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September 19, 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 September 18, 2019 Meeting.

The Zoning Board of Appeals convened at 7:00 p.m. on September 18, 2019 Kewanee City Hall, Council Chambers. ZBA member Thompson was absent. For business, there were three variance petitions applications upon which to conduct a public hearing.

CASE ONE:

420-426 Rockwell St., Request for a variance to the allowed materials for a fence in a residential district.

The Subject Property:

Address: 420-426 Rockwell St.

Legal Description: LOT 6 BLK 1 PROSPECT PLACE ADD & LOT 5 BLK 1 PROSPECT PLACE ADD, City of Kewanee, County of Henry, State of Illinois.

Location: North side of the 400 Block of Rockwell Street.

Zoning: R2 One-Family Dwelling District.

Dimensions: 145 feet North to South by 112 feet East to West, 16,240 Sq Ft area.

Existing Buildings or Uses: Single-family dwelling and empty residential lot.

Existing Land Use Map: Low Density Residential.

Proposed Land Use Map: Low Density Residential.

The Surrounding Area:

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

Uses of Land:

The surrounding land contains Single-Family dwelling.

Variance Requested:

A variance to the allowed materials for a fence within a residential district to allow the completion of a fence already in process of construction using materials not listed within section §155.060-(E)-(5)-(f) & §158.160 of the City Code.

Background Information:

On May 13th I observed a fence being installed at the corner of 5th and Park St. I stopped and had conversation with the homeowner. I advised him of the required fence permit and the materials he was using were not permitted fence material in a Residential District. The material being used is from Great Dane and is normally used for the side panels for semi-trailers. During our conversation, he stated that he saw a fence installed on Rockwell St made of the same materials.

The homeowner was cooperative and removed the panels, applied for a fence permit and reinstalled acceptable materials as allowed per the city code.

I drove to 426 Rockwell St and observed a fence in the process of construction with the same semi-trailer materials. I sent a notice to the homeowner advising of the required permit and allowed materials.

I spoke with the resident a few different times on the phone. The concerns from the resident are that the fence project started before the new fence ordinance was adopted. Though I have no proof of when the fence project began, I can say the materials used are not permitted under the old code or the new.

On August 12, 2019 I met with Toni Whitcher at City Hall who is the owner and resident of 426 Rockwell St. Whitcher filed the petition for the variance.

Here is what the old code states under permitted obstructions in a Residential District:

(5) Permitted obstructions. The following shall not be considered as obstructions when located within or over required yards:

(f) Fences and walls. Decorative concrete, concrete block, chain link, redwood, cedar, or other weather-resistant wood fences will be permitted in all residential areas under the following conditions:

1. Eight feet in height or under.
2. Side and rear yards only and front yards as hereinafter restricted.
These provisions and the following restrictions on front yard fences shall apply to all residential districts including R-1, R-2, R-3, R-4 and R-5.
3. Front yard fences must be constructed of a material which will permit 70% visibility through said fences and such front yard fences shall not exceed four feet in height.
4. No sharp pointed pickets (either wood or metals) permitted.
5. No barbed wire fences permitted.
6. No chain link topped by barbed wire strands permitted.
7. All fences shall be kept in good repair and appearance maintained.

Here is what the new code states:

(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.

Neither ordinance allows for solid metal panels in a residential district. I explained the ordinances to the resident and told them the only way to use the panels they have installed thus far on their fencing project would be to file for a variance with the Zoning Board of Appeals. I told them the materials they are using are considered out of character for use as a privacy fence in a Residential District.

The City has no recommendation and encourages all Zoning Board members to perform their own on-site inspection prior to the meeting.

The Public Hearing:

At 7:00 p.m. on September 18, 2019, the hearing on the variance request at 426 Rockwell St. was held. **Frank & Toni Witcher** of 426 Rockwell St., Kewanee, Illinois, was present to represent the petition for the variance request.

