



**VILLAGE OF COTTAGE GROVE
NOTICE OF PUBLIC MEETING
Zoning Board of Appeals
Thursday, October 12, 2023
Village Hall
221 E. Cottage Grove Rd
5:30 p.m.**

You may also choose to participate by providing public comment prior to the meeting via email to Village Clerk Lisa Kalata: lkalata@village.cottage-grove.wi.us. If this is a teleconference, virtual or hybrid meeting, please review the Village of Cottage Grove's [policy](#).

1. Call To Order
2. Determination Of Quorum And That The Agenda Was Properly Posted.
3. PUBLIC APPEARANCES-Public's Opportunity To Speak About Any Subject That Is Not A Specific Agenda Item.
4. Discuss And Consider Minutes From September 17, 2023 Meeting.

Documents:

[09-24-20 ZBA MINUTES.PDF](#)

5. Overview Of Duties And Responsibilities Of The Zoning Board Of Appeals.
6. Discuss And Consider Request From Courtney Miller For A Front Yard Setback Variance At 146 Clark Street.

Documents:

[CG_MILLER-VARIANCE_2023-09-29.PDF](#)
[SCAN_COURTNEY.MILLER_2023-09-14-08-13-35.PDF](#)
[SCAN_COURTNEY.MILLER_2023-09-14-08-44-13.PDF](#)
[20230911_191153.JPG](#)
[IMG_20230914_085338.JPG](#)
[20230911_190927.JPG](#)
[20230911_191120.JPG](#)
[20230911_191132.JPG](#)

7. Adjournment

This agenda has been prepared by Staff and approved by the Chair of the Zoning Board of Appeals for use at the meeting as listed above. Any item on the agenda is subject to final action. Notice: Persons needing special accommodations should call 608-839-4704 at least 24 hours prior to the meeting. It is possible that members of and

possibly a quorum of members of other governmental bodies may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.

VILLAGE OF COTTAGE GROVE
Zoning Board of Appeals
Thursday, September 24, 2020

MINUTES

1. Call to order

The September 24, 2020 meeting of the Zoning Board of Appeals was called to order at 5:35 p.m. by Hepfinger.

2. Determination of quorum and that the agenda was properly posted.

It was determined that there was a quorum of members present and that the agenda was properly posted. In attendance were Mark Hepfinger, Phyllis Jones-Morrison and Kevin Greene. Absent and excused were Sheri Severson and Tom Sullivan. Also, in attendance were Planning Director Erin Ruth, and Village Attorney Rick Manthe.

3. PUBLIC APPEARANCES – *Public’s opportunity to speak about any subject that is not a specific agenda item.*
None

4. Approval of Minutes from November 6, 2019 Meeting

Motion by Jones-Morrison to approve the minutes as presented, seconded by Hepfinger. **Motion** carried with a voice vote of 3-0-0.

5. Discuss and Consider Request from Becky Cardarella for a Setback Variance to Construct a Screen Porch at 401 School Road.

Hepfinger noted that staff recommended approval and he saw no reason to disagree. **Motion** by Hepfinger to approve the variance request, seconded by Jones-Morrison. **Motion** carried with a voice vote of 3-0-0.

6. Future Agenda Items

None

7. Adjournment

Motion by Hepfinger to adjourn at 5:45 p.m., seconded by Jones-Morrison. **Motion** carried with a voice vote of 3-0-0.

Erin Ruth, Director of Planning & Development
Village of Cottage Grove
Approved:

These minutes represent the general subject matter discussed in this meeting but do not reflect a verbatim documentation of the subjects and conversations that took place.



