

Date: Monday, July 13, 2015

Time: 5:00 pm

Place: City Hall

ZONING BOARD OF APPEALS

A. CALL TO ORDER AND ROLL CALL

B. CORRECTION OF MINUTES

C. BUSINESS

1. CONSIDERATION OF REQUEST FOR VARIANCE TO ALLOW A FRONT SETBACK OF LESS THAN 40' FOR PROPERTY LOCATED AT 548 8TH AVENUE

Individual Requesting Item	City Attorney
Expected Length of Discussion	45 min.

Documents: [SKMBT_C35150701114300.pdf](#)

D. ADJOURNMENT

Request from persons with disabilities who need assistance to participate in this meeting, including need for an interpreter, materials in alternate formats, or other accommodations, should be made to the Office of the City Clerk at (608) 329-2564 with as much advance notice as possible so that proper arrangements can be made.

Members: Chairperson Nate Klassy, Tyler Schultz, Dennis Dalton, Bud Pilz, David Haroldson, 1st Alternate Daniel DeMuth, 2nd Alternate John Wyttenbach, and Secretary Carol Stamm (non voting)



CITY OF MONROE

Office of City Clerk/Director of General Government

1110 18th Avenue
Monroe, Wisconsin 53566
(608) 329-2524
www.cityofmonroe.org

Carol J. Stamm
City Clerk/Director of
General Government
cstamm@cityofmonroe.org

Ellen K. Miller
Deputy Clerk
emiller@cityofmonroe.org

July 1, 2015

Please take notice:

An application for a zoning variance has been filed by Four Points Holdings, LLC for property located at 548 8th Avenue in the City of Monroe to allow a front setback of less than 40'.

The matter will be heard by the Zoning Board of Appeals at City Hall, Monroe, Wisconsin on the 13th day of July, 2015 at 5:00 pm.

Objections to the granting of the variance may be filed with the City Clerk. You may appear in person, by agent, or by attorney at the meeting.

Carol J. Stamm, CMC/WCMC
City Clerk/Director of General Government
Secretary – Zoning Board of Appeals

Michelle Behnke & Associates

business • real estate • estate planning

222 N Midvale Blvd. Suite 17 • Madison, WI 53705
Telephone: (608) 233-9024 • Fax: (608) 233-9029

mbehnke@behnkeassociates.com

June 1, 2015

Mr. Ryan Lindsey
Zoning Board of Appeals
1110 18th Ave.
Monroe, WI 53566

RE: 548 8th Avenue, Monroe, WI – Zoning Variance

Dear Mr. Lindsey:

Enclosed you will find an Application for Zoning Variance along with my firm check in the amount of \$200 in payment of the application fee.

This Variance Application is being submitted for the building located at 548 8th Avenue, Monroe, WI. The building is operated as a Burger King restaurant. A recent survey in connection with the sale of the real estate showed a portion of the building encroaches on the 40' front building setback line of the property. With additional research I learned that the encroachment has been in existence since at least 1997. My client, Southern Wisconsin Foods Real Estate Holding Company, LLC purchased the building in 1997. In order to make the restaurant viable the building was expanded in 1998 to include a play area and additional seating. During the planning and construction of this expansion the city's building inspector granted the building permit for the expansion even though it would extend into the setback area. Construction was completed and the building has remained unchanged since the expansion. Although no issue has been raised since the 1998 expansion, the Zoning Administrator, Ryan Lindsey indicated that an application for the Use Variance would be the proper action.

Since the City granted the building permit and has permitted the encroachment for more than fifteen years, it would be unnecessarily burdensome to require that the building be altered so as to comply with the set back requirement. Such an alteration would also decrease the viability of the property for its permitted use as a restaurant.

Sincerely,



Michelle A. Behnke

MAB/kjc

Enclosures

Cc: Paul Dobbel
Attorney Jon Becker

APPLICATION FOR ZONING VARIANCE

The Monroe City Attorney has advised the following rules must be applied by the Zoning Board of Appeals when considering an appeal for a variance from the strict application of a zoning ordinance:

AREA VARIANCE REQUESTS: The standard to be applied by the Zoning Board of Appeals when considering a request for an area variance is whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome. *An area variance has no relationship to a change of use. It is primarily a grant to erect or alter a structure or related improvements in a way that does not strictly comply with the zoning restrictions governing area, set backs, frontage, height, bulk or density.*

USE VARIANCE REQUESTS: The standard to be applied by the Zoning Board of Appeals when considering a request for a use variance whether in the absence of a variance no reasonable use can be made of the property in question. The property owner must demonstrate that he or she has no reasonable use of the property unless the variance is granted. Inconvenience or the opportunity to make a more effective use of property is not a valid basis for finding hardship. *A use variance is one that permits a use other than that allowed by the zoning ordinance in the particular zoning district.*

Applying the foregoing principles to your request,

If you are applying for a Use Variance are you able to make ANY reasonable use of the entire property if your request for variance is denied? Yes No . (If yes, do not go further, appeal is unwarranted)

If you are applying for an Area Variance describe how you will be unable to use the property for a permitted purpose or how your use under existing restrictions will be unnecessarily burdensome unless a variance is granted: The building on the property has encroached on the 40' front building setback line since at least 1997. The City Building Inspectors allowed for the expansion of the building into the setback area for the restaurant to include a play area and additional seating. After allowing the construction of the addition which encroaches it would be unnecessarily burdensome on the operator of the restaurant to remove the addition or some part of it and it would decrease revenue in such a way as to call into question the financial viability of the location. (See accompanying letter for a more detailed description.)

APPEAL FROM RULING OF ZONING ADMINISTRATOR

To the Zoning Board of Appeals:

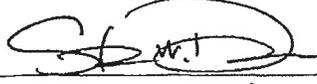
Please take notice that the undersigned was on the _____ day of _____, 20____ refused a permit by the Zoning Administrator, for the construction of a _____

at (Address) _____
in the City of Monroe, and hereby appeals from the ruling of the Zoning Administrator for the following reasons:

FOUR POINTS HOLDINGS, LLC

Dated 5.29.2015

Signed:



Steven W. Doran, Member

pd. 200
6-10-15