



PLANNING AND ZONING

Cerro Gordo County Courthouse

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TO: Cerro Gordo County Board of Adjustment

FROM: John Robbins

SUBJECT: Next Meeting – *Tuesday, September 24, 2019; 4:00 p.m.; Board Room*

Ladies and Gentlemen:

The next meeting of the Cerro Gordo County Board of Adjustment is scheduled for **Tuesday, September 24, 2019 at 4:00 p.m. in the Board Room at the Courthouse**. The Board will be considering one variance request that was tabled from August's meeting, six new variance requests, and a Special Use Permit request.

OLD BUSINESS

1. Case No. 20-10 Jeff Pate 5524 Southshore Drive (Lot 9, Block 11, Oakwood Park)

On August 27, 2019, the Board first considered a request for variances by Mr. Pate to construct a 24'x30' detached garage and a 6'-tall privacy fence running along the perimeter of the property southeast of the house currently being constructed on the property. Variances were requested as follows:

1. The proposed garage is 6 feet from the southwest street-side lot line. A 12.5' street-side yard setback is required on corner lots in the R-3 District (See Figure 4).
2. The proposed garage and fence are within the required 25-foot vision triangle. Article 6.31(A) of the Zoning Ordinance prohibits construction above the height of 2.5 feet in the area described as:

“That area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines twenty-five (25) feet from the point of intersection of said right-of-way lines.”

3. Article 6.9 of the Zoning Ordinance prohibits detached accessory structures from being located between the dwelling and the front lot line. The proposed garage is in this area. On corner lots, the ordinance defines the front yard as the shortest street-adjacent lot line.
4. The proposed fence is located within the required front yard (See Figures 5 & 6). Article 6.31(B)(1) of the Zoning Ordinance prohibits fences to be located within the required

front yard of residential districts. The required front yard setback is 5.4', which equals the average of front yard setbacks within 200'.

5. Article 6.9 of the Zoning Ordinance permits accessory structures to take up to 25 percent of the required rear yard area. The required rear yard equals the lot width (50') multiplied by the rear yard setback requirement (30'), which equals 1,500 square feet—25 percent of which is 375 square feet. The proposed 720 square feet detached garage exceeds this requirement by 345 square feet.

The Board voted to table the request based on concerns regarding visibility at the intersection of Southshore Drive for both turning traffic and vehicles travelling along Southshore Drive due to the structures requested and hedges near the intersection (See Figure 1-3). The Board instructed Mr. Pate to file an amended site plan that addresses this concern.

Mr. Pate has since filed an amended site plan with the Planning and Zoning Office. The following changes were made on the amended site plan:

1. The proposed garage has been relocated to the northeasterly side of the property (See Figure 4).
2. The proposed garage has been reduced in size from 24'x30' (720 square feet) to 14'x32' (448 square feet). This exceeds the coverage area requirements of 375 square feet by 73 square feet.
3. The proposed fence has been pushed away from the intersection so that it is not closer than 10' from the right-of-way corner at Hackberry Street and Southshore Drive (See Figures 5 & 6).

Mr. Pate also has since removed all of the hedges from the intersection (See Figure 5). As a result, the visibility at the intersection has seen a drastic improvement (See Figures 7 & 8).

With the proposed construction of a 6'-tall fence, there will be a new obstruction to the visibility at the intersection (See Figures 7 & 8). The proposed 10' vision triangle, as proposed, does still represent an improvement. However, the view of cars turning onto Southshore Drive from Hackberry Street will still be blocked by the fence further up the road for those vehicles travelling southeast on Southshore Drive. Figure 8 does not capture that impact, but Figure 3 somewhat simulates the issue. The County Engineer recommends that the distance for the proposed fence be at least 20' from the intersection corner along both streets.

The amended location for the proposed garage is 3.1' from the interior side lot line where a 6' side yard setback is required. This would be in line with a variance that was granted for the house currently being constructed (See Figure 9). Since this is an additional variance request that was not included in the original application, this cannot be considered by the Board. The request would have to go through the formal procedure to be granted, so to be granted, the garage will have to meet the required 6' interior side yard setback. The street-side yard setback variance does not need to be considered as a result of the amended location.

The proposed fence still goes to the front right-of-way line on the amended site plan. This will be out of character with the other properties along the same side of Hackberry Street. While the property is unique with the position of the house and "corner lot" status, this will set a precedent for allowing an enclosed fence in a required front yard, which has never been approved by the Board. The required front yard is 5.4', which will still allow for a sizeable yard.

