



**TO:** Edgerton Board of Appeals

**FROM:** Staff

**MEETING DATE:** June 19, 2019

**GENERAL DESCRIPTION**

**Description of Request:** Petition for a variance to Chapter 22.750(5)(b) 4 and 5 to reduce the front yard setback from 50 feet to 9 feet and the side yard setback from 70 feet to 10.25 feet to allow the construction of a single family home.

**Address:** 645 Park Avenue

**Applicant:** Theran and Erin Springstead

**Current Zoning/Land Use:** A-1 Agriculture / vacant

**STAFF REVIEW COMMENTS**

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

1. The petitioners seek a variance to allow the construction of a single family house closer to the front and side lot lines than is allowed by the ordinance. The parcel is zoned A-1 Agriculture. The Agriculture District has much greater setbacks than residential districts. If the parcel were zoned residential, as the neighboring properties are, the petitioner would not need a variance to the sideyard.
2. The street right of way serving the parcel is oddly shaped. The city vacated a portion of the street right of way several years ago. When Park Avenue was resurfaced recently, the City installed a cul-de-sac since the road will not extend to the east
3. The 2.6 acre parcel has very steep slopes to a large kettle in the center of the property making much of the parcel undevelopable. The only place on the lot where sanitary sewer is available is immediately at the end of Park Avenue. The petitioner seeks the variances to allow the house to be built on the relatively flat area near the Park Avenue right-of-way so as to have street access and access to the sanitary sewer.



Date Draft Submitted 5/24/19  
Date Application Submitted 5/24/19  
Fee Paid \$100

### Application for Variance

Owner (must be the applicant) Theran and Erin Springstead  
Parcel Address 645 Park Ave Parcel Number 6-26-647B  
Owner Address 17 Lord Street, Edgerton, WI 53534 Daytime Phone 608-209-8997  
Present Use of the Property Undeveloped  
Zoning Classification A1

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 # 22.750(5)(b) sub4&5 cannot be entirely satisfied because: Topographical conditions of this parcel are such that building within the setback parameters of the city ordinance is unfeasible.

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

We propose that a front (street) setback be established that reflects the new cul-du-sac shape at the end of Park Ave. The city right of way shall be established 13' from back of curb along the radius, and a 25' front setback be established from that point. We also propose that a side setback of 10' be approved for this parcel.

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- (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.

This is a very unique parcel for multiple reasons.

First, although the lot is 2.70 acres, only a small portion of the property is a viable building site, due to the severe topography of the site. The only buildable portion of the site is the relatively flat portion in the northwest corner of the parcel, nearest to the cul-du-sac of Park Ave. Then the lot drops off significantly to the southeast.

Second, the property line in the NW corner is an irregular shape due to a right of way modification and street adjustments over the years. Years ago the city vacated a street ROW that would have allowed Park Ave to continue to the east. When it was vacated, half of the vacated land went to this parcel and created an "offset" in the east/west boundary on the north property line. Then in 2016/17 the city modified the end of Park Ave and changed the dead-end road from a square dead end to a cul-du-sac shape, and pulled the end of the road further back to the west. This change left excess city ROW land between the curb and

the property line.

The irregular shape of the NW property boundary does not offer a “typical” street setback condition. If setbacks are enforced from the current jagged NW boundary, nearly all of the buildable area of this lot will be lost to setbacks.

If this lot existed in a newly developed subdivision, zoned R-1, the set-backs would be drawn and established from the new curb line. And in that scenario the proposed structure would easily comply with the typical residential setbacks, and match the setbacks of the rest of the Park Ave neighborhood.

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**NOTE:**

- 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;
- Selfimposed 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 cuttingoff existing access to a public rightofway or deed restrictions imposed by the owner's predecessor in title are considered to be such selfimposed 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.

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Without this variance, the property will not have a buildable site for a residential home, even though there is plenty of room to fit a home on the site.

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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.

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No. The proposed variance will allow a home to be built that conforms to all the “typical” setbacks of the neighborhood. The new home will fit in visually with all the other existing residential homes on the street and have the same setbacks requirements as them.

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 rightsofway, 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 longrange planning matters.

No. The variance will allow a new home to be built with the same setback restrictions as the rest of the neighborhood. Having a home at the end of the cul-du-sac will enhance the character of the neighborhood and complete the development of Park Ave, instead of leaving an undeveloped parcel of land at the end of the road.

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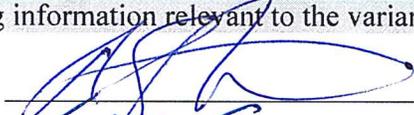
Have the factors causing the variance request been created by the act of the applicant or previous property owner or their agent (for example: previous development decisions such as building placement, floor plan, or orientation, lotting pattern, or grading) after the effective date of this Chapter. 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.

