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May 12, 2022

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

RE: Report from Zoning Board of Appeals for May 11, 2022, meeting.

The Zoning Board of Appeals convened at 5:00 p.m. on May 11, 2022, in the Council Chambers at Kewanee City Hall. ZBA member Martinez was absent. For business, there was one variance petition application upon which to conduct a public hearing.

**1008 Rockwell St., A variance of 5'6" to allow a 0 (zero) feet East side yard setback to allow a room addition to the East side of the existing single-family dwelling.**

**Background Information:**

Kelly Stillwell turned in a building permit application to my office on March 28, 2022. The application was for a room addition to the East side of the existing house for a bedroom. The proposed addition would extend 16 feet off the East wall of the house. The permit application did not show the setback distance to the East property line. I called Stillwell and he stated that the addition would be up to and on the property line. I advised Stillwell that the ordinance prohibits me from authorizing a zero setback for a room addition and that a setback of 10% of the lot width is required which would be 5'6" for his particular lot.

We had discussion concerning a variance that Stillwell applied for, and was passed, in November 2019 for a carport on the West side of his house. The carport was to extend from the house, over the driveway and attach to a privacy fence. The posts for the privacy fence were to be placed on a frost-free soil base at 42 inches below finished grade. The carport is simply a roof over the driveway. There were no objectors at that meeting and the variance was passed. Because a fence and the carport are easily removed if needed, a land survey to find the property line was not required by the board.

I advised Stillwell that I would caution against a room addition with a zero setback because the only way he could maintain the side wall of the room addition would be to trespass upon the East neighboring property. This may not be a problem now but could be a problem in the future if the relationship between the neighbors changed.

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PLEASE NOTE: All distances when referring to property lines are measured from the overhang of the structure NOT the wall.

Another area of concern is fire separation between the principal structures on the neighboring properties. The 2012 International Residential Code (IRC) measures fire separation from the overhangs of buildings to the property lines and not from one building to a neighboring building on a separate parcel of land. It is measured this way because an owner of a particular property has no control over what the owner of a neighboring property may wish to build in the future. With this under consideration, if there exists a side yard setback of 5'6" on two neighboring properties, regardless of what buildings currently exist, the total fire separation is 11'. The following table is from the 2012 IRC. You will note that if a fire separation distance of less than 5 feet is allowed, the wall closest to the property line in question must be built to a fire-resistance rating of 1 hour in accordance with ASTM E 119 or UL263. Typically, to achieve a 1-hour rating, the interior wall would require 5/8" Type X drywall. Also worth noting, if a fire separation distance of less than 3 feet is allowed, no openings are allowed in the wall adjacent to the property line.

TABLE R302.1(1) EXTERIOR WALLS

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	Fire-resistance rated	1 hour—tested in accordance with ASTM E119, UL 263 or Section 703.3 of the International Building Code with exposure from both sides	0 feet
	Not fire-resistance rated	0 hours	≥ 5 feet
Projections	Not allowed	NA	< 2 feet
	Fire-resistance rated	1 hour on the underside, or heavy timber, or fire-retardant-treated wood <sup>a, b</sup>	≥ 2 feet to < 5 feet
	Not fire-resistance rated	0 hours	≥ 5 feet
Openings in walls	Not allowed	NA	< 3 feet
	25% maximum of wall area	0 hours	3 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R302.4	< 3 feet
		None required	3 feet

With respect to the property line, if the Board were to approve a variance of anything less than the required setback (5'6" by City code), the City would recommend that Stillwell has the property surveyed, by an Illinois licensed surveyor, prior to beginning construction. City staff has assisted numerous residents in locating property lines for fence projects and structures or additions where there is little concern; however, it is always stressed that City staff is not licensed/certified as a surveyor. Because this variance, if allowed, has the potential to present

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a liability issue for the City it would be recommended that the board places a stipulation that the land be surveyed by an Illinois licensed surveyor.

I would also recommend that any variance granted less than 5' that the 1-hour fire resistance requirement be placed on the variance as well as no windows or other wall openings not allowed if the variance is less than 3 feet.

**The Subject Property:**

*Address:* 1008 Rockwell St.

*Legal Description:* LOT 6 BLK 4 OAK VIEW ADD CITY OF KEWANEE, County of Henry, State of Illinois.

*Location:* 1000 Block of Rockwell St. on the North side of the street.

*Zoning:* R-2 One-Family Dwelling District.

*Dimensions:* 145 feet North to South by 56 feet East to West, 8,120 Sq. Ft area.

*Existing Buildings or Uses:* Single-family dwelling and detached garage.

*Existing Land Use Map:* Low Density Residential.

*Proposed Land Use Map:* Low Density Residential.

**The Surrounding Area:**

*Zoning District(s):* Surrounding land is zoned R-2 One-Family Dwelling District.

**Uses of Land:**

The surrounding land contains single-family dwellings.

**Variance Requested:**

A variance of 5'6" to allow a 0 (zero) feet East side yard setback to allow a room addition to the East side of the existing single-family dwelling.

**The Public Hearing:**

At 5:00 p.m. May 11, 2022, the hearing on the variance request at 1008 Rockwell St. was held. Jaime Stillwell was present to represent the petition.

- Edwards read the background information to the Zoning Board.
- Stillwell stated that they wish to build an additional bedroom on the East side of their house. The bedroom would be for her mother so that she could reside with the Stillwell's rather than going to a nursing home.
- Edwards stated that he had a phone conversation with Kelly Stillwell who stated that he would be ok with a 3 feet setback rather than a 0 setback.

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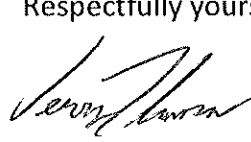

- Rebecka Petty who lives at 1006 Rockwell St. (adjacent to the East of Stillwell) spoke in opposition to the variance request. Petty stated that she is against the variance request because it is going to be too close to her property.
- Thompson stated that the ZBA already granted a zero setback on the West side for a carport and has concern for a variance on the East side. Thompson stated he was not in favor of someone being allowed to build across the width of their lot from property line to property line. Thompson also express a concern over the maximum lot coverage for structures.
- McIntyre stated his concerns are related to the fire separation distances and that he is not in favor of the variance request.
- Ensley expressed his concerns over the work being performed and stated that all work must be inspected and approved by the City.
- Peart stated he is against the petition as filed but would be ok with a 3 feet setback.
- Kuffel stated she was not in favor of the petition as filed and has concerns for the water runoff from the new roof if a variance was granted.
- Brackett agreed with Kuffel that the water runoff is a potential issue.
- There was general discussion confirming that the Code would require a 5' 6" setback if a variance was not granted.
- Thompson stated that if a variance was granted it could make it difficult for the neighbor to the East to sell her house in the future based on the houses being too close.

**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 0 in favor of the application, six opposed and one absent, that the City Council not grant the variance petition as filed.

There being no further business, the meeting adjourned at 5:32 p.m.

Respectfully yours,

Jerry Thompson, Chairman

