

**MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD AT THE
GREENFIELD CITY HALL ON THURSDAY, APRIL 25, 2024**

- 1. The meeting was called to order by Chairperson Mike Braswell at 5:31 p.m.**

ROLL CALL:	Mike Braswell (chair)	Present
	Donald Reid	Present
	Kevin Thomas	Present
	Stephanie Kosmeder	Present
	Paul Haggas	Excused
	Amanda Henderson (alt)	Present
	Christopher Porterfield (alt)	Present

ALSO PRESENT: Gina Vlach – City Planner
Eric and Laura Alar – 11430 W. Cold Spring Road
Joshua and Arelis Rivera-Cottes – 3415 W. Wilbur Ave.

- 2. Approval of the minutes from the September 28, 2023 meeting.**

Motion by Mr. Porterfield, seconded by Mr. Reid, to approve the minutes from the September 28, 2023 meeting. Chairperson Braswell abstained. Motion carried unanimously.

- 3. Zoning Special Exception petition for construction of an addition to an existing garage located at 11430 W. Cold Spring Rd., submitted by Eric Alar, d/b/a Enigma Engineering. (Tax Key No. 566-9956-009).**

The applicant, Eric Alar, is requesting a variance to construct an addition to the existing 667 sq. ft. detached garage. The addition will be constructed to the north of the existing garage and would add an additional 870 sq. ft., bringing the total square footage of the garage to 1,537. The property is zoned R-1 Single-Family Residential District. The proposed location of the addition is in compliance with all setback standards for the R-1 District. Section 21.04.0801(B)3 of the Municipal Code, which details the area of garages, states that garages within the R-1 zoning district may be up to 1,000 sq. ft. The requested waiver is regarding the total square footage of the detached garage.

Mr. Alar has submitted the following narrative explanation for the variance request:

Here is our ask: we currently have a 667 ft² detached garage and we want to expand it as an addition (the frames will be tied together and the structure will have 1 roof, common siding, etc.). The current limit on square footage for a detached garage is 1000 ft². Expanding it 333 ft² to 1000 ft² total would look like Figure 2:

Instead, we are requesting an additional 537 ft² on the addition, bringing the total to 1537 ft², shown in following figure:

There are multiple reasons why our property presents **Exceptional Circumstances** to the zoning code section **21.09.0209** and requires this extra square footage:

1. We originally owned the property just north of this (shown in Figure 1) and maintained it, however, the city acquired it ~20 years ago. This is an active river and riverbed that excessively floods every time it rains. The river deposits very large amounts of debris into our backyard (it literally dams up every year) that requires a tractor and/or large machinery to clear away, lest we want even more yard flooding during the next storm. We need extra room for a skid steer and other equipment for continual maintenance. We also help our elderly neighbors out who we share lot lines with. We need more room for yard maintenance equipment due to the uniqueness of the riverbed in our backyard.
2. Our yard is abnormally large (1 acre). In January this year, 9 trees fell in the yard (there are over 100 trees in the back—constantly growing larger). Staying on top of tree removal requires multiple chainsaws, a small trailer for the tractor/mower, and a stump grinder. This requires more storage space than the average sized lot. This 537 ft² addition is proportional to the size of the lot.
3. The original attached garage shown in Figure 2 was built over a room in the basement in 1964. This slab has failed and it is cracking due to 60 years of Wisconsin freezing/thawing cycles. This is a major structural foundation issue; the result is that we cannot park cars in the attached garage. Therefore, we require a larger garage for our automobiles for logistical reasons and aesthetics (neighbors do not like a junkyard in our driveway). Our attached garage does not function as a garage due to the construction age of the house and poor structural design decisions that were made in 1964 – we need more garage space to be commensurate with the modern age.

This exception request abides to **Preservation of Intent** on the Zoning Board Application by being consistent with the original purpose and intent of the regulations. This addition is not excessively large given the lot size – it is mathematically proportional to the lot size. We will rigidly abide by all other regulations including height restrictions.