PLANNING STAFF REPORT

MEMO DATE: September 29, 2023

MTG. DATE: **OCTOBER 12, 2023**

TO: Village of Cottage Grove Zoning Board of Appeals

CC: Matt Giese – Village Administrator
Lisa Kalata – Village Clerk
Larry Konopacki – Village Attorney

FROM: [Erin Ruth, AICP – Village Planning Director](#)

RE: **Miller Variance Request – 146 Clark Street**

BACKGROUND

Property Owner: Courtney Miller

Location: 146 Clark Street

Area: 0.1 acres

Agent: Courtney Miller – property owner

Existing Zoning: SR-4, Single Family Residential

Proposed Zoning: SR-4, Single Family Residential

OVERVIEW

The applicant, Courtney Miller, is seeking a variance to the front setback in the SR-4, Single-Family Residential district for her property located 146 Clark Street. The purpose of the variance is to construct an expansion to the front of her home.

BACKGROUND

Per 325-38(A)(6)(b)(4)(a), the minimum front setback in the SR-4 district is 25 feet. Currently, the home at 146 Clark meets the ordinance with a 27-foot setback. However, this leaves only 2 feet for any potential expansion toward the front of the property.

The ordinance allows some flexibility on front setbacks via 325-23(B)(9) which states “the required street yards may be decreased in any residential or business districts to the average of the existing street yards of the abutting structures on each side, but in no case less than 15 feet in any residential district.” However, 146 Clark derives no additional flexibility because the home immediately to the east is set back over 70 feet from the front property line (it appears the current house was likely originally the garage).

With no other remedies available in the zoning ordinance, the applicant is pursuing a variance per 325-113.

LOCATION MAP



STATUTORY REGULATIONS FOR GRANTING A ZONING VARIANCE

The criteria for granting a zoning variance is provided by Wisconsin State Statutes.

The Zoning Board of Appeals has several powers as defined by Wis. Stat. 62.23(7)(e)(7)(a), one of which is pertinent to this case: “to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to

special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.”

The statutes identify two types of variances, a ‘use variance’ and an ‘area variance.’ The application under consideration is for an area variance, defined by statute as “a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure.”

Per the statutes, “a property owner bears the burden of proving an unnecessary hardship, as that term is used in this subdivision (of the statutes), for an area variance by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.”

Furthermore, the statutes state “in all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

VARIANCE CRITERIA

The following overview considers the specific application relative to the statutory criteria outlined above.

1. Is there an unnecessary hardship?

From a broad perspective, the proposed hardship appears to be that the property owner cannot expand the home. It is debatable whether this is a hardship because there should not be an expectation of or entitlement to expansion that transcends the setback requirements in the ordinance. In fact, setbacks would be irrelevant if there was an entitlement to expansion.

However, this particular application is more nuanced. The home is in an older part of the Village that predates the current zoning ordinance, and likely predates any older zoning ordinances the Village may have had, meaning the homes were built prior to the existence of any setback requirement. Section 325-23(B)(9), which offers relief on front setbacks by averaging the setback of adjacent existing structures, was put into the ordinance largely to allow relief to the homes in the older parts of the Village that would otherwise not comply with the new setback. This relief takes on added importance since the older lots are typically much smaller than those in neighborhoods developed later. In many, or most, other locations on the older sections of Clark or Reynolds Streets the property owner would benefit from 325-23(B)(9). This property happens to be one that does not benefit due to the extraordinarily deep setback on the home immediately to the east. In fact, there was likely another structure on the adjacent property toward the front that may have provided benefit under this section.

Therefore, staff would argue that the hardship is not the inability to expand, but rather the inability to benefit from 325-23(B)(9) which was intended to provide front setback relief in older parts of the Village, due to the inconsistent placement of homes on those blocks.

2. *Would conformity with the zoning ordinance be unnecessarily burdensome?*

While there is an effort in the statutes to make the variance process as objective as possible, this remains a highly subjective question.

In staff's point of view, it is clear the inability to expand creates a burden on the applicants, and it is unnecessary due to the inconsistent applicability of 325-23(B)(9) due to the arbitrary placement of buildings in the neighborhood.

3. *Is the condition unique to the property and not personal to the property owner?*

While the rationale for wanting the expansion is personal to the owner, the inability to benefit from 325-23(B)(9) is unique to the property due to the placement of the adjacent structures.

