

CITY OF EDGERTON
CITY HALL
12 ALBION STREET

ZONING BOARD OF APPEALS

Monday, February 28, 2022 AT 6:00 P.M.

NOTICE: The meeting noticed above will also be live streamed on a Zoom platform: To view the meeting, please select the link to the meeting listed on the **calendar events** on the City website's home page at www.cityofedgerton.com. Due to occasional technical difficulties, citizen participation via Zoom may not be possible.

1. Call to Order; Roll Call.
2. Confirmation of Appropriate Meeting Notice Posted Friday, February 25, 2022.
3. Public Hearing:
 - a. Hear comments regarding a request by Lori Frohmader for a variance to Chapter 22.423(4)(e) to reduce the rear yard setback for a temporary pool from 10 feet to 3 feet for the property located at 204 Spencer Street. (6-26-184).
 - b. Close the public hearing.
4. Consider request by Lori Frohmader for a variance to Chapter 22.423(4)(e) to reduce the rear yard setback for a temporary pool from 10 feet to 3 feet for the property located at 204 Spencer Street. (6-26-184).
5. Consider approval of October 21, 2021 Zoning Board of Appeals meeting minutes.
6. Adjourn

cc: All Board Members
All Council Members
City Attorney
Newspapers
City Administrator
Department Heads

NOTICE: If a person with a disability requires that the meeting be accessible or that materials at the meeting be in an accessible format, call the City Administrator's office at least 6 hours prior to the meeting to request adequate accommodations. Telephone: 884-3341

TO: Edgerton Board of Appeals

FROM: Staff

MEETING DATE: February 28, 2022

GENERAL DESCRIPTION

Description of Request: Petition for a variance to Chapter 22.423(4)(e) to reduce the rear yard setback of a temporary pool from 10 feet to 3 feet.

Address: 204 Spencer Street (6-26-184)

Applicant: Lori Frohmader

Current Zoning/Land Use: R-2 Residential / single family home

STAFF REVIEW COMMENTS

The planning staff has reviewed the petition in accordance with the Edgerton Zoning Ordinance and has the following comments:

1. The petitioner seeks variances to allow a temporary pool 3 feet from the rear lot line. The ordinance requires a 10-foot setback.
2. The pool is installed for 3 months of the year. A privacy fence exists on the rear lot line nearest the pool.



Date Draft Submitted	
Date Application Submitted	
Fee Paid	

Application for Variance

Owner (must be the applicant) LORI A. FROHMADER
 Parcel Address 204 SPENCER ST., Edgerton Parcel Number 6-26-184221-024003
 Owner Address 204 SPENCER ST., Edgerton Daytime Phone 608-513-4455
 Present Use of the Property House, Garage, Intex Pool (Taken Down Fall/winter/spr
 Zoning Classification R-2 Pool Up June, July, August

The following items must be submitted with each application. Additional site plan information as described in Section 22.213(3) may be required by the Zoning Administrator (Ordinance section referenced in this application are available upon request):

- (1) Map of the property showing the following:
 - Entire property
 - All lot dimensions
 - Existing structures with dimensions to property lines (buildings, fences, walls etc)
 - Proposed structures with written dimensions to property lines
 - Existing paved surfaces (driveways, walks, decks, etc)
 - Proposed paved surfaces with dimensions to property lines
 - Written dimensions to buildings on adjoining properties if setback variance is requested
 - Zoning of adjacent parcels
 - Street(s) which are adjacent to the parcel
 - Graphic scale and north arrow
 - Changes in land use intensity due to the variance (additional dwelling units, more customers, more parking, outside lighting, outside storage, etc)

(2) Written description of proposed variance answering the following questions:
 City of Edgerton Ordinance Section # 22.423 cannot be entirely satisfied because: We have lived in Edgerton for 7 years.
Before planning ground for a pop up pool
I called and spoke w/ city worker to confirm
boundaries due to the amount of money and
work we put into planning yard. I was told permanent
3-5 feet from driveway. But the fact it isn't a structure

I was also told NO fence was necessary due to depth and not being permanent fixture. This was back in 2014. I do not recall the woman's name at that time. Would we put up a pool and spend money to landscape and add curb appeal to our neighbors if we would be told almost 7 yrs. later it is a problem? No, it's because of 2 meddling neighbors that created the problem.

In lieu of complying with the ordinance, the following alternative is proposed (please describe the proposal in detail):

Antex above ground pool is used for my body for therapeutic benefits (water walking) due to multiple back surgeries & Knee Replacements.

