

**MINUTES OF THE
ROCK ISLAND BOARD OF ZONING APPEALS**

Regular Meeting

7:00 p.m.

May 12, 2010

ATTENDANCE:	(x) Present	() Absent
() Mike Healea		(x) Karen Williams
(x) Dave McAdam		(x) Larry Tschappat
(x) Gary Snyder		(x) Robert Wild
() Faye Jalloh		

Staff Present: Alan Carmen, Alan Fries

Chairman Tschappat called the meeting to order at 7:00 p.m.

Approval of Minutes –Mr. Snyder made a motion to approve the Minutes of the April 14, 2010 meeting. Mr. Wild seconded the motion, and it passed unanimously.

Procedural Explanation - Chairman Tschappat explained the procedure to be followed for the public hearing.

Public Hearing #2010-5 - Request from Sheila Solomon for a variance to allow an accessory structure in a front yard in an R-4 (one to six family residence) district at 1309 6th Avenue.

Mr. Fries presented the staff report. He explained that the Zoning Ordinance requires that accessory structures be located in a side or rear yard (Section 8.5A). The applicant proposes to construct a detached garage (24' x 24') in the west front yard.

The applicant purchased the property to the west of her residence in order to have adequate room to construct a two car detached garage. She removed a fence from this area and proposes to locate the garage in this west front yard (of the now corner property that was consolidated with the lot where her home is located) in order to maintain a large tree and storage building in the north rear yard.

Chairman Tschappat called for proponents.

Sheila Solomon, 1309 6th Avenue, was sworn in. She said that the proposed location was the best place on the site to locate the garage and that it would improve the property and the neighborhood.

As there was no one else to speak, the public hearing was closed.

Decision Case #2010-5 – Mr. Snyder a motion to approve the request because:

1. The proposed garage will improve the return on the property.
2. The lot is a corner lot with two front yards. There is a large tree and existing accessory structure located in the rear yard.
3. The proposed garage will not alter the character of the neighborhood.

Ms. Williams seconded the motion, and it passed unanimously.

Public Hearing #2010-6 - Request from David Flores for a variance of two feet of the average front yard depth of 12 feet in an R-2 (one family residence) district at 2533 38th Street.

Mr. Fries indicated the applicant was not present at the meeting.

Chairman Tschappat asked for a motion to defer the request to see if the applicant will arrive later in the meeting.

Mr. Wild made a motion to defer the request until later in the meeting.

Mr. McAdam seconded the motion, and it passed unanimously.

Public Hearing #2010-7 - Request from Alex Rangel for a variance of 15 per cent of the 30 per cent maximum coverage of a rear yard for an accessory structure in an R-3 (one and two family residence) district at 1538 26th Street.

Mr. Fries presented the staff report. He explained that the zoning ordinance requires that accessory structures cover not more than 30 percent of the rear yard (Section 8.5A). The applicant proposes to maintain a covered patio addition (12' x 38' as built; 12' x 35' as proposed) connected to an existing detached garage that covers 45 percent of the west rear yard.

Planning and Redevelopment Division staff became aware of the patio structure as a result of Inspection Division staff inspection of the improvement. No building permit was applied for and the inspectors determined the patio addition to the garage needed a variance due to its proximity to adjoining properties and coverage of the rear yard area. The structure is approximately 38 feet wide on a 40 foot wide lot. It was built to provide a shaded area on the east side of the existing garage. (See attached sketch from the applicant. Note that the lot dimension of 42' 8" is not accurate; the lot is 40 feet wide.)

Staff discussed the existing structure with the applicant and the need for a variance. There was also discussion that the applicant would be willing to reduce the width of the covered patio so it is as wide as the existing garage and does not project beyond the garage's side walls.

While this necessitates a variance of the rear yard coverage ratio, it does not adversely impact the property or its neighbors.

Chairman Tschappat called for proponents.

Alex Rangel, 1538 26th Street, was sworn in. He said that the accessory building addition was constructed to provide a shaded play area in the rear yard for his children. He said he was not trying to take over his neighbor's yard.

Mr. Snyder asked if he did the work himself. Mr. Rangel replied that he did and also did not realize the setback and area coverage requirements because his neighbor's house is very close to his property.

Chairman Tschappat asked if he was willing to reduce the side extensions of the addition to be flush with the existing detached garage on the site. Mr. Rangel replied that he was.

As no one else wished to speak, the public hearing was closed.

Decision Case #2010-7 – Mr. McAdam made a motion to approve the request because:

1. The existing covered patio will improve the return on the property.
2. The existing covered patio has altered the character of the neighborhood as built, but will not if it is remodeled to be as wide as the existing detached garage.

He added the stipulation that the covered patio width be reduced to that of the existing detached garage.

Mr. Wild seconded the motion, and it passed unanimously.

