

Everything You Need!

Phone 309-852-2611
Fax 309-856-6001

July 18, 2019

Honorable Mayor and City Council
Kewanee City Hall
401 E. Third Street
Kewanee, Illinois 61443-2365

RE: Report from Zoning Board of Appeals for July 17, 2019 Meeting.

The Zoning Board of Appeals convened at 7:00 p.m. on July 17, 2019 Kewanee City Hall, Council Chambers. ZBA member Peart was absent. For business, there was one variance petition applications upon which to conduct a public hearing.

Case 1:

1002 Western Ave, request to allow a 6-foot fence (chain link) to be installed at the property line in the required street yards on a corner lot.

Kim Cernovich, owner of 1002 Western Ave., inquired about installing a 6-foot chain link fence at the front property line, adjacent to Western Ave., and along the side (East) property line, adjacent to Franklin St. Cernovich was advised that a fence greater than four feet in height in a front yard or required street yard is not allowed by ordinance. I explained that he could apply for a variance to the Zoning Board of Appeals and how the process works. Cernovich agreed to follow the process and submitted for a variance petition.

The proposed fence would run along the front property line (East West) on Western Ave and along the side property line (North South) along Franklin St. The proposed fence material is chain link and would enclose the entire yard space, which is adjacent to 1006 Western Ave, which Cernovich owns. Cernovich wishes to fence in the yard space for play space for his grandchildren. The 6 foot height is requested because Cernovich wishes to allow his dogs to use the space as well and has concerns about his dogs being able to jump a 4-foot fence.

The Subject Property:

Address: 1002 Western Ave.

Legal Description: LOT 16 BLK 3 ROSEVIEW ADD CITY OF KEWANEE.

Location: Northwest corner of Western Ave. and Franklin St.

Zoning: R2 Single-Family Dwelling District.

Dimensions: 145 feet North to South by 56 feet East to West, 8120 Sq. Ft area.

Existing Buildings or Uses: One family dwelling with detached garage. (On the adjacent lot)

Existing Land Use Map: Low Density Residential.

Proposed Land Use Map: Low Density Residential.

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The Surrounding Area:

Zoning District(s): Surrounding land is zoned R2 Single-Family Dwelling District.

Uses of Land:

The surrounding land contains single-family dwellings.

Variance Requested:

A variance of 2 feet to the maximum allowable fence height in a front yard and required street yard to allow installation of a 6-foot chain link fence along the South and East property lines.

Background Information:

With consideration to the surrounding neighborhood characteristics and after speaking with the City Manager about this petition: The City has no recommendation and encourages all Zoning Board members to perform their own on-site inspection prior to the meeting. However, The City would like bring to your attention that the proposed fence material will have greater than the required 70% visibility as required by ordinance. Please see the fence ordinance section that applies to this case at the end of this memo.

The Public Hearing:

At 7:00 p.m. on July 17, 2019, the hearing on the variance requests at 1002 Western Ave. was held. **Rhonda LaFollette** of 1014 Western Ave., Kewanee, Illinois, was present to represent the petition for the variance request.

- Lafollette stated that she and her fiancé Kim Cernovich purchased the corner property at 1002 Western Ave. and demolished the house in order to make a fenced in playground area for their grandchildren. The property is adjacent to Kim's father's house and the two parcels will be combined. They are requesting the variance to make the fenced in area as large as possible to have room for the playground equipment and to have ample room for their two German shepherds to run. The reason they need the fence to be six feet in height is to keep neighborhood pit-bulls out of the yard. Lafollette stated that she and Kim live at 1014 Western Ave and that they have a four foot fence in their front yard and have had issues with pit-bulls that run loose in the area jumping the four-foot fence. The six-foot fence will help keep their grandchildren and dogs safe and the variance requested to place the fence at the property lines on the Western Ave side and the Franklin St. side will give their nine grandchildren considerably more room to play.
- Polly Moore of 1028 Western Ave came forward and stated she has no problem with the variance requested.
- ZBA member Clark asked LaFollette who told her a six-foot fence would be enough to keep a pit-bull out. LaFollette stated that they inquired with Interstate Fence out of Geneseo.

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- ZBA member Thompson stated that he has a problem with six-foot fence being placed in the front yard area and has concerns of six-foot fences being placed in front yards all over town if this is allowed.
- There was discussion about the 70% visibility requirement, which the chain link fence material would meet.
- ZBA member McIntyre stated his only concern would be to add a stipulation to prevent them from installing the vinyl slats into the chain link that would reduce visibility. Edwards stated that could be added to the variance if it is passed.
- ZBA member McIntyre made the motion to approve the variance.
- ZBA member Dolieslager second the motion.
- ZBA member Thompson state in further discussion that he doesn't think the ZBA should set the precedence by letting them have a six foot fence in the front yard. Thompson has concerns that once this is done there will be six-foot fences in front yards all over town. Thompson stated once we do this, we can't stop anyone else. Thompson stated that everybody and anybody could put a six-foot fence in their front yard.
- ZBA Chairman Medley reminded Thompson that anyone wishing to install a six-foot fence in their front yard would have to come to the ZBA individually and follow the same process.
- Edwards stated that each case would have to come in front of the ZBA and be considered.
- ZBA member Thompson stated he believes they have plenty of room in the yard to set the fence back.
- The vote was a tie vote and Edwards left the room briefly to check the ruling on a tie vote. While Edwards was out of the room, ZBA member Thompson and Clark discussed the tie vote situation and Thompson remarked, "Let the City Council decide, they have the right to overturn the ZBA recommendation".
- LaFollette stated that she understood ZBA member Thompson's concerns but also understands that the ZBA should consider each case individually.
- Edwards returned to the meeting and stated that he and Debbie Johnson (who was in the office) researched Zone Board cases online and found that a tie vote constitutes a denial of the variance.
- Edwards advised LaFollette that she and/or Kim should be at the City Council meeting on the following Monday at 7pm to answer any questions that the Council or Mayor may have.

