

REGULAR BOARD OF ADJUSTMENT MEETING 6-16-14

Call to order

The Regular Meeting of the Norwalk Board of Adjustment was held Monday, June 16, 2014 at Norwalk City Hall, 705 North Avenue, Norwalk, Iowa. Acting Chairperson Christin Grant called the meeting to order at 6:01 pm. Members present at roll call were: Stephen Davidson, Brent Hinders, Dennis Cassady and Christin Grant. Absent: Chad Stevens.

City Staff present were Luke Parris, City Planner and Shelley Heisdorffer, Development Services Assistant.

Approval of Agenda – 14-05

Motion by Davidson and seconded by Hinders to approve the agenda. Approved 4-0.

Approval of Minutes – 14-06

Motion by Cassady and seconded by Hinders to approve the minutes from the January 13, 2014 meeting. Approved 4-0.

At 6:03 p.m. Stevens arrived.

Welcome of Guests

Chairperson Grant welcomed the guests present and asked for public comment on any topic not related to the agenda. With no one wishing to speak, the business portion of the meeting was opened.

Public Hearing for Variance Request – Casey's General Store on the southwest corner of North Avenue and Sunset Drive – 14-07

The public hearing was opened at 6:04 p.m.

The City received a setback variance application regarding the property on the southwest corner of North Avenue and Sunset Drive. The permit was submitted by Melani Samora with Casey's Marketing Company. Ms. Samora is representing Casey's during the site plan process to develop a Casey's General Store on the southwest corner of North Avenue and Sunset Drive.

The request is to vary from the required lot setbacks and parking setbacks. Specifically for lot setbacks, the request is to:

- Reduce front setback from 50' to 9' on the east property line; and
- Reduce rear setback from 50' to 39' on the west property line.

Specifically for parking setbacks, the request is to:

- Reduce parking setback from 15' to 4' on the north property line;
- Reduce parking setback from 15' to 3' on the east property line; and
- Reduce parking setback from 15' to 8' on the west property line.

Mr. Parris explained to the Board that staff reviewed the requests, the dimensions of the lot, and the proposed site plan and found the following facts important:

- The lot is an irregular triangle shape located on a corner. City standards require that the lot use front setbacks along public right-of-way and rear setbacks along a lot line opposite of a public right-of-way.
- The required setback limits the development potential of the lot. As illustrated in the Attachment C map, with the current setbacks, the buildable area of the lot is reduced to 29% of the total lot size.
- The eastern lot line fronts to Iowa Highway 28. The lot line is currently between 75' and 90' from the edge of Iowa Highway 28. A drainage ditch runs between the lot line and Iowa Highway 28. The existing width provides plenty of space for any potential expansion of Iowa Highway 28 and the existing drainage way would make widening difficult as well.
- The western lot line is shared with an adjacent C-2 district and with townhomes to the southwest. If the lot line were to be considered a side lot line, the side setback requirement would be 20 feet. The requested 39' provides more space than if the area were to be considered a side yard with side setbacks.
- The required parking setbacks limit the location of several parking stalls on the site.
- The site plan with the variance application shows the proposed parking configuration. With the current setbacks, three parking stalls would not be allowed and size of the parking lot along the north boundary would be limited, reducing the ease of travel across the northern portion of the site.

Mr. Parris noted that after review, the staff opinion is that current setback requirements restrict the development of the site. Staff recommends approval of the requests for setback variance and parking setback variance.

Wall Pelz, Pelz Engineering, 2323 Dixon Street, Des Moines, spoke as representation of Casey's. Mr. Pelz explained that they have tried many, many scenarios to fit the building and parking requirements onto this piece of property, and this is the best scenario they were able to come up with. The Iowa DOT was not interested in selling any land to them to alleviate the need for the variance.

The Board asked Mr. Pelz if there would be any berming or fencing done between Casey's and the residential area. Mr. Pelz informed them there would be a retaining wall on the edge with a masonry wall on top of that about 6 ½ to 8 feet high between the store and the townhomes. Mr. Parris noted that the zoning requirements would be a minimum of 6 feet. There is not any fencing planned at this time. Mr. Pelz also informed the Board that this is not planned to be a 24 hour store, it will be open 6 am to 11 pm.