- Frank stated that he started building the fence in 2016 and was not aware that the materials he was using were not compliant to the code. He stated that he got the materials from work (Great Dane) and that the material are called composite panels. The panels are laminated plastic and metal and are used for making trailers.
- ZBA member Brackett asked what the Witcher's reasoning for the fence was. They stated that they eventually want to install a pool.
- ZBA member Peart asked for clarification that the variance requested was for the materials only and not on the placement/location of the fence. Edwards stated the variance was only for the materials. The fence location was ok.
- ZBA Member Peart stated that he thinks that the material being used looks nice.

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

There were two objectors.

- Don Karau, 601 Elliott St., Stated that he is concerned that Witcher is going to start storing junk. Karau also stated that he believes that because the material is not a listed approved material that it should not be allowed and that the Zoning Board should deny the request because the materials listed in the current code where put in there for a reason.

- Mary Karau, 601 Elliott St., stated that she thought the fence looks nice but she has concerns that the Whitchers will start a “storage yard” and she doesn’t want that in a residential district.

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 six in favor of the application, none opposed to the application, one absent, that the City Council grant the variance petition as filed.

Specifically, the Zoning Board of Appeals recommends the City Council grant the following variance to Frank & Toni Whitcher for their property at 426 Rockwell St., A variance to the allowed materials for a fence within a residential district to allow the completion of a fence already in process of construction using materials not listed (plastic/metal laminated panels) within section §155.060-(E)-(5)-(f) & §158.160 of the City Code.

CASE TWO:

1010 E. 10th St., Request for a variance to the allowed side yard setback for an accessory structure.

The Subject Property:

Address: 1010 E. 10th St.

Legal Description: LTS 10 & 11 BLK 3 SIMPSONS 4TH ADD CITY OF KEWANEE, City of Kewanee, County of Henry, State of Illinois.

Location: North side of the 1000 Block of East 10th Street.

Zoning: R2 One-Family Dwelling District.

Dimensions: 119 feet North to South by 124 feet East to West, 14,756 Sq Ft area.

Existing Buildings or Uses: Single-family dwelling.

Existing Land Use Map: Low Density Residential.

Proposed Land Use Map: Low Density Residential.

The Surrounding Area:

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

Uses of Land:

The surrounding land contains Single-Family dwelling.

Variance Requested:

A variance of 8 feet to the required 10% of the lot width (12 feet) to allow a 4 feet setback to the eaves (5 feet to the wall) for the construction of a new garage located just in front of and to the East side of the existing house. § 155.061 R-2 ONE-FAMILY DWELLING DISTRICT, (E) Yard areas, (2) Side yard, of the City Code.

Background Information:

On August 20th I met with Ken Fleming at his residence 1010 E. 10th St. Ken wanted my assistance with figuring out where he could place a new garage on his property. Ken wants to place the garage just in front of the front line of the house and off towards the West lot line. Due to the required 10% of the lot width for the side yard setback, I advised Ken the only way to place the garage where he wants to put it is to file for a variance. Please see the attached photo showing placement of the new garage. Keep in mind that the lot lines indicated on the photo are not an accurate representation.

Here is what the code states for side lot lines in an Residential District:

§ 155.061 R-2 ONE-FAMILY DWELLING DISTRICT.

(E) Yard areas. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

(1) Front yard. The same regulations shall apply as required or permitted in the R-1 One-Family Dwelling District.

(2) Side yard.

(a) On each lot upon which a dwelling is constructed, there shall be a side yard on each side equal to not less than 10% of the width of the lot, the combined total of the side yards on interior lots shall not be less than 15 feet. On corner lots there shall be maintained a side yard adjacent to the street which intersects the street upon which the building or structure maintains frontage, and in case of a reversed corner lot, there shall be maintained a setback from the side street of not less than 50% of the front yard required on the lots in the rear of such corner lots, but such setback need not exceed 15 feet. No accessory building on said reversed corner lot shall project beyond the front yard required in the adjacent lot to the rear, nor be located nearer than five feet to the side lot line of said adjacent lot.