Recommendation

1. Approve a coverage area variance for the detached garage to be no larger than 448 square feet in area.
2. Approve a variance for the detached garage to be located between the front building line of the dwelling and the front lot line.
3. Approve a variance for the privacy fence to be located with the 25' vision triangle.
4. The above variances are approved with the following conditions:
 - a. The garage shall be no closer than 6' from the northeast side lot line.
 - b. The privacy fence shall not be located within the area of the 25' vision triangle as measured 20' along the right-of way line of Hackberry Street and Southshore Drive from the intersection corner and connected by the hypotenuse.
5. Deny a front yard setback variance for the privacy fence to be located within the required front yard.
6. Deny a street-side yard setback variance for the garage to be located 6' from the southwest side lot line.

NEW BUSINESS

1. Case No. 20-11 Christopher Holahan 5193 Lakeview Drive (Lot 1, Block 1, Grandview Addition)

Mr. Holahan proposes to construct a 24'x14' second story deck, which includes a set of steps, on the lake side of the existing house. The proposed deck will be reconstruction of the existing deck with an additional 4' expansion toward the lake (See Figure 1). The applicant states that the existing deck is failing and needs replacement.

The proposed deck is 5' from the east side lot line and 4' from the west side lot line. A 6' side yard setback is required in the R-3 District (See Figures 2 & 3).

The proposed deck is also 15' from the rear lot line, measured from the high-water mark. A 30' rear yard setback is required in the R-3 District (See Figure 4).

The existing deck was issued variances by the Board in 2003 for the current side and rear yard setbacks. The setback listed on the Zoning Permit, issued August 20, 2003, for the existing deck is 4' for the west side yard and 5' for the east side yard. The approved rear yard setback is 20'. Onsite measurements confirm the 4' west side yard setback is accurate, so the setback should be reviewed at 4' instead of the 5' as written in the application.

The site visit made it clear that, at a minimum, the deck needs removal and is a safety issue in its current state. One of the steps cracked under my weight from basic use (See Figure 5). The property is only 30' wide, which is 10' less than the typical lake lot in the neighborhood, which does not allow for the deck to meet the minimum dimension requirement for a dwelling with a literal enforcement of the ordinance. The Board would be justified in limiting the request nonetheless.

Setbacks tend to be closer to the lake on properties but further from the lake to the east. This is due to the curvature of the shoreline going either direction from Mr. Holahan's property. The proposed deck would do nothing to impede the view to the lake for property owners to the west (See Figure 6). However, extending the deck further toward the lake would exacerbate the view for property owners to the east, particularly for the adjacent neighbor to the east where the view is already partially blocked by the existing deck (See Figure 7).

In a strict sense, there is an existing reasonable residential use of the property without a deck if the existing deck were removed. Since the existing deck was previously granted variances under the current ordinance and the deck has existed without complaint since, I am not concerned with allowing the existing deck to be reconstructed at its current dimensions. Its current condition is a clear safety issue. I suggest that the current deck be permitted to be rebuilt but not extended closer to the lake.

Recommendation

1. Approve an east side yard setback variance for the deck to be no closer than 5’.
2. Approve a west side yard setback variance for the deck to be no closer than 4’.
3. Approve a rear yard setback variance to be no closer than 19’.
4. These variances are approved with the condition that the deck and steps are constructed at the existing decks current dimensions.

2. Case No. 20-12 Terry Hunt 15567 317th Street (Block B, Bruns Addition)

Mr. Hunt proposes to construct a 24’x30’ attached garage addition to the front side of the existing garage (See Figure 1). The proposed addition will extend forward at the same setback as the existing attached garage.

The existing garage was issued a variance and Zoning Permit in 1978. The proposed garage is 18’ from the west side lot line. A 25’ side yard setback is required in the R-1 District (See Figure 2).

The property is large compared to the neighborhood and adjacent Country Estates subdivision. There is also a long, unbuildable lot on the adjacent property the west, so the request maintains ample spacing between the closest house to the west (See Figure 3). Additionally, there is significant vegetation between the properties to the west and Mr. Hunt’s property, so there will only be a nominal visual impact for neighbors to the west (See Figure 4).

The proposed garage is not much larger than other garages nearby and will not deter from the area’s character. A similar setback was approved by the Board in 1978. The Zoning Ordinance permits the Board to issue a variance for non-conforming setbacks if they do not exacerbate the existing setback.

Recommendation

1. Approve a west side yard setback variance for the attached garage addition to be no closer than 18’.

3. Case No. 20-13 Scott Cochran 5064 Clark Street (Lots 6-7 & 24-27, Block 8, Crane and Hills)

Mr. Cochran proposes to construct a 4’-tall fence to the west of the existing driveway off Lee Street (See Figure 1 & 2). The stated purpose for the fence is to improve safety regarding the drop from the retaining wall located on the adjacent property to the west (See Figure 3).

The proposed fence is 16.5’ from the rear lot line (See Figure 4). The lot, which runs through the block from Clark Street to Lee Street is defined as a “through lot” in the Zoning Ordinance.