All conditions causing this variance request existed prior.

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.

NO

Verification by applicant: I, Theran & Erin Springstead, 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  Date 5-24-19  
Applicant Signature  Date 5-24-19

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

TOWNS  
LOT

TOWNE  
COUNTRY  
CLUB

LOT 3 COUNTRY OAKS

CENTRELINE OF PARK AVENUE AS ESTABLISHED BY  
HAROLD COMBS SURVEY DATED JUNE 9, 1986.



PARK AVENUE

(REC. 18924E)

S89°14'42"E

150.0'

PAULSON  
LOT

LOT

(REC. 450E 264.0')

S103°54'W

264.31'

PARCEL A

0.91 OF  
AN ACRE

(REC. 38524W)

150.0'

N89°10'06"W

SPRINGSTEAD LOT  
2.7 ACRES

PARCEL B  
2.70 ACRES

(REC. 498.86')  
DOC. NO. 2074275

(REC. 1895820E 488.76')

S89°53'12"E

366.90'

SOUTH 1/2 OF VACATED PARK AVENUE  
SEE DOC. NO. 2074275 FOR VACATION

S89°53'12"E

165.0'

S112°14'E  
218.0'

PART OF  
LOT 7

N. 93°30'00" E  
191.971

N. 93°30'00" E  
253.96'

S.T.H. "59"

180.19'

N89°10'06"W

190.67'

Scale: NTS  
Date: 5-23-2019  
EXISTING Site Plan

A1.0

TOWNS LOT

TOWNE COUNTRY CLUB  
LOT 3 COUNTRY OAKS



CENTERLINE OF PARK AVENUE AS ESTABLISHED BY HAROLD COMBS SURVEY DATED JUNE 9, 1966.

PARK AVE

(REC. 14824E)

S89°14'42"E

150.0'

PAULSON LOT

LOT

284.31'

(REC. S45°07' 284.0')

(REC. N45°07' 284.0')

PARCEL A

0.91 OF AN ACRE

(REC. S85°24'W)

150.0'

N89°10'06"W

10.48'

N89°10'06"W

180.19'

190.67'

SOUTH 1/2 OF VACATED PARK AVENUE  
SEE DOC. NO. 2074275 FOR VACATION

S89°53'12"E

366.90'

(REC. N89°38'20"E 498.76')

S89°53'12"E

165.0'

SPRINGSTEAD LOT  
2.7 ACRES

(REC. 498.86')

DOC. NO. 2074275

PARCEL B  
2.70 ACRES

S112°14'E

218.0'

PART OF LOT 7

1% CONTOUR LINES



BLDC

Springstead Home  
645 Park Ave  
Edgerton WI 53534

S65°52'36"W

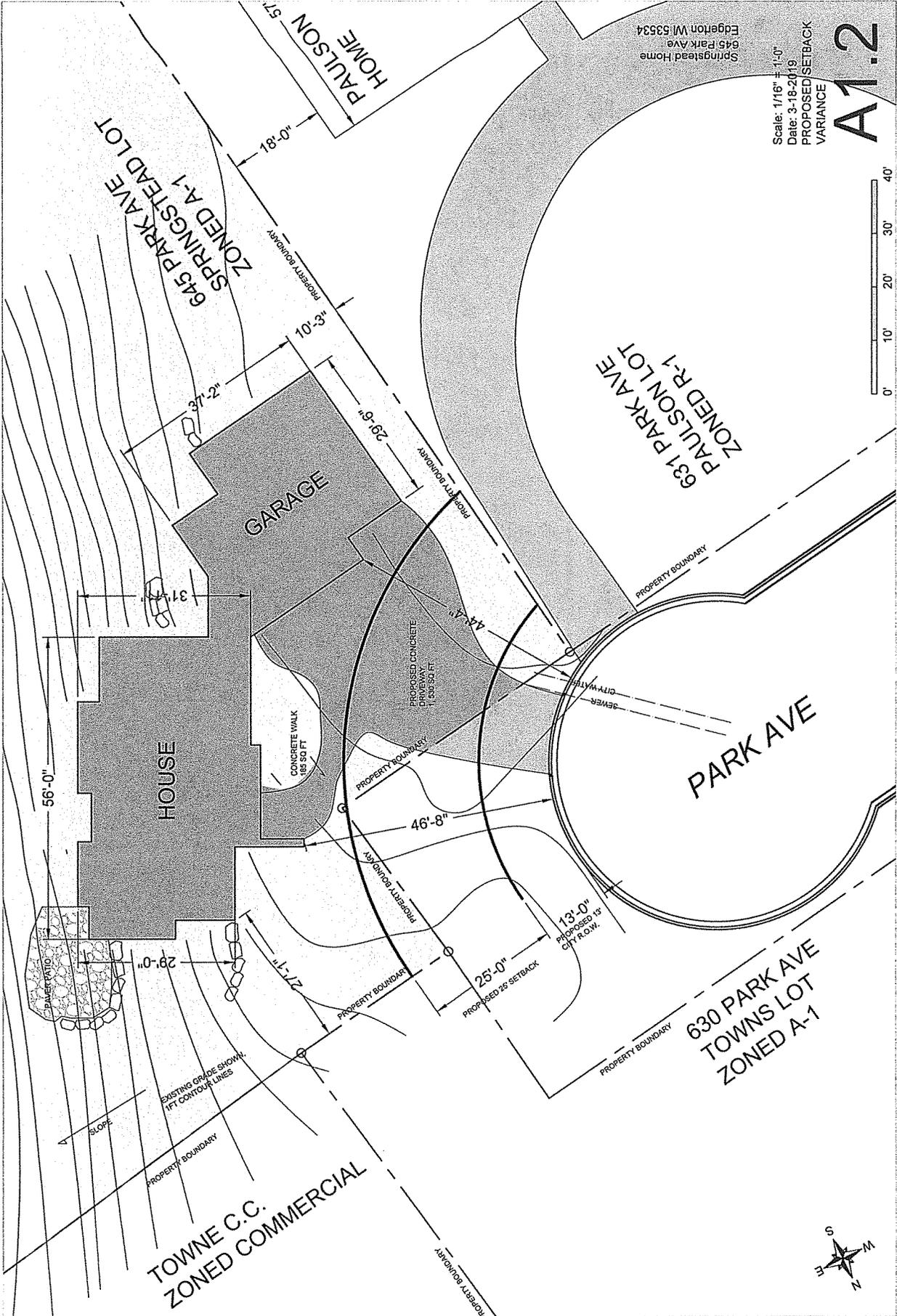
296.55'