Preservation of Property Right: This presents zero effect to our neighbors. The addition would not be visible from their houses. Considering we have a great relationship with our neighbors and help them out regularly, they would benefit from this addition. The expansion would not be visible from Coldspring Rd. This expansion would have zero detrimental effects. Here is a visual:

Absence of Detriment: This expansion abides by this requirement by not materially impairing anything. In fact, it will be a material improvement that will be aesthetically pleasing to our property. This will not create a detriment in any way to anyone.

Section 21.04.0801 – General Standards for Accessory Uses of the Municipal Code is the section of the Code that regulates sizes and setbacks of accessory uses. The allowable area of a detached garage varies, depending on the zoning district. The largest detached garage allowed in the City is 1,000 sq. ft. The applicant is requesting a final renovated product of a detached garage that is 1,537 sq. ft. in area.

Section 21.04.0801(D) – Percentage of available rear yard occupied states that “no accessory building(s) or structures(s) may occupy more than forty (40) percent of the area of a available rear yard.” The rear yard at 11430 W. Cold Spring Road is approximately 30,000 sq. ft., the existing shed is 150 sq. ft. , and the total square footage of the proposed garage, which is not entirely located within the rear yard, is 1,537 sq. ft. Even with the entirety of the garage included in the rear yard calculation, only 5.6% ($150 + 1537 / 30,000$) is occupied by accessory structures.

The four (4) pictures noted within the letter were displayed via the projector as part of the PowerPoint presentation.

The applicant, Eric Alar and the property owner, Laura Alar, both of the same address, were present to answer any questions.

Chairperson Braswell asked Mr. Alar about the equipment to be stored in the expanded garage. Mr. Alar clarified that the equipment would include a skid steer and a trailer. Mr. Alar continued by explaining that the attached garage cannot be used for the storage of cars due to the compromised foundation. Mr. Alar stated that the proposed addition would provide them the flexibility to move items from the attached garage into the expanded garage in order to address the failing foundation.

Ms. Alar stated that she had talked with the City’s assessor about the failing foundation in the attached garage. She stated that the assessor said that the current state of the garage hurts the valuation of their property.

Mr. Reid asked for clarification about how the garage addition would be structurally incorporated into the existing garage. Mr. Alar explained that the addition would match the existing garage aesthetically. Additionally, he stated that they would tie into the frame of the existing garage, tie into the existing slab, and tie the roof into the existing roof. The end outcome will be something that will appear as a single building.

Motion by Chairperson Braswell, seconded by Mr. Thomas, to approve the Zoning Special Exception petition for construction of an addition to an existing garage located at 11430 W. Cold Spring Rd., submitted by Eric Alar, d/b/a Enigma Engineering (Tax Key No. 566-9956-009). Motion carried unanimously.

4. Zoning Special Exception petition for construction of a fence in the front yard, located at 3415 W. Wilbur Ave., submitted by Joshua Rivera-Cottes, owner. (Tax Key No. 553-0414-000)

The property owner, Joshua Rivera-Cottes, is requesting a variance for the construction of a side yard fence into the front yard, approximately 20 ft.

A fence permit was applied for on April 7, 2022 for a 4-ft. tall aluminum black fence along the side yard property line extending to the rear of the property. The survey, provided by Badger Fence as part of the application, showed the proposed location of the fence. The proposed fence is depicted by a yellow highlighted line. Based on the survey provided, the proposed fence terminated at the rear of the home, extended south to the rear of the parcel, before heading west and terminating at the alley. Per Section 21.04.0802.D.2.a., fences are allowed in the side

and rear yards, not the front yard. With the proposed fence being in compliance with Municipal Code, the permit was issued on April 7, 2022.

The permit expired on April 7, 2023 due to no final inspection occurring. After 1 year, the Inspections Services Division was notified and an inspector was sent out to the site to complete an inspection. The first inspection of the fence occurred on 5/24/2023. At that time, the inspector noted the presence of a four (4) foot tall fence in the front yard. Decorative fences, as defined in Section 21.02.0103, are allowed in front yards but must be less than three (3) feet in height. A letter of violation was mailed to the homeowner and the letter of violation was emailed to the contractor.