With consideration to the surrounding neighborhood characteristics and after speaking with the City Manager about this petition, the City can see no adverse effect on anyone if the variance is granted and has no issues with the request assuming there are no objectors.

The City encourages all Zoning Board members to perform their own on-site inspection prior to the meeting.

The Public Hearing:

At 7:22 p.m. on September 18, 2019, the hearing on the variance request at 1010 E. 10th St. was held. **Ken Fleming** of 1010 E. 10th St., Kewanee, Illinois, was present to represent the petition for the variance request.

- Fleming stated that he wishes to build the detached garage to store and work on his vehicles. He said that he doesn't want to work on vehicles in the existing attached garage because he doesn't want fumes from the vehicles getting into the house.

- Fleming also stated that he has talked to the neighbor to the West (who was present at this meeting) and that the neighbor had no concerns with the proposed garage.
- There was discussion about where the overhead door will be placed. Fleming said the overhead door will face East towards the existing driveway.
- Fleming said that he will remove the gravel area that was used for parking and replace it with grass. He will also remove a couple of trees that the Flemings and their neighbors don't like.

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

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

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 six in favor of the application, none opposed to the application, one absent, that the City Council grant the variance petition as filed.

Specifically, the Zoning Board of Appeals recommends the City Council grant the following variance to Ken Fleming for his property at 1010 E 10th St., A variance of 8 feet to the required 10% of the lot width (12 feet) to allow a 4 feet setback to the eaves (5 feet to the wall) for the construction of a new garage located just in front of and to the East side of the existing house. § 155.061 R-2 ONE-FAMILY DWELLING DISTRICT, (E) Yard areas, (2) Side yard, of the City Code.

CASE THREE:

1005 Terry Ave., Request for a variance to the allowed side yard setback for an accessory structure.

The Subject Property:

Address: 1005 Terry Ave.

Legal Description: LTS 10,11 & 12 BLK 2 & E1/2 VAC ALLEY W & ADJ BAUERS 4TH ADD CITY OF KEWANEE

Location: Northwest corner of East 10th Street and Terry Ave.

Zoning: R2 One-Family Dwelling District.

Dimensions: 153 feet North to South by 150 feet East to West, 22,950 Sq Ft area.

Existing Buildings or Uses: Single-family dwelling.

Existing Land Use Map: Low Density Residential.

Proposed Land Use Map: Low Density Residential.

The Surrounding Area:

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

Uses of Land:

The surrounding land contains Single-Family dwelling.

Variance Requested: (Please see the note below for further information concerning the variance requested.)

A variance of 14 feet to the required 15 feet setback to the South side street yard allowing a 1 foot setback to the eaves (2 feet to the wall) for the construction of a new garage to be located at the Southwest corner of the lot. § 155.061 R-2 ONE-FAMILY DWELLING DISTRICT, (E) Yard areas, (2) Side yard, of the City Code.

Background Information:

On August 28th I met with John Johnson at City Hall to discuss potential locations for a new garage that he intends to build. Johnson stated he would like to place the new garage at the Southwest corner of his property but does not want to remove an existing tree. Johnson stated that he located his south lot line property pins and, after doing some measuring from the located pins, he can fit the new garage in the corner of the lot if allowed to place it 1 foot (to the eave 2 feet to the wall) off the lot line. I advised Johnson that he would need a variance in order to place the garage that close to the side street yard lot line. Johnson agreed to petition for a variance.

If the variance is granted, the new garage would be in line with the house directly to the West of Johnson's property.

PLEASE NOTE: The code states that an accessory structure may be placed 3 feet from an interior lot line unless the lot is a reversed corner lot, which this is not. With that under consideration, the code is silent with concerns to a side (exterior) lot line, on a street yard, setback for an accessory structure. This could be interpreted as a variance request of only 2 feet rather than the 14 feet requested on the petition. Most important to keep under consideration is the end result will be the same which is 1 foot to the eave and 2 feet to the wall which is directly in line with the house to the west and would not be out of character with the surrounding neighborhood.

