. When factoring the openness of the golf course, the homes west of Spring Valley drive practically have the required yard and appearance of openness, the yard requirement seeks to achieve.

There is nothing particularly unique about the lot in question which prevents it from being utilized. A variance is not intended to create the maximum return on investment, but rather to remove a hardship which would otherwise make the lot unusable. In this instance, there is space on the lot where the sunroom could be added which would not require a variance and could be permitted immediately; it is not as if this property cannot have a sunroom or addition, the desired location is the issue. The proposed location may indeed be optimal for sun viewing and privacy, but it would result in a yard which is approximately half of what is required for the properties in this general vicinity. Due to the age and depth of the lot, the ordinance already allows for a reduced yard (in this instance 35 feet) and if granted, the variance would leave a rear yard of 22.5 feet.

- 2. The conditions upon which an application for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification;**

Finding: Upon observation of the applicant provided site photos and a staff visit to the area, there was nothing particularly unique which would distinguish this property from others in the vicinity of the general area and others which have this zoning classification in the City. The other properties in the area, despite being built under a previous set of zoning rules, generally conform to the development standards adopted in 1973. The properties to the west of Spring Valley Drive appear to be a bit short on the rear yard in several instances, but with the golf course there, the appearance of openness is maintained.

This zone district intends for there to be 80 feet between houses from back of structure to back of structure. All the midblock lots (not the ones on the street intersections) on the east side of Spring Valley Drive and on the west side of Harrington Drive, appear to have this 80 foot separation, except for the subject property and it's east neighbor (1436 Harrington Drive); this back of structure to back of structure distance is approximately 70 feet right now. Each structure in this instance has about a 35 foot rear yard, which again, is allowed by the ordinance based on the age and depth of the lots.

However, the proposal to extend the building wall of the subject property easterly would create a separation between the buildings of approximately 58 feet. This situation would be unique to these properties and allow for reduced rear yards this zone district did not intend for.

**3. The purpose of the variance is not based exclusively upon a desire to increase financial gain.**

Finding: Staff has found that the variance is generally based on convenience and preference as opposed to an actual hardship. There is a patio at the rear of the property, upon which a sunroom could be added while still meeting the existing 35 foot setback, which is allowed by the ordinance. While this patio location is closer to the neighboring property and might possibly receive different sunlight illumination, the sunroom could be constructed there and configured in such a manner to provide privacy from the neighboring property to the north.

The issue is not with the style of the addition, or the proposed construction materials/methods. The proposal for the variance is to allow something on a property which has not and would not be allowed to occur on this property or others in this area, given the yard requirements and existing buildout. This variance would create something unique in this area, rather than alleviate a hardship originating from something unique to the property.

**4. The alleged difficulty or hardship is caused by the provisions of this chapter and has not been created by any persons presently having an interest in the property.**

Finding: The provisions of the zoning code do not prohibit building an addition onto this lot. As previously mentioned, it could be built where the existing patio is. While this may not be ideal or the most desirable for the owners, it would be allowed. The provisions of the chapter are not preventing the project from occurring on the lot. Staff finds the hardship to be more perceived than actual for the reasons outlined in this report.

The application from the applicant explains some reasons why the location was selected and the benefit the proposed addition would have to the property. The rationale and explanation for the application are grounded in convenience as opposed to a hardship which is unique to the property. Nearly every home in this general vicinity has maximized the buildable area on the respective lot as prescribed within the zoning district. The buildout is not a hardship prescribed by the chapter, but rather the preference of those who originally built and then those who have made subsequent improvements to the dwellings as allowed by the zoning ordinance. In this instance, the addition could be built on the lot, without a variance.

**5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and**

Finding: If the variance is granted, the structure is required to be built properly and permitted; if built as proposed, the structure would fit with the property. However, the request is detrimental to the other properties in the City in the sense that there is absolutely nothing inherently special or unique to this property which would prevent ordinance from being followed. Nearly every lot in this area has the same predicament related to extending past the current building footprint. To allow this here could possibly send a message that the ordinance is optional and doesn't need to be followed. Granting a variance would create an inequitable situation where the subject property would receive something which is otherwise prohibited by the ordinance and furthermore, is being followed on other properties in the area.

While many of the properties were developed under a previous zoning ordinance, they generally comply with the require rear yard. As previously mentioned, the properties on the west side of Spring Valley Drive do not have the 40 foot rear yards, but abut a golf course. The nearest rear wall of an adjacent structure is well over 80

feet. This property is already legally at a 35 foot rear yard to grant a variance reduce it further to 22.5 feet because it would be more convenient, is contrary to the spirit and intent of the regulation.

- 6. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.**

Finding: No, the proposed 22.5 foot rear yard is not expected to have a meaningful impact on congestion or danger of fire, but the intent of this zone district is to have larger yards than other zone districts in the City. Taking an already reduced yard from what is typically required, and reducing that another 12.5 feet is not the purpose of a variance, especially when the addition could be built on the lot if it is desired. The proposed style, construction method(s) and quality of the sunroom are not at issue here, but the location is the reason for the staff recommendation. If the variance were granted, the addition would be built in such a manner that it would be safe and would not endanger the safety of the area. It is not expected the addition would impair property values in the area, however these factors only account for one of the six criteria the Zoning Board of Appeals is to consider when making a determination on granting the variance.

**DATE:** August 14, 2019 **SECRETARY:** Jeff Hintz, CNU-A, Associate Planner – City of Racine

WHEREAS, a literal enforcement of the provisions of the Zoning Ordinance of the City of Racine will not result in practical difficulty or unnecessary hardship; it being contrary to public interest and owing to special conditions the Board of Appeals hereby denies to the appellant(s) Bob and Judy Bagley a variance from said ordinance Section 114-295(a).

**Adopted on:** August 14, 2019

By a vote of: for \_\_\_\_\_ against \_\_\_\_\_ abstain \_\_\_\_\_

**SIGNED BY THE ZONING BOARD OF APPEALS MEMBERS:**

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ITEM NO: 0917-19 APPEAL NO: 19-4 DATE OF MEETING: August 14, 2019