Joni Lore, 724 Kitterman Circle, spoke against the setback variances. Ms. Lore was representing a group of residents that would be directly impacted by this project. She feels setbacks are put in place for a reason and the 50 foot buffer is wanted and required.

Miriam Cox, 728 Kitterman Circle, spoke against the setback variances and voiced her concerns about the water coming down from this project to an already full creek.

Mark Tucker, 804 Linden, spoke against the setback variances. He is the house directly across North Ave from the project. He will look out his picture window to see gas pumps and lights. He is concerned about property values.

Paul Starkweather, 738 Kitterman Circle, spoke against the setback variances. Mr. Starkweather is the first townhome next to the Casey's proposed site and his deck will overlook the store. Mr. Starkweather is concerning about parking and erosion of the creek.

Mr. Parris reminded the Board and the audience that this meeting is to discuss the changing of setback lines, but not for site plan approval. Planning and Zoning and City Council would review and approve site plan later, once the project gets to that stage. This is to decide on whether or not to grant any setback variances only.

Larry McGee, 722 Kitterman Circle, wanted to know who was responsible for maintaining the creek and any debris that gets into the creek. Mr. Parris answer that property owners were to maintain it, that the City has an easement for water flowage only, but that owners maintain it. Mr. McGee noted that they used this site to get down to the creek for maintenance and they would no longer have access if Casey's built there.

Rick Cox, 728 Kitterman Circle, spoke against the setback variances. He is not in favor of taking out trees and landscaping and disrupting their privacy and barriers.

Board asked Mr. Cox if the trees are on the proposed Casey property or are they on the residential property.

Mr. Cox said about 50% of the trees are on the residential property, but there will be a privacy issue once the proposed site is cleared for construction.

Donna Kitterman, 704 Kitterman Circle, shared her concern regarding a cottonwood tree that is located at the end of the property. Ms. Kitterman measured the tree and she believes it is 136 years old. She would like the tree left if possible, since it is part of Norwalk history.

Sharon Wiedman, 732 Kitterman Circle, spoke against the setback variances. She feels if the land isn't large enough to house the incoming business, then we shouldn't change our standards to make it fit.

Boardmember Grant spoke to the audience informing them that the variance is for that piece of property, not for Casey's in particular, but any business that would decide to go on that land. She also reiterated that many of the issues being brought to the Board are site plan issues that would be taken care of by Planning and Zoning and City Council during the site plan approval process. That process cannot take place until the setback issues are resolved.

Rick Cox, 728 Kitterman Circle, is concerned about the values of their properties with a commercial building next to them. Mr. Cox said when he purchased his property the property in question was not zoned commercial until Larry Hughes purchased it.

Mr. Darrell Kitterman, 704 Kitterman Circle, was the owner of the property at the time, and he spoke correcting Mr. Cox that it was zoned commercial before Larry Hughes purchased it.

Terry Lass, 805 Linden, spoke against the setback variances. She said the traffic, and morning sun on North Ave. is terrible and there are lots of kids going back and forth right there. She is concerned about the safety issues with the heavier traffic from Casey's, and also their property values.

Mr. Pelz asked the Board for the opportunity to address some of the questions and issues presented by the audience.

Mr. Pelz informed the Board that the storm water issue is not relative to this meeting, but that residents can be assured that Casey's uses Stormtech chambers that are underground, kid safe and environmentally friendly.

As far as the property values, Mr. Pelz said in other communities the property values have gone up around their stores, not down. Casey's invests close to \$2 million to build one of these stores. It will be constructed out of brick on all four sides and even though it is a commercial business, it is still a neighborhood store. Casey's is not trying to upset people with these variances; they are just trying to build another store in Norwalk because they feel there is a need.

Mr. Pelz said all deliveries to the store are scheduled deliveries and only one time during the day, at the same time every day. Casey's will be happy to work with the neighbors on the timing of that delivery if their time isn't working out.

As far as the lighting goes, Mr. Pelz said that Casey's always uses an LED, state of the art, lighting package that has sharp cutoffs and doesn't bleed, which makes it more neighborhood friendly.

Mr. Pelz reported that crime has not been an issue around their stores, and that they have found that crime has gone down in some areas due to the fact that they have a lit up store in the area.

