

CITY OF SHEBOYGAN

REQUEST FOR ZONING BOARD OF APPEALS CONSIDERATION

ITEM DESCRIPTION:

Address: 233 LINCOLN AVE

Parcel #: 002290

Owner's Name: MIGUEL A MORALES

Zoning: NR-6 (NEIGHBORHOOD RESIDENTIAL 6)

REPORT PREPARED BY: Ellise Rose, Associate Planner

REPORT DATE: 05/29/2024

MEETING DATE: 06/19/2024

BACKGROUND / ANALYSIS

Owner would like to construct a 6 foot high privacy fence within their required street-yard setback of 25 feet.

Ordinance #: Sec 105-945(c)(1)a - Any fence within a street yard, including along property lines which intersect a right-of-way, shall be a maximum of 50 percent opaque.

Requesting: solid fence

Allowed: 50% opaque

Ordinance #: Sec 105-945(c)(3)a - *Maximum height*. The maximum height of any fence, landscape wall, or decorative post shall be the following: Four feet when located within a required street yard on any property...

Requesting: 6 feet height within required street yard

Allowed: 4 feet height within required street yard


Ordinance #: Sec 105-945(c)(3)b - Six feet when located on any residentially zoned property, within required interior side or rear yards, but not within a required front yard or a required street yard.

Requesting: 6 feet within required street yard

Allowed: 4 feet within required street yard

ATTACHMENTS:

Application, pictures, and drawing

| | | | |
|---|---|--|---|
|  | CITY OF SHEBOYGAN VARIANCE APPLICATION | | Fee: _____ Review Date: <u>6-19-24</u> |
| | | | |

Read all instructions before completing. If additional space is needed, attach additional pages.

| | | | |
|--|---|------------------------------------|--------------------------|
| SECTION 1: Applicant/ Permittee Information | | | |
| Name (Ind., Org. or Entity) <u>Miguel Morales</u> | | | |
| Mailing Address <u>233 Lincoln Ave</u> | City <u>Sheboygan</u> | State <u>WI</u> | ZIP Code <u>53081</u> |
| Email Address <u>gabielena886@gmail.com</u> | Phone Number (incl. area code) <u>920 62704 88</u> | | |
| Applicants interest in property: | | | |
| SECTION 2: Property Information | | | |
| Property Address <u>233 Lincoln Ave</u> | City <u>Sheboygan</u> | State <u>WI</u> | Zip <u>53081</u> |
| Type of Building: <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential | | | |
| Request for: <input type="checkbox"/> New Construction <input type="checkbox"/> Repairs <input type="checkbox"/> Alterations <input checked="" type="checkbox"/> Addition <input type="checkbox"/> Nonconforming Use <input type="checkbox"/> Other | | | |
| SECTION 3: If the Request is for a Nonconforming Use | | | |
| Your intended use: | | | |
| Date last occupied as a nonconforming use: | | | |
| By Whom: | | Previous Use: | |
| SECTION 4: Requested Variance | | | |
| On a separate letter to the Board, describe the requested variance and include what unnecessary hardship or difficulty is caused by following the regulations or requirements of the ordinance. See the attached "The Three Tests for a Variance" and be prepared to argue how you pass the THREE TESTS FOR A VARIANCE. | | | |
| SECTION 5: Certification and Permission | | | |
| Certification: I hereby certify that I am the owner or authorized representative of the owner of the property which is the subject of this Variance Application. I certify that the information contained in this form and attachments are true and accurate. I certify that the project will be in compliance with all conditions. I understand that failure to comply with any or all of the provisions of the permit may result in permit revocation and a fine and/or forfeiture under the provisions of applicable laws. | | | |
| Permission: I hereby give the City permission to enter and inspect the property at reasonable times, to evaluate this notice and application, and to determine compliance with any resulting permit coverage. | | | |
| Name of Owner/Authorized Representative (please print) <u>Miguel Morales</u> | Title | Phone Number <u>920 6270488</u> | |
| Signature of Applicant <u>Miguel Morales</u> | | Date Signed <u>5-15-24</u> | |

Complete application is to be filed with the Building Inspection Department, 828 Center Avenue, Suite 208. Variances to zoning ordinances are considered by the City of Sheboygan Zoning Board of Appeals monthly on the third Wednesday at 3 p.m. at a public hearing. To be placed on the agenda of Zoning Board of Appeals, application must be received no later than 4:30 p.m. on the third Wednesday of the month prior to the scheduled public hearing. Applications will not be processed if all required attachments and filing fee of \$250 (payable to the City of Sheboygan) are not submitted along with a complete and legible application. Application filing fee is non-refundable.

