

**CITY OF PELLA, IOWA
BOARD OF ADJUSTMENT MINUTES
JULY 20, 2020**

CALL TO ORDER BY THE CHAIRPERSON AND ROLL CALL

Chairperson Vander Meiden called the Board of Adjustment to order at 6:00 p.m. in the Public Safety Complex. Members present were: Jim Corbett (via phone), Vince Nossaman (via phone), Jaci Nunnikhoven, Merlan Rolffs (via phone), Lyle Vander Meiden, and Mike Vander Wert. Absent: Susan Reiter and Corey Westra. Staff present: Planning and Zoning Director Matthew Lepke and Deputy City Clerk Cynthia Vaske. Due to heightened public health risks associated with the COVID-19 pandemic, accommodations were made to broadcast this meeting via conference call. Four members of the public were in attendance in person and three members of the public joined the conference call.

CHAIRPERSON'S COMMENTS

Approval of the Tentative Agenda

Motion by Vander Wert, second by Nunnikhoven to approve the tentative agenda. Motion carried 6-0.

APPROVAL OF MINUTES

Motion by Nossaman, second by Nunnikhoven to approve the June 15, 2020 minutes. Motion carried 6-0.

NEW BUSINESS/PUBLIC HEARINGS

Consider a Variance Request to Reduce the Rear Yard Setback at 607 Jefferson Street

Mason Prieksat has submitted a variance application to reduce the rear yard setback on his property at 607 Jefferson Street. He requests relief from the requirement of Table 165.12-3, which establishes a 30-foot rear yard setback. He is seeking to construct a deck in his backyard; because it would be attached to the home, the rear yard setback, rather than the accessory structure setback, applies. Regardless of the Board's decision to approve or deny, the deck remains subject to applicable zoning code standards.

While staff finds that the proposed deck would likely be an improvement to the site, the construction of a deck is a matter of convenience, not a right. However, granting the variance should not pose a burden or diminish the value of adjacent properties; for example, the property immediately to the west has a deck. Staff recommends denial of the variance request, because all seven findings are not satisfied.

Convened **Public Hearing** on the variance request. No written comments were received.

Mason Prieksat was present via phone to speak in favor of the variance request and to answer questions from the Board. He explained that the proposed deck would not be attached to the home and that there would potentially be a railing only around the east side of the deck. Vander Meiden said he prefers that the deck not have a railing.

Motion by Vander Wert, second by Corbett to close the **Public Hearing** as no further comments were received. Motion carried 6-0.

Motion by Nossaman, second by Vander Wert to approve the variance on the condition that a handrail will only be installed on the deck if needed for safety reasons. Motion carried 6-0.

Consider a Variance Request to Construct a Six-Foot Tall Fence Within the Front Yard Setback of 2123 Idaho Drive

Charles Mack (applicant/agent) has submitted a variance application on behalf of RECI, LLC (owner), to construct a six-foot tall fence within the front yard setback on the property at 2123 Idaho Drive. He requests relief from the requirement of 165.30.8.J(1), which states:

J. Residential Fences. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions:

- (1) Height. The maximum height of a fence within a required front yard or street side yard setback is four feet (4'). The maximum height for any fence outside of a required front yard or street side yard is six feet (6').
- (2) Exception for Street Side Yards. On corner lots, a fence built parallel to the street side yard line but set back in conformance with the required street yard setback may have a maximum height of six feet.
- (3) Exception for Front Yards of Double Frontage Lots. A fence built within the required front yard of a double frontage lot may be a maximum of six feet in height if such frontage does not provide primary access to the property.
- (4) Materials. Fences shall be constructed so as to be reasonably aesthetic in appearance and which are not injurious to the senses. Some suggested materials are: wood, chain-link, PVC/resin, stone or masonry materials. Wood fences shall utilize standard building lumber only.

The fence is proposed five feet from the front property line. Regardless of the Board's decision to approve or deny the request, the fence remains subject to applicable zoning code standards.