The city requested that Casey's install an 8 foot sidewalk, which Mr. Pelz said they will be happy to comply with.

Mr. Pelz said that Casey's has plans to take out two trees on the property for construction purposes. But they will gladly replace those trees in another area. Other than that all the trees will remain untouched.

Mr. Pelz reported to the Board that Casey's is asking for relief on setback requirements due to the fact that they do not have a side yard, two front yards and a rear. The City Staff is very conscious of the townhomes to the west and that is why they decided to take a stricter interpretation of the code and go with two front yards instead of a side yard, which would have allowed only a 20 foot setback.

Mr. Pelz informed the Board and audience that Casey's is a neighborhood store and will address neighbors' concerns. They do not want to make their neighbors angry and are always willing to work with them.

Board asked Mr. Pelz if there would be green space on top of the limestone retaining wall. Mr. Pelz answered that there would be, but there is a masonry wall that will sit on top of the limestone wall, which is required by City ordinance, so you will not really be able to see the green space.

Rick Cox asked how far down the retaining wall will go. Mr. Pelz answered that he wasn't sure what the depth was but it is pretty far.

Mary Jergens, 726 Kitterman Circle, asked other than the retaining wall, will there be any other kind of fencing around the Casey's. She is concerned about keeping foot traffic out of the property and from getting back behind the store and causing problems. Mr. Pelz noted there would be security cameras on the property and that Casey's has no intentions of letting people behind their store. If they need to have it fenced off, they can do that if they need to. But Casey's will not allow people to loiter around their stores. They install security cameras all around to enforce no loitering.

The Public Hearing was closed at 7:04 p.m.

Discussion was held by the Board. Boardmember Stevens said that since the lot was so irregularly shaped, and it was that way at the time of purchase, he has a tough time allowing such a dramatic variance.

Boardmember Grant commented that she was having a tough time with the side that butts up to the residential neighborhood. If there were a way that Casey's could scoot it farther to the east and allow larger than 39' foot setback that would help her decision.

Boardmember Cassady asked Mr. Parris about the future plans to widen North Ave. Mr. Parris assured him that the widening was taken into consideration by staff, and staff feels there is still enough room for that.

Boardmember Grant reiterated her concern with the residential side of this.

Mr. Parris noted that when staff interpreted the code, they decided to remain cautious with the 50 foot setback on the west side. Ideally in city planning, you use a more dense residential area to buffer between single family and commercial. The townhomes on Kitterman are just that, they are zoned either R-3 or R-4 and would serve as that buffer between single family and commercial. Mr. Parris reminded Board that another person could have interpreted the code as a side yard requiring only a 20 foot setback, and there really wasn't a black and white answer. So staff compromised with the 50 foot setback (front yard) and then asked for a variance to go down to 39 feet, which they felt was still better than the 20 feet.

Mr. Parris stated that the question comes down to is the code and staff's interpretation putting unreasonable hardship on the property and making it unbuildable?

Motion by Hinders and seconded by Davidson to approve variance requests – Casey's General Store on the Southwest Corner of North Avenue and Sunset Drive as follows:

Approve reductions of lot setback that pertains to the northern 227' of the property reducing front setback from 50' to 0' on the east property line; and

Reductions of rear setback from 50' to 48' on the west property line; and

Reductions of parking setbacks from 15' to 4' on the north property line; and

Reduction of parking setbacks from 15' to 0' on the east property line; and

Reduction of parking setbacks from 15' to 8' on the west property line; and

That staff will work with developer and the Iowa DOT to move the building as far to the east as possible during the site plan process.

Approved 5-0.

Appointment of Chair and Vice Chair – 14-08

Mr. Parris reported that the Board has not officially voted on a Chairperson and Vice Chairperson. Discussion was held.

Motion by Davidson and seconded by Stevens to appoint Christin Grant as Chairperson and Brent Hinders as Vice Chairperson of the Norwalk Board of Adjustment. Approved 5-0.

Adjournment – 14-09

Motion by Cassidy and seconded by Stevens to adjourn meeting at 8:34 pm. Approved 5-0.

Christin Grant, Chairperson

Luke Parris, City Planner