I would like to also note it is NOT bothering my neighbors behind our residence. See attached letter. It is also up 3 months total.

- (3) Written justification of the requested variance with reasons why the Applicant believes the proposed variance is appropriate. Before the Zoning Board of Appeals can grant a variance, they must find that the following criteria have been satisfied. Describe how your request meets the following criteria: (section 22.211(4)(c))

What exceptional or extraordinary circumstances or special factors are present which apply only to the subject property? The response to this question shall clearly indicate how the subject property contains factors that are not present on other properties in the same zoning district.

I would not have spent the money 7yrs. ago to put pool in. Apparently ordinance changed and footage was contested by a nosy / Harassing neighbor. Pool doesn't affect Kinnamon's in anyway. They are always in everyone's business and created issues.

- The hardship or difficulty shall be peculiar to the subject property and different from that of other properties and not one that affects all properties similarly. Such a hardship or difficulty shall have arisen because of the unusual shape of the original acreage parcel; unusual topography or elevation; or because the property was created before the passage of the current, applicable zoning regulations, or will not accommodate a structure of reasonable design for a permitted use if all area, yard, green space, and setback requirements are observed;
- Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
- Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting-off existing access to a public right-of-way or deed restrictions imposed by the owner's predecessor in title are considered to be such self-imposed hardships;
- Violations by, or variances granted to, neighboring properties shall not justify a variance;

- The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance. (For example, if a lot were unbuildable because of topography in the absence of any or all setback requirements.)

In what manner do the factors identified in 1., above, prohibit the development of the subject property in a manner similar to that of other properties under the same zoning district? The response to this question shall clearly indicate how the requested variance is essential to make the subject property developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property.

The back yard neighbors have never had any problem with our pool and have been great neighbors as well as The Rusch's. Their yards are way more impacted by the pool. They are friendly and again don't see a problem.

Would the granting of the proposed variance be of substantial detriment to adjacent properties? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on adjacent properties.

The pool being put up for 3 months would not cause detriment to any neighbors. But 2 nosy people that are honestly loved have harrased the city for weeks until we were filed a code violation.

Would the granting of the proposed variance as depicted on the required site plan, result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the intent, provisions, and policies of this Chapter, the Master Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide growth and development? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on such long-range planning matters.

We would like to keep the pool (which again is an Intex - PopUp Pool) up for 3 months. It doesn't bother anyone. A temporary ^{Retractable} sliding privacy wall would need to be put in due to these harassing neighbors. We continue to get bothered and they think it's funny and have made comments. But I haven't let them bother us anymore.

City of Edgerton, 12 Albion Street, Edgerton, Wisconsin 53534

Phone: (608) 884-3341 • Fax: (608) 884-8892

Unfortunately, we can't choose our neighbors. They have held a huge grudge since we purchased a red shed from John Orwood.

Have the factors causing the variance request been created by the act of the applicant or previous property owner or their agent (for example: previous development decisions such as building placement, floor plan, or orientation, lotting pattern, or grading) after the effective date of this Chapter. The response to this question shall clearly indicate that such factors existed prior to the effective date of this Chapter and were not created by action of the Applicant, a previous property owner, or their agent.

The City told us 3-5 feet from fence ^{Back} 7 years ago. Variance was completed and filed because the Kinnamans are causing problem. Their fence isn't even an issue.

Does the proposed variance involve the regulations of Subsection 22.304 or the district use regulations in each zoning district of Section 22.700? The response to this question shall clearly indicate that the requested variance does not involve the provisions of this Subsection.

Code 22.423 wasn't reviewed by City and we were misinformed 7 yrs. ago. The expense and time and sweat/landscape to accommodate a structure for 3 months is what I am asking for Review.

Verification by applicant: I, Lori Trohmader, owner for which relief is sought, certify that the application and the above information is truthful and accurate to the best of my ability. My signature on this application grants permission for City Officials to access the site of the requested variance for the sole purpose of obtaining information relevant to the variance request.