The property is zoned A1 (Agricultural). The setbacks for that zone district are:

- Front: 75 feet
- Street Side: 50 feet
- Side: 10 feet (one- to one-and-one-half-story building) 15 feet (two- to three-story building)
- Rear: 75 feet

Per 165.10.125,

“‘Yard, front’ means a yard measured across the full width of the lot and measured between the front lot line and the building or any projections thereof, other than the projections of the usual steps or unenclosed porches. On corner lots, the property owner shall be entitled to choose which of the two (2) yards adjacent to the street will be considered the front yard.”

To clarify, the applicant refers to a 50-foot front yard setback; the front setback in the A1 zone district is 75 feet. From the application materials and previous discussions with the applicant, the yard that derives its access from the private lane to Idaho Drive is the side on which the applicant and owner choose to locate the segment of fence in question. The street side yard, then, is the side facing Idaho Drive; the home’s front façade faces this side.

Should the Board heed the application as it designates the front yard, it would change the amount of setback required along the private drive frontage (75 feet), the area gained if a variance were approved (70 feet), and make the southeastern yard (facing Idaho Drive) the street side yard. This scenario—the Idaho Drive side as a street side yard—would allow a six-foot tall fence, parallel to that southeastern property line, a minimum of 50 feet from the property line; or, a four-foot tall fence within the street side yard setback may be built adjacent to the property line on the southeast side parallel to Idaho Drive.

The applicant has multiple choices available in code:

- 1) Construct a fence a maximum of four feet in height within the front/street side yard setback, in accordance with 165.30.8.J(1). This is permitted by Code, and only requires a fence permit. This option seems to most closely hew to the applicant’s request to place the fence near the front property line, save for the additional height requested.
- 2) Construct a fence a maximum of six feet in height behind the front/street side yard setback lines, an option also outlined in 165.30.8.J(1). This is also permitted by Code, again only needing a fence permit. This most closely matches the fence height being sought by the applicant and would provide the level of security sought with the six-foot tall physical barrier.
- 3) Seek a variance.

The construction of a fence in the front setback taller than the height permitted in Code is a matter of convenience, not a right. Other options are available, as noted above, without a variance. Staff recommends denial of the variance request, as the required findings are not satisfied.

Convened **Public Hearing** on the variance request. No written comments were received.

Charles Mack was present via phone to speak in favor of the variance request and to answer questions from the Board. Mack explained the house is located on a private lane.

Spencer Carlstone a neighbor to the west of 2123 Idaho Drive, asked if there are setbacks for the fence on the non-front-facing sides of the property. He stated there may also be utility easements located along the southeastern part of the property, as well as access to neighboring

septic systems. Planning and Zoning Director Matthew Lepke explained that the variance request is only for the fence located along the northern part of the property. Carlstone expressed concern that he might be expected to maintain the portion of the fence along his property. Nossaman clarified that the request before the Board is for a six-foot fence within the front yard setback and that if the owner wanted to build a four-foot fence instead, a variance would not be required.

Mack said the owner of the property intends to take care of all costs associated with installing and maintaining the fence in perpetuity. He also said he only has record of an access easement running along the private lane.

Jeff Vander Voort, a neighbor to the southeast of 2123 Idaho Drive, was also present to ask questions about the variance request and inquired which side would be considered the front yard. Vander Meiden said that will be established during the course of the meeting. Mack stated that the owner would like to treat the north side of the property with the driveway as the front side.

Motion by Nossaman, second by Rolffs to close the **Public Hearing** as no further comments were received. Motion carried 6-0.

Motion by Nossaman, second by Nunnikhoven to approve the variance request for a six-foot fence on the northern property line. On roll call the vote was: ayes: Nossaman, Nunnikhoven, Corbett, Rolffs, Vander Meiden; nays: Vander Wert. Motion carried 5-1.

NEW BUSINESS

None.

OTHER BUSINESS/PUBLIC FORUM

The next meeting is scheduled for August 17, 2020.

Adjourned at 7:08 p.m.