

SPECIAL BOARD OF ADJUSTMENT MEETING 06-29-2020

Call to order

The special meeting of the Norwalk Board of Adjustment was held electronically due to COVID-19 (Coronavirus) State of Emergency WHEREAS, Iowa Code Section 372.14(2) and the Norwalk City Code Chapter 15.02(2) grant the Mayor powers in emergency circumstances when public danger exists to take extraordinary steps to protect the public health and safety; therefore, all in attendance met via google hangout, Monday, June 29, 2020. Chairperson Brent Hinders called the meeting to order at 6:00 pm. Members present at roll call were: Chad Stevens and Brandon Foldes. Absent: Dennis Cassady and Rachel Parker

City Staff present were Elliot Klimowski, City Planner and Hillarie Ramthun, Community Development Coordinator. (Luke Parris, Community Development Director joined at the end of meeting)

Approval of Agenda – 20-18

Motion by Stevens and seconded by Foldes to approve the agenda. Approved 3-0

Welcome of Guests

Chairperson Hinders welcomed the 10 guest present. With no one wishing to speak, the business portion of the meeting was opened.

Public hearing on a variance request from Steve Pitts related to the location of a privacy fence, shed, and pool at 2802 Windsor Drive—20-19

Public Hearing opened at 6:04 p.m.

An application for a variance request from Steve Pitts, 2802 Windsor Drive, was received by the City on June 19th, 2020 to vary from the Norwalk City Ordinance for the locations of a fence, shed and pool. Adjoining landowners as well as the Des Moines Register were notified June 24th, 2020. The property at 2802 Windsor Drive is a corner lot zoned as R-1 (60)/(70), and sits on both Windsor Drive and Crescent Lane. This double-fronted, unusually shaped lot lends to limitations of its useable rear and side yards. This particular lot contains a 10-foot street tree easement as well as a 10-foot Public Utility Easement, both located on the north side of the property, the area that is considered the "side front yard". The house is setback at 35 feet on the Windsor Drive side of the property and 45 feet on the Crescent Lane side of the property. For all intents and purposes the Crescent Lane side would be considered the "side front yard" or the yard where fence placement would be acceptable. The reason the variance request is necessary is due to code 175A.29 & 175.30 requiring that accessory buildings and pools are not allowed in front yards and fence requirements at the front of a property are to be built 15 feet from the City right-of-way.

Criteria for the Board to consider when reviewing the variance request:

1. Do the referenced Zoning Ordinance sections create an unnecessary hardship?
2. Would the approval of a zoning variance for the property have any negative impact on surrounding property owners?
3. Does the site exhibit any unique conditions that require a variance to enable full use of the property?

For Staff to recommend approval all three criteria would need to be met, therefore, Staff recommendation is for denial on the basis of the reasonableness of the code dictating where fences, sheds and pools can go on a lot. A hardship could be interpreted due to the shape of the lot and from drainage conditions on site. Were a variance approved by the Board, a recommendation would be to allow the fence to sit 11 feet from the property line, falling in between the two easements.

Hinders inquired about correspondence from surrounding neighbors. Klimowski explained that 14 separate households sent in correspondence, 12 were in favor of and 2 households were against the request. Foldes inquired about fence placement on a standard lot compared to what is required for a corner lot. Klimowski explained that a regular lot, the fence could be

placed directly on the property line, on a corner lot with double-fronted a fence could be setback 15' on one side of what would be considered the "front side" yard.

Steve and Elizabeth Pitts, 2802 Windsor Drive, explained the reason for the variance request and the placement of shed, pool and fence is due to easements, setbacks and irregular shape of the lot. The Pitts preference is for the location of the fence to be placed closer to the sidewalk than code would allow, and the pool and shed would extend just beyond the "front" facade of the house of the "front side yard.

Foldes inquired why the placement of the shed is not closer to the home, so it doesn't go beyond the "front side" of the home. Pitts explained that due to water pooling in an area right behind their home and the location of a basement window which helped guide the decision to move the shed further from the home. Stevens inquired about fencing materials, Pitts responded with white vinyl fencing.

With no additional questions to the applicant from the Board, Hinders allowed for public comment. Laura Sivadge, 513 Crescent Lane, spoke against the allowance of the variance request. Mary Kennedy, 520 Crescent Lane, spoke in favor of the projects and added that the HOA has already approved the projects. Foldes inquired why the pool couldn't be positioned differently to allow for the fence to be placed in areas closer to meeting code requirements. Pitts explained water issues that would arise. Kelly Cortum, 520 Crescent Lane spoke to give an opinion regarding the grading of the property due to his background as an excavating contractor. Cortum explained that the natural flow of the water would be interrupted if the pool was angled differently than the proposal.

Public hearing closed at 6:52 p.m.

Deliberation among the Board members took place. Stevens circled back to asking about a position change of the pool to allow the fence to be placed closer to proper setbacks. Hinders clarified that Stevens may consider a variance if the fence setback is 11 feet from the sidewalk going along the City's recommendation of the fence variance. Foldes agreed that the 11 feet fence setback would be feasible and with the pool being dug, extra dirt could be used to correct drainage issues to the property. Hinders indicated the consistent difficulty of a second front yard on any corner lot property and that this lot in particular has the extraordinary situation of easement on top of easement on the north part of the property, with a street tree easement not ever being utilized. Hinders agreed with a variance for the fence to sit 11 feet from the sidewalk between the two easements and it would be irresponsible to allow for a fence to sit 1 foot from the sidewalk with the potential of utility work occurring in the future and that cost passed along to a secondary owner. Klimowski included information regarding an amendment to the PUD allowing a 30' set back to the front yard. Luke Parris, Community Development Director, added that in the early 2000's, Norwalk changed the Zoning Ordinance to be 30' setback and that is the likely reason the PUD was amended.

Foldes made a motion to allow a variance for the 6' privacy fence to be built at 11' from the sidewalk and a variance for the outbuilding be allowed within the 30' setback and a recommendation that the use of materials match the homes exterior. The pool situation would need to be revised to fit within the 30' setback. Stevens seconded the motion Approved 3-0

Adjournment – 20-20

Motion by Stevens and seconded by Foldes to adjourn meeting at 7:22 p.m. Approved 3-0

Brent Hinders, Chairperson

Elliot Klimowski, City Planner