No others were present to speak in support of the variance petition.

No others were present to speak in opposition to the variance petition.

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Recommendation:

After discussing the facts and testimony presented, the Zoning Board of Appeals recommends, based on the authority of §33.062 of the City Code, by a vote of three in favor of the application, three opposed to the application, that the City Council does not grant the variance petition as filed.

Specifically, the Zoning Board of Appeals recommends the City Council does not grant the following variance to Kim Cernovich for his property at 1002 Western Ave., as to the height limitation for a street yard fence:

Variance Requested:

A variance of 2 feet to the maximum allowable fence height in a front yard and required street yard to allow installation of a 6-foot chain link fence along the South and East property lines.

There being no further business, the meeting adjourned at 7:18 p.m.

Respectfully yours,



Martin Medley, Chairman

§ 158.07 CONSTRUCTION, APPEARANCE AND MAINTENANCE.

(A) Appearance.

(1) Orientation. For all fences and screens constructed or installed after the passing of this chapter, the finished side of all fences shall face outward from the subject property. Visible supports and other structural components shall be placed and face inward toward the subject property, with exception to fences that are designed and constructed such that the fence panel components are attached to the side of a post perpendicular to the panel.

(2) Opacity. Any fence within a street yard, including along property lines that intersect a right-of-way shall have 70% visibility; however, fences abutting a railroad right-of-way may be solid.

(B) Materials.

(1) Residential districts. Acceptable materials for constructing fencing, walls and decorative posts include wood (that is designed, milled and treated as such to be used for fencing purposes), stone, brick, wrought iron, vinyl and chain link. ***Any fence within a street yard, including along property lines that intersect a right-of-way, shall have 70% visibility.*** All fences must be kept in good repair and appearance maintained.

(2) Nonresidential districts. Acceptable materials for constructing fencing and decorative posts include wood (that is designed, milled and treated as such to be used for fencing purposes), stone, brick, wrought iron, vinyl, chain link and corrugated steel panels providing that the

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corrugated steel panels are treated with a rust preventative treatment that is weather resistant, is compliant with § 158.05(B) herein and is approved by the Building Official. Barbed wire fencing is permitted only in manufacturing districts and at heights greater than eight feet. The height of the barbed wire is not to exceed two feet above the top of the fence to which it is attached. All barbs and prongs shall be faced toward the ground. The installation of barbed wire fencing is prohibited along any property line abutting a residentially zoned property unless set back from the property line adjacent to the residential property by no less than 15 feet. Any fence within a street yard, including along property lines that intersect a right-of-way, shall have 70% visibility.

(3) Nonresidential abutting residential. Privacy screening with uniform eight-foot height must be provided where business or manufacturing abuts a residential district.

- (a) No sharp pointed pickets.
- (b) No barbed wire fence except as permitted in division (B)(2) herein.
- (c) No chain link topped by barbed wire except as permitted in division (B)(2) herein.
- (d) All fences must be kept in good repair and appearance maintained.
- (e) The portion of screening abutting a residential district and paralleling a means of egress to a public way on either side of the screening, as measured from the public right-of-way toward the interior of the abutting properties, for a distance of not less than 20 feet and not greater than 30 feet, shall comply with all regulations for that of the adjacent residential district.

(4) Temporary fencing following purposes may be allowed:

- (a) Use of rolled wood or plastic snow fencing for the purposes of limiting snow drifting between November 1 and April 1.
- (b) For the protection of excavation and construction sites and the protection of plants during grading construction. Fencing for excavation sites shall be a minimum of 48 inches in height.
- (c) For security fencing of permitted temporary use or temporary outdoor entertainment areas.
- (d) For the purpose of keeping wildlife out of personal gardens on residential property provided that said fencing surrounds live vegetation intended for consumption and said fencing is not a substitute for permanent fencing. Once the garden has died off and/or the garden is not being maintained, the fencing shall be removed.

(5) Dangerous or hazardous fences. Fences constructed of any material deemed to be dangerous or hazardous to the public's welfare and safety by the Building Official, such as and including electrified, barbed wire and spike-topped fences shall be prohibited except as permitted in division (B)(2).

(C) Visibility. Any fence located within a front or street yard, including along property lines that intersect a right-of-way, shall have 70% visibility.

(D) Height.

(1) Maximum. The maximum height of any fence or decorative post shall be the following:

- (a) Four feet when located within a required front yard or street yard on any property.**
- (b) Six feet when:**

1. Located on any residential property, but not within a required front yard or a required street yard, except as allowed along a railroad right-of-way in division (C)(2)(b).

Zoning Board

Date

7/17/19

1002 Western Ave.

Attendance

		yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
		abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent
PEART Jeremy Y	✓	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent
BRACKETT Stephen Y	✓	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent
CLARK Richard Y	✓	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent
MEDLEY Martin Y	✓	yes abstain	no absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent
THOMPSON Jerry Y	✓	yes abstain	no absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent
MCINTYRE David Y	✓	yes abstain	no absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent
DOLIESLAGER Lance Y	✓	yes abstain	no absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent
		yes abstain	no absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent
		yes abstain	no absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent	abstain	absent
	6	3	3										

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