"59"

S.T.H.

Scale: NTS  
Date: 5-23-2019  
PROPOSED Site Plan

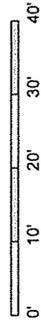
A1.1



Springstead Home  
645 Park Ave  
Edgerton WI 53534

Scale: 1/16" = 1'-0"  
Date: 3-18-2019  
PROPOSED SETBACK  
VARIANCE

**A1.2**



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

April 24, 2019

A regular meeting of the Zoning Board of Appeals (“ZBA”) was called to order at 7:00 p.m. at the Edgerton City Hall, 12 Albion Street, Edgerton, Rock County, Wisconsin on April 24, 2019.

Present and responding to the roll call were Chairperson David Maynard, James Kapellen, Jim Long, Steve Burwell and alternate Corey Steen.

Absent – Russell Jorstad.

Also present were City Administrator Ramona Flanigan and City Attorney William E. Morgan.

Chairperson Maynard opened the meeting at 7:00. 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.

The ZBA went into public hearing at 7:05 on the application of Tracy and Ryan Foley for variances to sections 22.711(3)(b) 1, lot area and section 22.711(3)(a) 2, maximum gross density to allow the establishment of a second residential unit in a single family home. The applicant Tracy Foley appeared and presented that the applicants wished to restore the building to a duplex. The applicant noted that the structure had originally been constructed as duplex in the early 1900’s and had been used as such until 2001 when the applicant and her family converted it to a single family use after having purchased it in 1996. Because the applicant’s children no longer reside at home, the applicants want to restore the property to an income property. Ramona Flanigan presented the staff report recommending denial of the request because there was no significant hardship. There were no other appearances.

At 7:12 ZBA Member Kapellen moved to close the public hearing, seconded by ZBA Member Long. Motion passed on unanimous voice vote.

After further discussion, ZBA Member Kapellan moved to grant each of the variances application noting that the building had been originally constructed as a two family home and had been used as such. He further noted that he did not believe that this would result in the establishment of a precedent because the facts were unique. Alternate ZBA Member Long seconded the motion. Upon a roll call vote, the motion was approved with one abstention (ZBA Alternate Steen).

The next order of business was to consider approval of the minutes of the March 12, 2019 Zoning Board meeting. A motion from ZBA Member Long, seconded by ZBA Member

Steen, to approve the minutes as modified to correct the vote regarding the denial of the Samuelsen variance was approved by unanimous voice vote.

There being no further business of the Board, a motion was made by ZBA Member Kapellen, seconded by ZBA Member Long, to adjourn. Motion carried by unanimous voice vote. The meeting was adjourned at 7:32 p.m.

Dated this 7<sup>th</sup> day of May, 2019

Respectfully submitted,

CITY OF EDGERTON

A large, stylized handwritten signature in black ink, appearing to read 'W. Morgan', is written over a horizontal line.

By: William E. Morgan, City Attorney