Applicant Signature Lori Trohmader Date 1/18/22
Applicant Signature _____ Date _____

Consideration for Approval:	Granted _____	Denied _____	Date _____
Chairman, City of Edgerton Zoning Board of Appeals			

Revised date 6-23-1998

Letter Jake Reed

January 17, 2022

Attn: Howard Moser
Municipal Services Director
City of Edgerton, WI

RE: 204 Spencer St, Edgerton WI

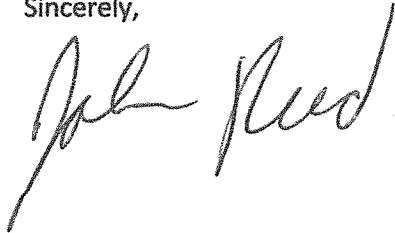
Dear Mr. Moser:

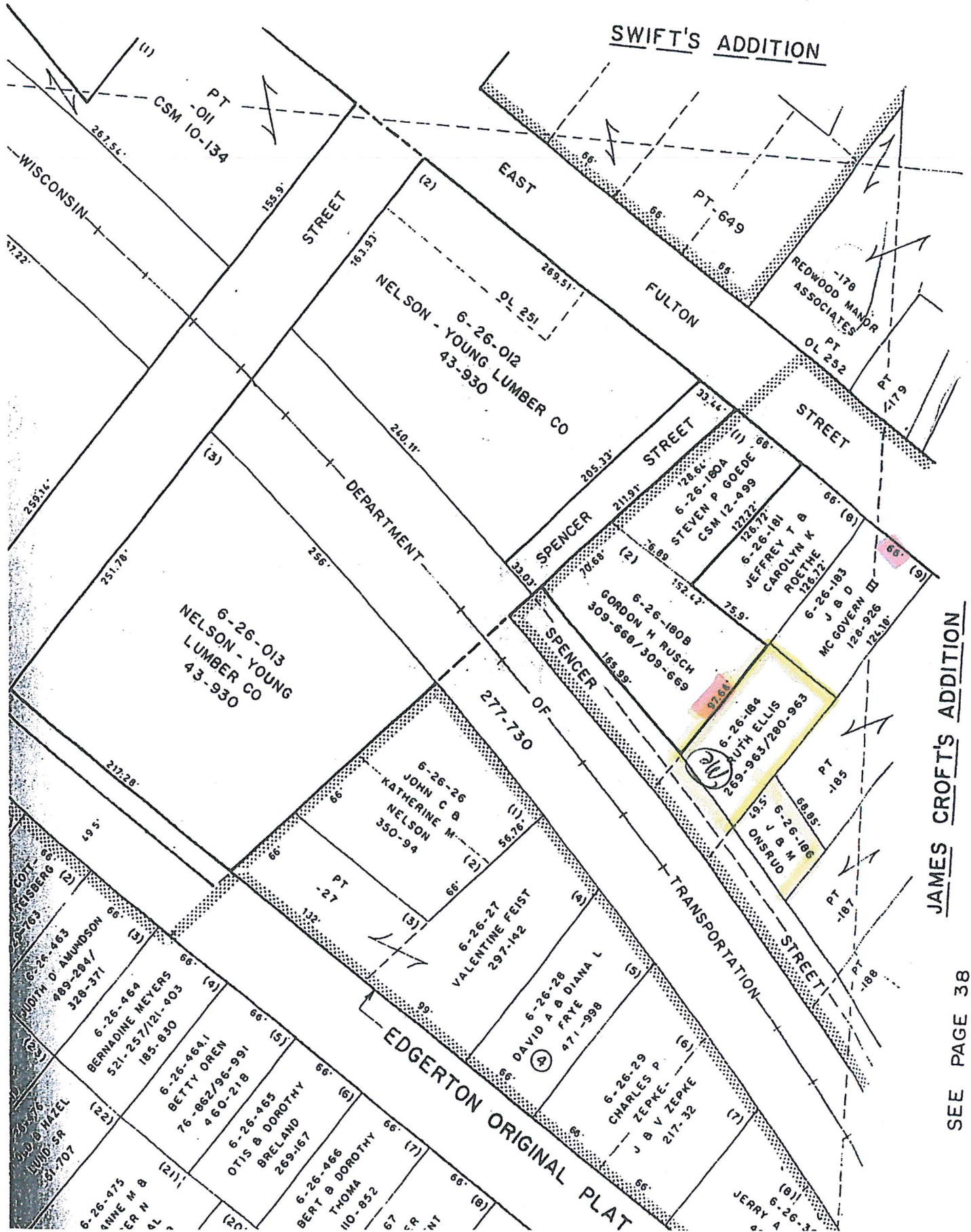
Last August 2021, our neighbors informed us that they were cited with a "Code Violation Notice" in regards to their swimming pool being too close to our fence. Our neighbors property sits on the back side of our property with a fence separating the yards.

