A regularly scheduled Zoning Board of Appeals Meeting was held on Thursday, June 9, 2016, at 1:00 p.m., City Hall, 419 Fulton Street, Room 400, with Chairperson Ed Barry presiding.

ROLL CALL

The following Zoning Board of Appeals Commissioners were present: Mark Anderson, Henry Blackwell, Jerry Jackson, Zachary Oyler, Chairperson Ed Barry – 5. Absent: Richard Russo, Nathan Wagner – 2.

Staff Present: Leah Allison, Madeline Wolf

MINUTES

Commissioner Anderson moved to approve the minutes for the meeting held on March 10, 2016; seconded, by Commissioner Oyler.

The motion was approved viva voce vote 5 to 0.

SWEARING IN OF SPEAKERS

Speakers were sworn in by Staff Member Madeline Wolf.

REGULAR BUSINESS

CASE NO. ZBA 3017

Public Hearing on the request of Derek & Lisa Dully to obtain a variance from the City of Peoria Zoning Ordinance Section 3.2.f.(e) General Residential and Non-Residential Fence Regulations, to increase the height of a side yard fence from six feet to eight feet for the property identified as Parcel Identification Nos. 14-06-427-002 and 14-06-427-003, with an address of 2121 W Altorfer Drive, Peoria, Illinois (Council District 5).

Senior Urban Planner, Leah Allison, Community Development Department, read Case No. ZBA 3017 into the record and presented the request. Ms. Allison provided the property characteristics, requested variance, and the Site Plan Review Board recommendation as outlined in the memo.

Site Plan Review Board recommended DENIAL of the variance due to lack of hardship and failure to meet all of the following criteria:

1. Reasonable Return: The subject property may yield a reasonable return without the requested variance.
2. Unique Circumstances: The subject property was not unique.
3. Character: The proposed variance may not alter the character of the neighborhood. The area surrounding the subject property was industrial and large scale commercial. Review of the area found some fences greater than six feet in height.

Commissioner Anderson questioned the feasibility of a fence enclosure adding a cover instead of increasing the fence height. Anderson questioned if the petitioner may yield a reasonable return without the variance.

Chairperson Barry opened the Public Hearing at 1:08 p.m.

Derek Dully, petitioner, was present to answer the commission’s questions. Mr. Dully said the variance request for an 8’ fence was to retain large dogs from climbing or jumping over the allowed 6’ fence height. The requested variance was for security. In response to Commissioner Anderson, Mr. Dully said the outside play area was a large area that was impossible to cover.

Commissioner Blackwell supported a 45 degree cover on a 6’ fence to retain the dogs.
Mr. Dully explained he worked with Farnsworth Group for the project. Once the construction for the 8’ fence began, he learned he needed to apply for a variance for approval for the 8’ fence. In response to Commissioner Blackwell’s suggestion of the 45 degree cover, Mr. Dully said he would need to refer to the fence company.

Commissioner Blackwell requested the petitioner provide video or picture documentation to demonstrate the need for the 8’ fence.

Mr. Dully said he did not have media to provide to the commission. Mr. Dully said 8’ fences are common in the dog boarding industry. The request for the 8’ fence was a security measure to eliminate dogs getting over the fence. The requested fence was the last perimeter fence to contain the animals in the facility.

Commissioner Anderson questioned if the petitioner was agreeable to the 45 degree cover.

Mr. Dully offered to consider; he preferred approval for the 8’ fence variance request.

Commissioner Anderson expressed concern about safety.

Mr. Dully said large and energized dogs are capable of jumping over a 6’ fence. Mr. Dully referred to his existing dog boarding facility in Goodfield, Illinois with an 8’ fence. Mr. Dully said if a dog escaped his facility, it may be detrimental to business.

Commissioner Anderson questioned a reasonable rate of return without the variance.

Rodger Sparks, an interested citizen, supported the requested variance and suggested an 8’ fence with a 45 degree cover on top. Mr. Sparks shared his experience with a dog jumping over a 6’ fence.

Commissioner Blackwell questioned City’s support for the approval of a 7’ fence.

Ms. Allison said a 7’ fence was suitable for the character of the surrounding neighborhood.