Article 6.15 of the ordinance requires that a required front yard be provided and be treated as one on the rear side of a through lot. A 30' front yard setback is required in the R-3 District. Further, Article 6.31 of the ordinance does not permit a fence to be located where a front yard is required.

There is a clear reasonable residential use of the property. However, this is also a clear improvement to the safety of the neighborhood. The drop-off from the retaining wall presents a potential hazard, particularly to children. The proposed fence will do nothing to deter the character of the residential neighborhood. The proposed fence would otherwise be permitted if this were not a through lot. I strongly recommend approval of the proposed fence.

Recommendation

1. Approve a rear/front yard setback variance for the fence to be no closer than 16.5'.
2. Approve a location variance for the fence to be located where a front yard is required.
3. These variances are approved with the condition that the fence be located entirely on Mr. Cochran's property.

4. Case No. 20-14 Gary and Linette Heydt 15198 Evergreen Avenue
(Lot 3, Replat of Lot 1 of P&J First Subdivision)

The Heydts propose to construct a 36'x28' detached garage on the south side of the existing dwelling, currently being converted from the original barn (See Figure 1 & 2). The Heydts will likely attempt to subdivide a lot off to the southeast of the existing dwelling and possibly to the west as well.

The proposed garage is 4' from the existing dwelling. A 10' minimum separation distance between detached structures is required in residential districts.

The property is in a transitional location from smaller to larger residential lots. The request for such a close separation distance from the house is to buy space for the aforementioned, potential subdivision. Infill development is generally encouraged by the county in the South Shore neighborhoods.

I do not have a concern with the garage itself, as large garages are common to the south and west of the property. However, the requested separation distance is closer than I would typically recommend. Even with the intention of a future subdivision, there is ample space to divide a new lot or two that are within requirements in the R-3 District. I would suggest that a variance no closer than 6' between the structures be approved to be consistent with past practice of the Board.

5. Case No. 20-15 Ken Truka 21966 Owl Avenue (Lot 2, Freeman Preserve)

Mr. Truka proposes to construct a 16'x22' garden shed 10' from the south side property line (See Figure 1). A 25' side yard setback is required in the A-2 District (See Figure 2).

The property is heavily wooded, so despite having over a 2.5-acre property, only perhaps a quarter of the land is buildable without necessitating major tree removal. Additionally, most of the rear and side yards do not have an even grade, making a suitable location difficult to find.

Sheds are common in large, rural residential properties and fit the general character of the neighborhood. I do not have any concerns with the proposed location, which does not present any foreseeable negative impacts for neighbors.

Recommendation

1. Approve a side yard setback variance for the garden shed to be no closer than 10’.

6. Case No. 20-16 Ted Hammes 2172 246th Street (Lots 16, Block 4, Ventura Heights)

The applicants constructed a 4’x36’ canopy roof on the west side of the existing cabin and a 12’x22’-10” deck on the rear side of the cabin without a Zoning Permit (See Figures 1 & 2). The deck was expanded to be even with the canopy roof on the east side from the former deck.

The deck is 2’-2” from the west side property line. The deck and canopy roof are 2’-6” from the west side property line. A 6’ side yard setback is required in the R-3 District (See Figures 3 & 4).

The applicants were granted variances to replace and raise the foundation of the cabin on September 26, 2017. There is a reasonable residential use of the property as a result. However, access on the lake side of the house is needed and, as stated by the applicant, was a safety issue with the former dilapidated deck and steps on the west side of the cabin. Replacement of these structures was necessary as a result.

Like the neighboring lake lots, the lot is only about 30’ wide, so a variance was going to be necessary regardless. The houses along this block were all originally constructed closer than comfort would allow. While I would prefer the structures not being so close to the side lot line, the original cabin and former deck were built at the requested setback, and access issues to the rear side do not give the applicants many options on the west side. Denial of the request is not an option as a result.

The deck is in line with the character of the area and will not exacerbate views to the lake (See Figures 5 & 6).

Recommendation

1. Approve a west side yard setback variance for the deck to be no closer than 2’-2”.
2. Approve an east side yard setback variance for the deck and canopy roof to be no closer than 2’-6”.

7. Case No. 20-17 Hawkeye Power Partners, LLC Sections 3, 4, 5, 8, 9, 10, 15, 16, and 17, Union Township

Hawkeye Power Partners, LLC has submitted an Application for a Special Use Permit to construct wind turbines in up to 18 locations, three of which are designated alternate sites, one meteorological tower, and one substation to handle the power generated by the development. The request will replace the existing Clear Lake Wind Farm, which will be fully decommissioned. The Special Use Permit request has been reviewed by Staff. A staff report for the Special Use Permit with accompanying supplemental materials, and recommendations has been attached for Board members to review.