We have not had any issues with these neighbors over the course of 7 years and have no issues with them having an above ground pool up during the summer months. They have always cleaned the pool up for the fall/winter season and maintain their yard.

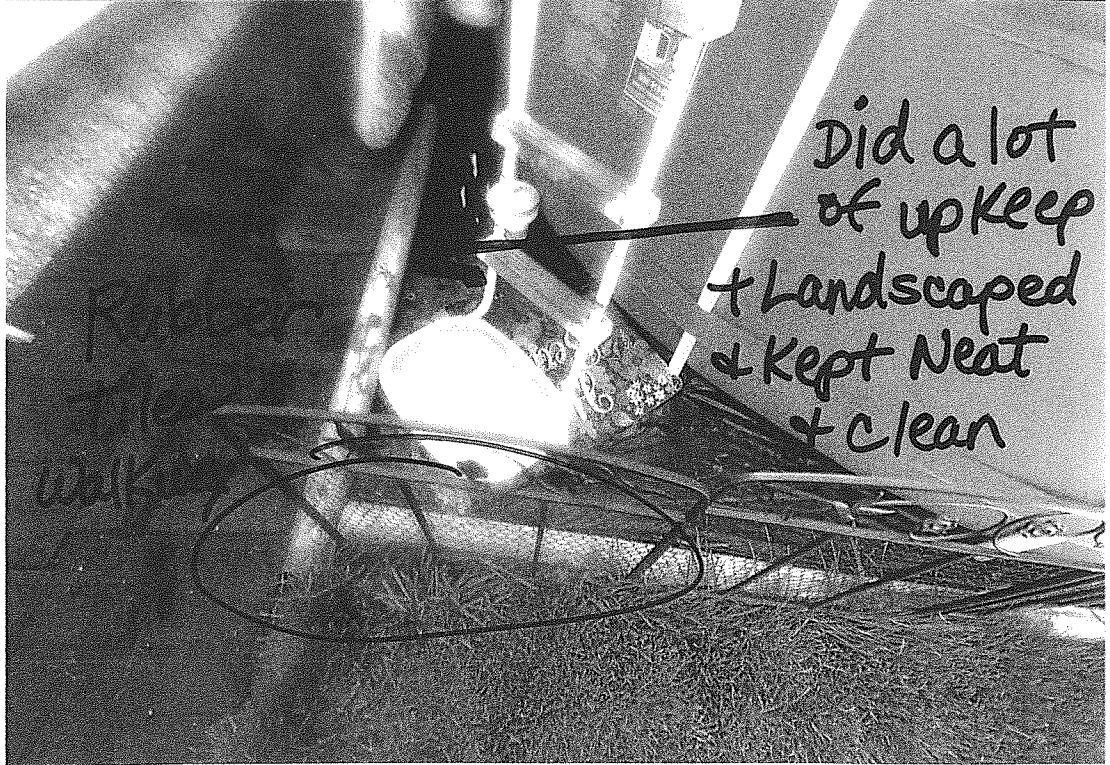
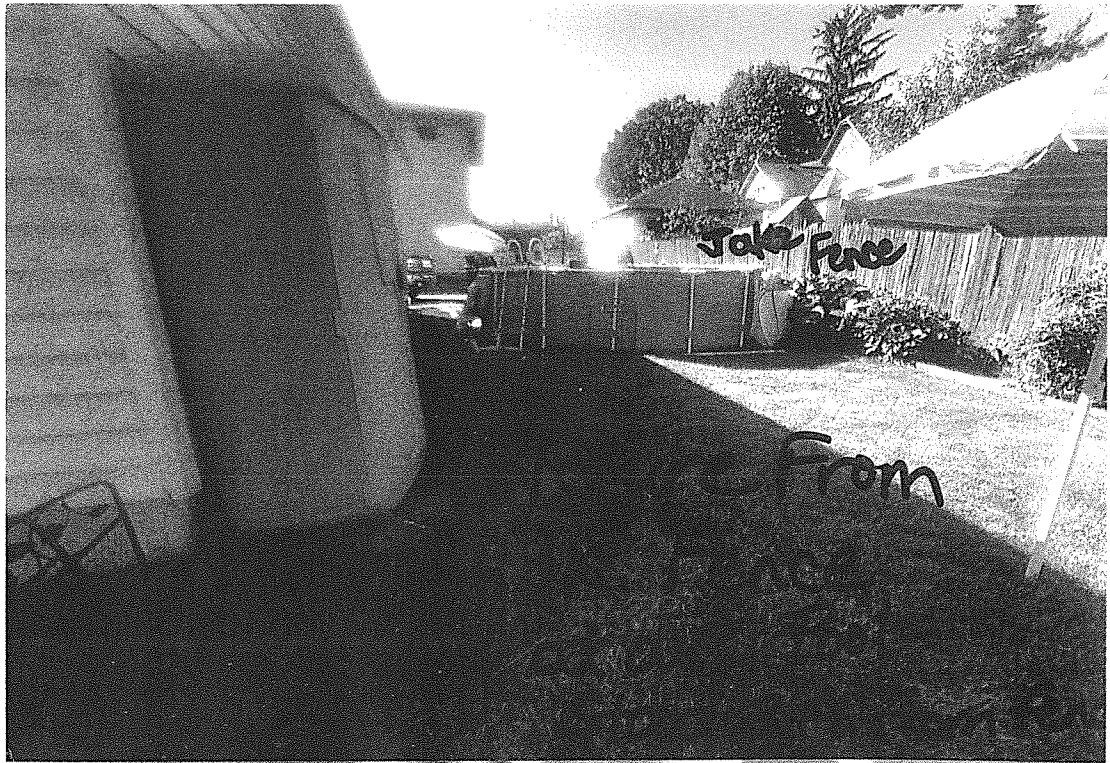
Please review this letter in your decision to keep the neighbors pool where it has been for the last 7 years. Again, we do not have any concerns regarding the pool location or we would have said something years ago.

