

MEETING OF THE BOARD OF ADJUSTMENT 08-25-03

The August 25, 2003 meeting of the Norwalk Board of Adjustment was held in the Council Chambers of Norwalk City Hall, 705 North Avenue, Norwalk, Iowa. Chairperson Joe Smith called the meeting to order at 6:30 p.m. Present at roll call: Joe Smith, Jan Sparks, Christin Grant, Steven Davidson and Chad Stevens. Absent: None.

City Staff present: Jeff Wren, Community Development Director/Planner; James Dougherty, City Attorney; Curt Lankford, City Councilmember and Alice Powers, Administrative Assistant.

03-19– Motion by Sparks, seconded by Grant, to approve the agenda as presented. Approved 5-0.

03-20 – Motion by Grant, seconded by Stevens, to approve the minutes of the June 23, 2003 meeting as presented. Approved 5-0.

As there were no guests present wishing to speak during the public comment portion of the meeting Chairperson Smith moved on to the business portion of the meeting.

BOA Docket #03-3; Request for a variance to reduce the setback for a free standing identification sign from 10 feet to 1 foot for property located at 1400 Sunset Drive

Smith told the gathering there would be an open forum for anyone wishing to speak on KEKO's sign. With no one wishing to speak the meeting was closed to guests and residents and opened only to Board members.

Smith asked was this going to be a tall sign. Wren stated this must be a monument sign according to City Ordinances and can only be 7' tall. The owner of KEKO's, Fred Villalobos, requested a 50' high sign. He was told no by City Staff. Smith asked if this sign would be in addition to the one already there, or will there be only one sign.

Grant asked if the other sign would come down. Wren stated that this would be a condition the Board could set.

Grant asked if the current sign is in violation? Wren stated he did not know. How many feet back from the road will the new sign? Wren stated 13' back from the road.

Chad asked if this would be closer than the current sign. Wren stated this would be approximately the same.

Wren in order to be in compliance "KEKO's" would have to come off the existing sign. There can only be one sign per business.

Grant asked to have this clarified for understanding. Can members say that this must not interfere with the vision pulling out on to the highway.

Wren stated the property line is approximately 12.5' from the edge of the highway. Dougherty stated both measurements could be stated in the motion. "So many feet from the lot line and not more than 13' feet from the highway.

Sparks asked what the bottom of the sign was made out of. Wren the request does not state what that is

Davidson asked the size of the sign. Wren stated 6X6.

03-21 – Motion by Sparks, seconded by Stevens, to approve the variance to reduce setback for free standing sign, with the following restrictions:

- Only one sign for this property address.

- Must be located where indicated – North side
- Sign must be monument sign no larger than 6' X 6' and 7' in height.
- Not more or less than 13 ½' from highway curb and 1' from property line.
- Existing sign must be removed from the south side of property.

Approved 5-0.

BOA Docket #03-02- Request for and appeal to the City's decision regarding the placement and construction of a detached garage in front of the residence at 567 Beardsley Street, and request for a Board interpretation of the zoning ordinance. Variance request is for the placement of an accessory structure in front of the existing residence and for a sideyard setback for such accessory structure from 20 feet to 10 feet.

Smith asked for any oral or written statements that had been received on this item. Wren stated none had been received.

Scott Bezdicek, 567 Beardsley, stated he felt the best thing to do was to furnish a detail of how this progressed to this point.

He applied to Lakewood Village Homeowners Association on June 30, 2003 as is required of residents living in the Lakewood area of Norwalk. He then applied to the City of Norwalk for a building permit and was told it was approved on July 7, 2003. On that date Brian Pettit, Building Inspector, told him the City has a problem with the placement of the garage. On July 14, 2003 Brian called back to say everything was ready to go. On July 18, 2003 Brian approved the forms for the floor of the garage, and then I poured the concrete for the floor. On July 26, 2003 I started building the garage.

On August 8, 2003 Jeff Wren showed up stating there is a difference of opinion among City Staff about whether there should have been a permit issued. Forty (40) days after the building permit was issued I was told this was not a legal permit. He does not feel this is problem. After driving around Mr. Bezdicek found that 1092 & 1096 50th Avenue have detached structures. Also 1723, 1727, 1709 North Avenue have detached garage. If there were a problem it should have been dealt with early and then it would not have been an issue. Why go thru the proper channels if this could happen

Wren stated the homes on 50th Avenue are not within the City Limits of Norwalk, the others are connected by a trellis between the house and the garage.