All applications must include:

- 1) Application forms, signed and dated, which are available at the Building Inspection Department Office and online.
- 2) The non-refundable filing fee - \$250.00.
- 3) Photographs of the property.
- 4) Samples of materials being used – roofing, siding, decking, etc.
- 5) A site sketch (see example), drawn to scale indicating location of all existing structures and proposed construction. Also indicate lot lines, size of lot, streets and other public ways, driveways, off-street parking, loading areas, and existing and proposed front, side and rear yards. *Please consult with Building Inspection staff for more information.*

Notes:

- a) The applicant can present any additional information to inform the Board of the facts.
- b) Applicants should be aware staff may require a survey as part of the application information in order to clarify specific variance(s) requested.
- c) Applicants should be aware the Board of Appeals may require a survey as part of the application review and/or as a condition of approval prior to issuance of a building permit if a variance is granted.
- d) Building permits must be acquired within 6 months of the granted approval or the approval will be voided.
- e) Any information submitted on the application will become public record and is not subject to confidentiality.

FAILURE TO SUPPLY ADEQUATE AND / OR ACCURATE INFORMATION AS REQUESTED ABOVE CAN BE GROUNDS FOR DISMISSAL OF THE APPEAL REQUEST.

Applicants should be prepared to answer the following questions:

- *What **hardship** is created by the application of the Zoning Ordinance to this property? Is **reasonable use** of the property denied by the zoning regulations? In other words, is there an alternative plan that would **comply** with the ordinance?*
- *Is there a **unique physical characteristic** of the property which prevents development of the property in compliance with the Zoning Ordinance?*
- *Would granting the variance harm the **public interest** in any way? For example, would public safety be compromised? (Note: Lack of neighborhood opposition does not necessarily mean a variance would not harm the public interest.)*

A notice of the date and time of the hearing will be mailed to all property owners within 100 feet and municipal property within 1,000 feet of your property. Notice of hearing will also be sent to the City of Sheboygan Planning Department. It is important you discuss your proposal with the Building Inspection and Planning Departments.

The property owner or a representative shall be present at the public hearing to present his or her request to the Board and answer any questions the Board members may have. Should an appearance not be made, or insufficient information presented, the appeal will not be considered and may be either placed on the agenda for the next meeting or denied. The appellant will be required to pay the additional expense incurred because of postponement of the hearing. Appellants are reminded the filing fee for a variance request is non-refundable.

THE THREE "TESTS" FOR A VARIANCE

The CITY OF SHEBOYGAN adheres to a set of Zoning Ordinances to make certain your proposed construction is consistent with neighboring developments, a development does not infringe on the enjoyment of property belonging to neighboring owners, it does not detract from surrounding buildings or lots and is not out of character with the neighborhood, and a project meets necessary public health and safety standards. If your proposed construction cannot meet the requirements of the zoning or sign code, a **VARIANCE** is needed.

To obtain a variance, you must establish, due to some peculiarity of the property's size, shape, topography, etc., it would be a hardship or practical difficulty to meet zoning code requirements. ***These circumstances must not be self-imposed or self-created.*** In short, your proposed construction must meet and pass the three "tests" for a variance listed below.

IT IS RECOMMENDED YOU MEET WITH THE STAFF IN THE CITY'S PLANNING DEPARTMENT AND BUILDING INSPECTION DEPARTMENT BEFORE SUBMITTING YOUR APPLICATION FOR A VARIANCE. BUILDING INSPECTION STAFF WILL REVIEW THE STANDARDS FOR A VARIANCE (BELOW) PRIOR TO YOUR FILLING OUT THE APPLICATION AND PAYING THE NON-REFUNDABLE FILING FEE.

TEST #1: UNNECESSARY HARDSHIP

The Wisconsin Supreme Court has ruled that unnecessary hardship only exists when the zoning ordinance denies ***all reasonable use*** of the property. ***If there is an alternative plan that is within the bounds of the zoning ordinance, a variance is not warranted.***

The hardship experienced ***must not be self-imposed***; loss of profit, expense already incurred and additional expense incurred to comply with zoning ordinances ***are not*** unnecessary hardships.

TEST #2: UNIQUE PROPERTY LIMITATIONS

Unique physical characteristics of your property must prevent you from completing your proposed construction in compliance with the ordinance. The **property** must qualify for the variance, **not your particular situation**.

Additionally, existing violations on other properties or improper variances previously granted are not grounds for a variance.

TEST #3: NO HARM TO PUBLIC INTEREST

The Board members will be taking into account the reason for the existence of the zoning ordinance in applying this test. Lack of opposition ***does not*** necessarily mean the proposed construction would not harm the public interest.

The Board, in granting a variance, may impose conditions on the proposed construction to assure the public's interests are protected. Board members may only grant the ***minimum relief*** necessary for the reasonable use of the property.

Your proposed construction must meet all three "tests" to qualify for a variance. Variances are meant to be an ***infrequent remedy*** where an ordinance imposes a unique and substantial burden. ***They are not intended as an accommodation for a property owner's convenience.*** A variance decision may be appealed within 30 days of the filing of the decision in the office of the board.

Please contact the staff at the City's Planning Department and/or Building Inspection Department if you have any further questions.

05/15/2024

To whom it may concern,

My request is the following, I would like to build a 6 foot fence in my backyard. My request is based on the terms and needs of my 9 year old son Israel Morales, who has special needs, he's diagnosed with autism. We are trying to build a safe space for him, where he can play without restrictions and without worries that he is going to jump, run or leave the property.

Miguel Morales

5-15-24

6 ft vinyl fence
At least 4ft from sidewalk