4. *Is the hardship created by the property owner?*

The inability to expand the home in other directions is largely hindered by the small size of the lot, due to the age of the neighborhood. The placement of the adjacent structures was determined by those property owners many years ago, so the inability to apply the setback relief in 325-23(B)(9) is beyond the control of the applicant.

5. *Would granting the variance be contrary to the public interest?*

There are numerous structures on Clark and Reynolds that predate the zoning ordinance and do not meet the current 25-foot setback requirement. This is typical of a neighborhood of this era and in the opinion of staff this is not contrary to the public interest.

6. *If the variance is approved is the spirit of the ordinance observed, public safety and welfare secured, and substantial justice done?*

As noted above, the ordinance provides a mechanism to adjust the front setback that is largely in place to accommodate the older portions of the Village, that this particular property does not benefit from. Granting the variance would be in the spirit of this section of the ordinance, in the opinion of staff. Staff does not anticipate threats to public safety or welfare to occur if the variance is granted. Whether "substantial justice is done" is again a highly subjective question, but staff believes this would be the case.

STAFF RECOMMENDATION

As noted above, in staff's opinion the primary hardship is this property's inability to benefit from applying section 325-23(B)(9) to reduce the front setback. Section 325-23(B)(9) states

that when applied, the setback should be “in no case be less than fifteen feet in any residential district.”

Staff recommends the variance be **APPROVED WITH CONDITIONS**, with the following conditions:

1. The front yard setback shall be reduced to fifteen feet from the property line.

VILLAGE OF COTTAGE GROVE
REQUEST FOR ZONING VARIANCE

APPLICANT: Courtney Miller

APPLICANT ADDRESS: 146 Clark Street, Cottage Grove

TELEPHONE: 414-698-3590

EMAIL ADDRESS: CourtneySmiller5@gmail.com

PROJECT LOCATION:
146 Clark Street, Cottage Grove

DESCRIPTION OF REQUESTED VARIANCE:
Request to reduce setback

APPLICATION SUBMITTAL REQUIREMENTS:

1. Fee of \$350. Projects requiring engineering review will require an additional \$250 deposit toward review fees.
2. Provide any additional site plans or images necessary to convey the nature of the request.

9/14/23
Date

Courtney Miller
Applicant Signature

.....
For office use only:

Date Received:
Zoning Board of Appeals Meeting Date:

To whom it may concern,

Thank you for taking the time to consider our application for a variance. When I purchased our home on 146 Clark Street in 2021, I was a single mom with 3 children, and the home fit our needs perfectly. My girls share a room, while me and my son have rooms of our own. Fast forward to 2023 and our little family of 4 is now a family of 7! My partner and his son have moved in, and we welcomed a new baby last January. We have run out of space for everyone and have looked at several different avenues to fix this issue. Unfortunately, we found out that cannot turn our basement into livable space due to it being over 100 years old. It is more of a damp cellar with exposed crawl space. We were quoted a minimum of \$100,000 to try and make some of that space usable, but that is not within our budget. We also looked at adding an addition onto the back of the home. This also is not an option due to the very small size of our backyard. Even if we just added one small room, our backyard would be gone, and we would be a foot or two away from the neighbor's garage. This led us to our final option, building off the front of our home. In contrast to our backyard, our front yard is extremely spacious. There is plenty of room to build extra living space, as well as a bedroom for my partner's son and the new baby to share. This is where the variance comes in. The village of Cottage Grove has a setback of 25 feet from lot line to the structure. However, our home is in the much older part of the village, and we are one of the only homes on the block that adheres to the setback guideline (plus some!). Most of the homes on Clark Street, as well as a few around the block, sit much closer to the lot line than 25 feet. There is even one home that sits within inches of the street. Building off the front of our home could also help create uniformity on our block, as we would be in line with the other homes. We are asking you to please allow us to build off the front of our home in order to have room for our family.

Thank you,

Courtney Miller



10:16

◀ Search



Credential_Tr

Certification, Lic

ill find your certification, license or reg
on of licensure that may be carried on p
eSLA portal where you can view your cr
e eSLA portal, navigate to **www.eSLA.w**





