

Board of Zoning Appeals

MINUTES

October 19, 2020

Members Present: Gordon Kinder, Ken Brost, Blake Draper, John Robertson, Joe Rademacher (A)

Members Absent: Art Luetke, Jeff Sorenson (A)

Staff Present: Andrew Bremer, Jim Trebian, Karen Knoll

1. CALL TO ORDER

Meeting called to order at 4:30 p.m. by Kinder. Kinder certified that proper public notices and publication requirements had been met, and gave a brief background on the purpose and authority of the Board of Zoning Appeals.

2. PUBLIC APPEARANCES.

None

3. APPROVAL OF MINUTES.

a. Review and possible approval of minutes from the September 14, 2020 Board of Zoning Appeals meeting.

Motion by Robertson to approve the minutes of the September 14, 2020 meeting. Seconded by Brost. Motion passed 5-0.

4. PUBLIC HEARING

a. Public Hearing on a request by Elizabeth Reeder and Samuel Riddle for a variance to Sec. 8369(c)(2) to construct a six foot fence in place of the four foot fence in the street side yard. The property is addressed 5410 Valley Drive. The property is zoned R-1.

Kinder opened the public hearing at 4:35 p.m.

Reeder reviewed their history of owning the home at 5410 Valley Drive. She feels the 6' fence is necessary for safety concerns, and they cannot use the pool properly as it is. Reeder summarized they have been planning this for many years, she advised she emailed someone at the Village for advice as she felt as the pool was possibly an attractive nuisance, and indicated they would be installing a stronger gate, and wished for a 6' fence, but did not keep the email. The cover they currently use is a winter one, and Reeder did not feel it would be supportive or provide proper safety during the summer months. Reeder indicated they use a solar cover during the summer months. Reeder felt it is unreasonable to cover and uncover a pool throughout the day. Reeder advised her fence does not block their pool from public view and the current fence prevents them from normal use of their

property, they have planted some vines and plantings along the current fence. Reeder indicated there was a registered sex offender in the neighborhood, who potentially may return to the neighborhood. Reeder summarized what she feels are the unique aspects to the property.

Board members were polled for any questions they may have. Robertson asked if they had any documentation to support her conversations with the Village. Reeder replied she did not. Draper inquired if the rear yard was considered for a location for the pool. Riddle advised there is a power line coming into the home, and they did not feel the rear yard was deep enough.

Bremer reviewed the staff report as provided in packets, including background on past approvals on the site. He noted the current fence is technically non-conforming as it does not meet the strict definition for a decorative fence, and he noted there was an administrative error in allowing the pool in its current location, per zoning code a pool can only be permitted in a rear or side yard, and not a front or street yard. In this case, it is located in a street yard. While an error in permitting the pool was made, that does not prevent them from using the pool without an increase in the height of the fence.

Bremer summarized the standards for granting a variance, the purpose for allowing fences in a street or front yard, and the difference of a front or street yard, along with his staff comments as included in packets.

Members discussed any questions they had with Bremer and the building inspector. Bremer indicated conversations people have with staff are often initial conversations where people are either asking general questions or “what if’s” what actually matters is what is submitted with the actual permit, and what is ultimately approved.

Bremer indicated there was no written correspondence received in favor or against pertaining to this request, and there are no attendees in the community room wishing to address this item under the public hearing.

Via Zoom - Sue Ecker – 5111 Ridge Road spoke in favor of the request.

Kinder asked if the applicants had any questions for the staff or the board. Reeder shared photos, which she had not previously shared, of the pool and landscaping/fence/screening around the pool. Robertson inquired about the ability to be able to climb over a fence. Bremer indicated as in his report, a fence is meant to deter but would never prevent someone from climbing over. The code requires a fence at least 4’ high with a gate with a swimming pool or a cover designed to support 250 pounds. The current fence meets the pool fence requirement. Trebian indicated typically a four-foot fence is what is required at a property with a pool and the intention is to keep children out, not specifically adults.

Kinder closed the public hearing at 5:21 p.m.

5. BUSINESS.

a. Discussion and possible action on a request by Elizabeth Reeder and Samuel Riddle for a variance to Sec. 8369(c)(2) to construct a six foot fence in place of the four foot fence in

the street side yard. The property is addressed 5410 Valley Drive. The property is zoned R1.

Kinder polled members on their thoughts on the proposal and justifications for granting the variance request. Members discussed the request as presented.

Kinder moved to deny the request by Elizabeth Reeder and Samuel Riddle for a variance to Sec. 8369(c) (2) to construct a six-foot fence in place of the four-foot fence in the street side yard. The property is addressed 5410 Valley Drive. Seconded by Brost.

Kinder polled members for the vote.

Kinder voted in favor of the motion, the hardships were self-created and there are alternatives available to the owners, and there is no effect to public safety.

Brost voted in favor of the motion, the hardships are self-created and they have already indicated the desire to not have people access the area by the 4' fence, and a corner lot is not unique in McFarland.

Draper voted in favor of the motion, he does not see an unnecessary hardship for use of the pool, there is the ability to add landscape screening, and it was self-imposed, being granted a permit for the pool does not allow for a variance, and this type of lot is not unique in McFarland.

Robertson voted in favor of the motion. The pool is non-conforming which does not allow a non-conforming fence, the hardship is self-created.

Rademacher voted in favor of the motion. It is not a safety factor, the pool is non-compliant, it does not meet the standards.

Kinder indicated the request has been denied, the applicants will receive a letter from staff indicated as such.

6. SCHEDULE NEXT MEETING DATE.

Next meeting to be scheduled as needed

7. ADJOURNMENT.

Motion by Brost to adjourn, seconded by Kinder. Motion passed 5-0. Meeting adjourned at 5:48 p.m.