Please see the attached photos showing placement of the new garage. Keep in mind that the lot lines indicated on the photo are not an accurate representation.

Here is what the code states for side lot lines and accessory structures in an Residential District:

§ 155.061 R-2 ONE-FAMILY DWELLING DISTRICT.

(E) Yard areas. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

(1) Front yard. The same regulations shall apply as required or permitted in the R-1 One-Family Dwelling District.

(2) Side yard.

(a) On each lot upon which a dwelling is constructed, there shall be a side yard on each side equal to not less than 10% of the width of the lot, the combined total of the side yards on interior lots shall not be less than 15 feet. On corner lots there shall be maintained a side yard adjacent to the street which intersects the street upon which the building or structure maintains frontage, and in case of a reversed corner lot, there shall be maintained a setback from the side street of not less than 50% of the front yard required on the lots in the rear of such corner lots, but such setback need not exceed 15 feet. No accessory building on said reversed corner lot shall project beyond the front yard required in the adjacent lot to the rear, nor be located nearer than five feet to the side lot line of said adjacent lot.

ACCESSORY BUILDINGS

§ 155.106 LOCATION RESTRICTION.

(A) (1) An accessory building may not be located nearer to any interior lot line than that permitted for the main building, when any part of this accessory building is on line with the main building, if extended. However, when an accessory building is located in the rear yard, it may then be located within three feet of the interior lot line, but not nearer than five feet of the rear lot line.

(2) However when a substantial part of the wall of an accessory building is a part of the main building or where an accessory building is attached to the main building in a substantial manner as by a roof so as to be counted as part of the main building and said accessory building is located in the rear yard, it may then be located within three feet of the interior lot line, but not nearer than five feet of the rear lot line subject to divisions (B) and (C) of this section.

(B) An accessory building shall not be erected prior to the establishment or construction of the main building to which it is accessory.

(C) No accessory building shall be located on a reversed corner lot beyond the front yard required on the adjacent lot to the rear, nor be located nearer than five feet to the side lot line of the adjacent building on the lot to the rear.

With consideration to the surrounding neighborhood characteristics and after speaking with the City Manager about this petition, the City can see no adverse effect on anyone if the variance is granted and has no issues with the request assuming there are no objectors.

The City encourages all Zoning Board members to perform their own on-site inspection prior to the meeting.

The Public Hearing:

At 7:29 p.m. on September 18, 2019, the hearing on the variance request at 1005 Terry Ave. was held. **Authur (John) Johnson** of 1005 Terry Ave., Kewanee, Illinois, was present to represent the petition for the variance request.

- Johnson stated he wants construct the garage for additional garage space and wishes to place it in the location requested so that he doesn't have to remove a tree that's in the yard that he and his wife are fond of.
- Johnson stated that the overhead door will face East and will not need to place a new driveway across the right of way.
- Johnson stated that the new garage will be in line with the house directly to the West of his property.

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

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

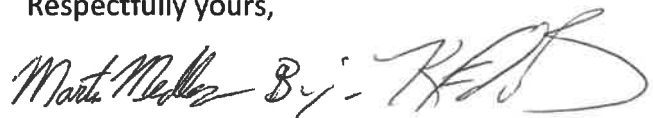
Recommendation:

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 six in favor of the application, none opposed to the application, one absent, that the City Council grant the variance petition as filed.

Specifically, the Zoning Board of Appeals recommends the City Council grant the following variance to Arthur & Dorothy Johnson for their property at 1005 Terry Ave., A variance of 14 feet to the required 15 feet setback to the South side street yard allowing a 1 foot setback to the eaves (2 feet to the wall) for the construction of a new garage to be located at the Southwest corner of the lot. § 155.061 R-2 ONE-FAMILY DWELLING DISTRICT, (E) Yard areas, (2) Side yard, of the City Code.

There being no further business, the meeting adjourned at 7:33 p.m.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Martin Medley" followed by a stylized flourish.

Martin Medley, Chairman