Sincerely,

A handwritten signature in black ink that reads "Jake Reed". The signature is written in a cursive style with a large, sweeping initial "J".



JAMES CROFT'S ADDITION



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

October 21, 2021

A regular meeting of the Zoning Board of Appeals (“ZBA”) was called to order at 6:00 p.m. at the Edgerton City Hall, 12 Albion Street, Edgerton, Rock County, Wisconsin on October 21, 2021.

Present and responding to the roll call in person were Chairperson Dave Maynard, James Kapellen, Jim Long, Veronica Ellingworth, Cory Steen (alternate) and Dave Esau (alternate). Alternate member Steen did not participate.

Also present in person were City Administrator Ramona Flanigan.

Chairperson Dave Maynard 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.

A motion to open the first Public Hearing was made by ZBA Member Kapellen, seconded by ZBA Member Jorstad, and passed by unanimous roll call vote.

The ZBA went into public hearing on the variance application of Donald Becker for a variance to Chapter 22.730(4)(b) to reduce the side yard setback to from 25 feet to 5 feet on the property located at 406 Highway Street, Edgerton, Wisconsin.

Donald Becker presented on the need for the variance. The applicant noted that there was an existing shed but that small lot size and the present zoning designation (M1) which has a greater setback requirement than the residential district, the construction of a new shed is not possible. The present use of the property is residential. If this was in a residential district, no variance would be necessary. The present shed is on a foundation, but it was built too low and it has been elevated with 4’x4’ runners and decking. The replacement shed would not require a foundation.

There were no other presenters regarding the application.

On motion of ZBA Member Kapellen with a second by ZBA Member Jorstad, the Public Hearing was closed. The motion passed on a unanimous roll call vote.

Administrator Flanigan presented the staff report which recommendation that the variance be approved noting the zoning is the critical factor. If this were in a residential district, no variance would be required. The Administrator noted that this was not a self created hardship, rather the lot existed prior to the present zoning designation. She also note that the

proposed structure would not have any adverse impact on those properties or the overall planning goals.

After brief additional discussion, ZBA Member Ellingsworth moved for approval of the variance request with the facts as presented by the applicant and the Administrator. ZBA Member Long seconded the motion. Upon a roll call vote, the motion was granted unanimously.

The next order of business was the calling of the second public hearing. A motion to open the Public Hearing was made by ZBA Member Long, seconded by ZBA Member Kapellen, and passed by unanimous roll call vote.

The ZBA went into public hearing on the variance application of Richard Burlingame for a variance to Chapter 22.711(3)(b)4 to reduce a front yard setback from 25 feet to 15 feet to allow the construction of a covered porch on the property located at 403 Blaine St., Edgerton, Wisconsin.