Then, in March 2024, Badger Fence applied for a permit for a fence elsewhere in the City. While reviewing that application, a City inspector noticed that the contractor was flagged per the violation related to the fence located at 3415 W. Wilbur Ave. An inspector then conducted another field inspection to verify if the violation had ever been corrected. When it was determined that the violation was still in place, the Inspection Services Division issued a stop work order on Badger Fence and no new permits could be issued to the contractor.

In speaking with Badger Fence, they told our inspector that they did not install any fence panels in the front yard of the home. However, the applicant in his narrative explanation, below, states that Badger Fence did the work. The stop work order has been lifted from Badger Fence and they are now able to apply and be issued new permits.

Mr. Rivera-Cottes has submitted the following narrative explanation for the variance request:

The reason that I needed to hire Badger Fence to extend the fence to the front part of my house is because they installed a fence on April 8, 2022 (after having waited since July 23, 2021), due to a series of problems with the neighbor on the right side starting in 2021. Despite installing the fence, the neighbor continues to enter my property this time along the front of the house, taking her dogs to do their "business" on my property (in front of my house) at will, and draining water on my land, among other things. On June 27, 2022, Badger Fence installed the fence in the front of the house. The company ran the permitting processes at all times.

It should be noted that both the Greenfield Police and the Fire Department recommended to me extend the fence in front of my property to avoid future incidents. This was because they had to handle several situations that occurred with the neighbor during these years.

The survey that was submitted as part of the fence permit application was displayed via the projector as part of the PowerPoint presentation.

The property owners, Joshua and Arelis Rivera-Cottes, both of the same address, were present to answer any questions.

Mr. Rivera-Cottes reiterated the reasoning behind his desire to have a fence noting the issues he has had with his neighbor. He provided numerous examples of experiences he has had and stated that the fence has greatly decreased issues.

Chairperson Braswell asked for clarification regarding the timing of when Badger Fence had been hired and for what type of work. Ms. Rivera-Cottes responded that they had brought with them to the meeting their invoices from the two separate contracts they had entered into with Badger Fence. She stated that Badger Fence led them to believe that they were going to pull a permit for the fence in the front because they had pulled the permit for the rear yard and charged them for the permit.

Chairperson Braswell asked if the applicant had contacted the City following receipt of the letter of violation from the City. Mr. Rivera-Cottes stated that he did not contact the City but he did call Badger Fence. He stated that Badger Fence told him not to worry about it.

Ms. Kosmeder asked Ms. Vlach if the portion of the fence that terminates at the front of the house is compliant with code and if it could remain even if the variance was denied. Ms. Vlach explained that only the portion of the fence that extends beyond the front of the house would need to be removed or modified. She stated that the portion of the fence that terminates at the front of the home is outside the scope of the permit that was submitted by Badger Fence.

Mr. Porterfield asked the applicants if a fence of 3ft would serve their purposes to keep the neighbor's dog off their property. Mr. Rivera-Cottes said it would.

Discussion occurred between the members of board regarding potential future steps with the contractor in this case and additional information that they would need before they would feel comfortable making a motion.

Motion by Mr. Reid, seconded by Chairperson Braswell, to deny the Zoning Special Exception petition for construction of a fence in the front yard, located at 3415 W. Wilbur Ave., submitted by Joshua Rivera-Cottes, owner. (Tax Key No. 553-0414-000). On a roll call vote, the motion was denied 1-5, with Chairperson Braswell, Ms. Kosmeder, Mr. Thomas, Ms. Henderson, and Mr. Porterfield opposed and Mr. Reid in favor.

Motion by Ms. Kosmeder, seconded by Mr. Thomas, to table the Zoning Special Exception petition for construction of a fence in the front yard, located at 3415 W. Wilbur Ave., submitted by Joshua Rivera-Cottes, owner (Tax Key No. 553-0414-000) to the next Zoning Board of Appeals meeting. Motion carried unanimously.

5. Adjournment

Motion by Chairperson Braswell, seconded by Mr. Thomas, to adjourn the meeting at 6:25 p.m. Motion carried unanimously.

Respectfully Submitted,

Gina Vlach
City Planner

Distributed April 30, 2024

ZBA 4-25-2024