Gilbert Andreini, 563 Beardsley, stated he was confused because if Mr. Bezdicek did everything he should have there should be nothing to worry about. But there is, the Andreini's can not see anything to the east from their front door. The only thing that bothers them is that it is in the front yard and it should not be allowed in the front yard. This is not right! He does not care about anything else except that it is in the front yard. This should be corrected.

Grant stated that she hopes that all of the Board took the time to drive out and look at both properties. The Andreini property sits lower and farther back from the road than the property at 567 Beardsley.

Smith stated that luckily the Board had Counsel here tonight.

Grant feels the Board needs to concentrate on how that part of the ordinance reads. Try to take the emotion out of it and try to make a determination only on the ordinance.

Dougherty told the Commission that he had received a request from Jeff Wren requesting an opinion about whether a structure is allowed in the front yard in this zoning code. I was asked to make an interpretation of the ordinance. And that is what I have done. Code 17.04.0270 was read aloud to the audience so that everyone knew what is being discussed.

This being done no one spoke. Copies of the ordinance were made and handed out to the members of the Board and to members of the audience that requested them.

Dougherty stated how buildings that are attached is considered to be attached in accordance with the City Ordinances. This is only about the appeal.

Sparks stated it is really hard to take the emotion out of the appeal. Stevens stated that he would vote yes to the City paying to have the garage moved.

Grant stated this is not fair to make Bezdicek's move the garage and it is not fair to the Andreini's.

Scott Bezdicek, 567 Beardsley Street, Stated he felt that this is an error on the part of the City and so the garage should be allowed as there is no other place on the lot for the garage. The driveway would have to go in front of the house and there would be no way to get back to the garage if it was placed in the back yard. There is 11' to the property line and he would be happy to add a breezeway so that it was attached to the house.

Grant felt the breezeway is a separate issue from what the Board is looking at.

Smith asked what the City's responsibility in this is at this point. Dougherty stated the breezeway should not be considered in this decision.

Smith asked if the City could move the garage themselves. Dougherty stated this Board does not have the right to make that decision. That would be the City Council's decision.

Curt Lankford, 8838 Woodmayr Drive, Councilperson, asked if the sideyard was still 20' for the RE zoning district. Wren answered yes.

Dusty Smith, 3737 Woodland Avenue, Des Moines, attorney for the Bezdicek's, just wanted the Board to look at this by Scott's feelings and attempts to do what was required by him. He also feels that the Board does have the right to look at who is at fault in this. The City is at fault and causing undo hardship to the property owner.

Stevens asked if it is fair that the Board ignore Andreini's point of view. He did not think this was fair.

Smith asked if Bezdicek's put the breezeway up would this mean that the sideyard set back be granted? Wren stated that Board could then look at undo hardship for granting the variance.

Dougherty stated that the ordinance does state that the undo hardship is directly related to the lay of the land.

Andreini stated that this was approaching attorney time.

Stevens stated that the Board can not ignore the other property owner in this and if he had his choice the City would pay for the correction of this problem.

Bezdicek stated if the building is in the backyard it would impede the view of the lake and he knew which view he would rather have.

Smith closed meeting to the audience and opened it to Boardmembers only.

Davidson stated that given the unique nature of the property I would probably want the garage in the front yard also, although the neighbors' point has to be considered. The view to the back is the desired view. Looking at both sides he would be inclined to allow the variance.

Sparks stated these ordinances were made to protect both sides of this issue.

Dougherty stated a motion could fail from a lack of second.

03-022 - Motion by Davidson, to allow the structure in the frontyard and a variance for sideyard from 20' to 10'. Motion failed for lack of a second.

03-023 – Motion by Sparks, seconded by Grant, to deny appeal. Approved 5-0.

Dougherty stated the sideyard issue is not an issue as there is no building permit showing that this is being requested.

03-024 – Motion by Grant, seconded by Davidson, to adjourn at 8:30 p.m. Approved 5-0.

Joe Smith, Chairperson

Jeff Wren, Community Development/Planning Director