Public Hearing #2010-8 - Request from Victoria Elukhanyeni for a variance of 2.5 feet of the 3.5 foot maximum fence height in a front yard in an R-3 (one and two family residence) district at 1216 12th Street.

Mr. Fries presented the staff report. He explained that the zoning ordinance requires fences located in a front yard

not exceed 3.5 feet in height (Section 8.12). The applicant proposes to maintain a six foot tall privacy fence in the east front yard.

Staff received a complaint regarding the fence height and contacted the property owner regarding the zoning violation and she decided to request the variance rather than reduce the height of the existing fence. She has submitted the attached letter detailing several harassment and criminal activities on and around her property, which she says is the reason she put up the privacy fence.

Staff understands the need the applicant has for safety and security in her home, but also understands the long term negative impact of tall privacy fences in front yards of residential areas. The City revised the height requirement to not allow taller fences in front yards approximately 10 to 15 years ago due to their “fort-like” appearance on city blocks. Staff believes that allowing the fence to remain will alter the character of the neighborhood.

Chairman Tschappat called for proponents.

Victoria Elukhanyeni, 1216 12th Street, was sworn in. She said that the fence has been up for almost a year and was placed there as a result of multiple situations where people have come onto her property and threatened her verbally and physically. She said she has had three lawn mowers stolen from her property along with her water spigot turned on and left running without her knowledge. She said she does not feel safe in her neighborhood and since she has put up the taller fence there have been fewer problems for her. She added that there had been a shorter chain link fence in her front yard prior to the six foot maintenance free privacy fence, but the shorter fence did not provide adequate security for her property.

Chairman Tschappat asked her why she did not extend the privacy fence to the north side of the front yard. Ms. Elukhanyeni replied that she ran out of money to do so.

Mr. Snyder asked if a fence contractor constructed the fence. Ms. Elukhanyeni replied that her son put up the fence.

Mr. Snyder then asked if she locks the fence. Ms. Elukhanyeni replied that she does not lock the front fence, but does have a locked privacy fence in the back yard.

Mr. McAdam asked her how long has she lived in her residence. Ms. Elukhanyeni replied almost ten years. She added that she chose the best looking fence that she could afford.

Mr. Snyder asked staff who complained about the fence height. Mr. Carmen replied that staff does not give that information out to the public.

As no one else wished to speak, the public hearing was closed.

Decision Case #2010-8 – Ms. Williams made a motion to approve the request because:

1. The privacy fence has improved the return on the property by making it safer.
2. The privacy fence is needed for the safety and security for the property owner.
3. The privacy fence is a more temporary improvement compared to an accessory structure.

She added the stipulation that the applicant can complete the front yard privacy fence along the north property line.

Mr. Snyder seconded the motion and said that he normally would not agree to approve such a variance, but he is considering the unique circumstance and that there is no one appearing to object.

Mr. McAdam said he has observed people jumping over shorter fences to create problems for property owners. He said that safety is more important in this case than the ordinance regulations.

Mr. Wild and Ms. Williams both agreed.

Chairman Tschappat called for a vote on the motion to approve the request with the stipulation, and it passed unanimously.

The applicant's representative for case #2010-6 arrived to the meeting, so Chairman Tschappat asked for a motion to re-open the public hearing for the request. Ms. Williams made a motion to open public hearing 2010-06. Mr. Snyder seconded the motion, and it passed unanimously.

Public Hearing #2010-6 - Request from David Flores for a variance of two feet of the average front yard depth of 12 feet in an R-2 (one family residence) district at 2533 38th Street.

Mr. Fries presented the staff report. He explained that the zoning ordinance requires that that if a 25 foot front yard setback cannot be met that an average front yard can be taken (Section 9.4). The applicant proposes to construct an attached deck (5' x 8') in the south front yard.

The applicant proposes a new deck landing and stoop area where there had been a stoop previously for access to the south entrance into the residence. He averaged the front yard depth with the only other residence on the same block and the average front yard was determined to be 12 feet. The proposed open deck will maintain a ten foot south front yard setback. The south front property line is located approximately at the stone wall on the south side of the property.

Chairman Tschappat called for proponents.

Aaron Faulk, 318 West Gale Street in McCausland, Iowa, was sworn in. he said that his company has been renovating the residence and has added a new door to the south side of the house that now needs a landing. He said that to make it more accessible they have proposed a small deck for the entrance way.

As no one else wished to speak, the public hearing was closed.

Decision Case #2010-6 – Mr. Wild made a motion to approve the request because:

1. The proposed deck will improve the return on the property.
2. The property is a corner lot with two front yards.
3. The proposed deck will not alter the character of the neighborhood.

Mr. Snyder seconded the motion, and it passed unanimously.

Chairman Tschappat adjourned the meeting at 7:45 p.m.

Respectfully Submitted,

Alan M. Carmen, Secretary
Rock Island Board of Zoning Appeals