The applicant Richard Burlingame presented on the need for the variance. The applicant indicated that they wished to relocate the front door to the residence to its original location facing Swift St. The existing area was the porch but it was enclosed to create a new room. They wish to make the area new door closer to the original design. The applicant also noted that the wedged shape of the lot, creates setback issues as well. The needed variance is not the same across the front of the house because of the shape of the lot. The planned new addition would be 5' off of the existing room but that 4' would also work.

The Board heard from a remote audience member, Patricia Miller, 506 Doty St. She lives around the corner from the property site and has seen the changes to the neighborhood. She supported the request as being beneficial to the neighborhood.

There were no other presenters regarding the application.

On motion of ZBA Member Long with a second by ZBA Member Jorstad, the Public Hearing was closed. The motion passed on a unanimous roll call vote.

Administrator Flanigan presented the staff report recommending approval of the variance request. It was noted that the property was irregularly shaped resulting in two front yards. It is different from other lots in the district and this is not a self-created hardship. Adjoining properties will not be negatively impacted.

After brief additional discussion, ZBA Member Kapellen moved for approval of the variance requested with the findings of fact as reflected in the staff report. ZBA Member Ellingsworth seconded the motion. Upon a roll call vote, the motion was granted unanimously.

The next order of business was the calling of the third public hearing. A motion to open the Public Hearing was made by ZBA Member Jorstad, seconded by ZBA Member Long, and the motion passed by unanimous roll call vote.

The ZBA went into public hearing on the variance application of David Denton for a variance to Chapter 22.304(5)(d)1(a) to allow the construction of a second garage on the property located at 816 W. Fulton St., Edgerton, Wisconsin.

The applicant, David Denton appeared and presented on the need for the variance. The applicant wanted it noted for the record that he was not seeking the construction of a garage, rather that he had torn down an existing shed which had collapsed and wants to replace it. The Zoning Administrator indicated that the definition of a shed is limited to structures of less than 150 sq. ft. The applicant indicated that the previous shed was 12'x16' and this one would be as well. It would not be affixed to the ground, rather brought in pre-constructed on skids. The applicant indicated that there are no setback issues associated with the request.

There were no other presenters regarding the application.

On motion of ZBA Member Long with a second by ZBA Member Kapellen, the Public Hearing was closed. The motion passed on a unanimous roll call vote.

Administrator Flanigan presented the staff report which recommended denial of the request. The Administrator noted that the applicant could place a shed on the property without the need for a variance if it were less than 150 sf. and that there are not any exceptional circumstances which necessitate the construction of a larger structure. Further, the hardship was self-created in the applicant's desire for additional storage.

ZBA Chairperson Maynard moved for approval of the variance. ZBA Member Long seconded the motion. After brief additional discussion and upon a roll call vote, the motion to grant the variance request was approved unanimously.

The next order of business was the consideration of the approval of the minutes of the September 15, 2021 Zoning Board meeting. Upon a motion from ZBA Member Long, seconded by ZBA Member Kapellen, the minutes were approved by unanimous roll call vote with a note that ZBA Member Kapellen's name was misspelled at spots.

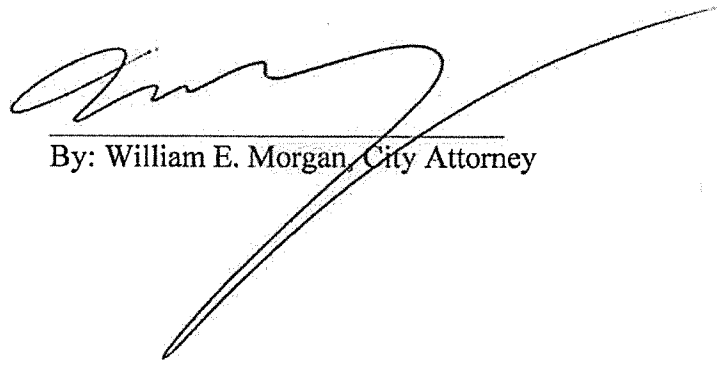
There being no further business of the Board, a motion was made by ZBA Member Long, seconded by ZBA Member Jorstad to adjourn. Motion was approved unanimously. The meeting was adjourned.

Dated this 2nd day of November, 2021.

Prepared from a review of the Administrator's notes and the recorded audio and video of the meeting.

Respectfully submitted,

CITY OF EDGERTON

A handwritten signature in black ink, appearing to read 'W. Morgan', is written over a horizontal line. The signature is fluid and cursive, extending to the right with a long, sweeping tail.

By: William E. Morgan, City Attorney