Commissioner Blackwell mentioned a 6’ fence with barbed wire adjacent to the subject property.

Mr. Dully said the fence adjacent to his business measured over 7’ and a business down the street had a 10’ privacy fence.

Commissioner Oyler said a 7-8’ fencing did not seem to be out of character for the neighborhood.

Commissioner Blackwell questioned if surrounding properties with fences taller than 6’ were grandfathered in or a permitted use in the Industrial District. Blackwell requested clarification of the fence regulations for Industrial Districts.

Ms. Allison referred to the Zoning Ordinance and said I-1 and C-2 allowed 6’ and I2 and I3 allow up to 8’ in height for a fence.

With no further interest from the public to provide public testimony, Vice Chairperson Jackson closed Public Hearing.
Discussion:
Commissioner Blackwell said from a business standpoint he appreciated the petitioner’s request regarding safety concerns. Blackwell said he was hesitant to allow an 8’ fence.

Vice Chairperson Jackson read the Findings of Fact.

Motion:
Commissioner Blackwell made a motion to approve the construction of a 7’ fence straight up or at an angle.

Without a second to the motion, the motion failed.

Motion:
Commissioner Oyler made a motion to approve the requested variance for an 8’ fence; seconded, by Commissioner Anderson.

The motion was approved viva voce vote.
Yeas: Anderson, Jackson, Oyler – 3.
Nays: Blackwell -1.
Abstention: Barry – 1.

Chairperson Barry presumed the meeting.

CASE NO. ZBA 3018
Public Hearing on the request of Stephan A. Hard to obtain a variance from City of Peoria Zoning Ordinance Section 7.6.e Yard Requirements, to decrease the required rear yard setback from 25 feet to 5 feet for a garage addition, for the property identified as Parcel Identification No. 14-20-178-001, with an address of 1422 W Sunnyview Drive, Peoria, Illinois (Council District 4).

Senior Urban Planner, Leah Allison, Community Development Department, read Case No. ZBA 3018 into the record and presented the request. Ms. Allison provided the property characteristics, requested variance, and the Site Plan Review Board recommendations as outlined in the memo. An alternative variance request was included in the application to reduce the rear yard setback from 25 feet to 14.5 feet. Ms. Allison referred to the agenda packet with additional, detailed information for the commission’s consideration for the request.

Staff recommended DENIAL of the requested variance to decrease the rear yard setback from 25 feet to 5 feet.

Staff recommended APPROVAL of the requested variance to 14.5 feet upon consideration of the following criteria:

1. Reasonable Return: The property was constructed with a single-stall attached garage. Per the petitioner, certain household appliances were located in the garage. This may reduce the reasonable return for the property.
2. Unique Circumstances: The subject property was somewhat unique since it has a front yard setback of 25 feet on two frontages and a rear yard setback of 25 feet, which limited the available buildable area.
3. Character: The variance to 14.5 feet kept the encroachment into the rear yard to the least amount, while allowing for a garage addition to create a second parking stall and maintaining a 14.5 feet rear yard. Two car garages are common in the neighborhood and will fit with the character of the neighborhood.

Commissioner Anderson requested Ms. Allison to speak more to Site Plan Review Board’s recommendation.

Ms. Allison said in consideration of all the criteria, the alternative variance request was more appropriate and in keeping with neighborhood.

Commissioner Barry opened the Public Hearing at 1:41 p.m.
Stephen Hard, of 1422 Sunnyview Drive, was present to support the variance request.

Casey Kepple, representing the petitioner, spoke to Exhibits A-K that were included in the agenda packet. Mr. Kepple said Mr. Hard purchased the home in April 2016 with the intent to expand the garage; the unique shape of the subject property created a hardship for the addition. Mr. Kepple said the request will preserve the aesthetic of the surrounding Single-Family neighborhood. Mr. Kepple referred to the letters of support from Mr. Hard’s neighbors. Mr. Kepple confirmed Mr. Hard will not construct a three car garage.

In response to Commissioner Oyler’s question, Mr. Kepple said it would be one garage with two stalls.

Mr. Hard said the intention for Plan B would be removing the existing garage door with a 2 stall garage with a new door.

Commissioner Anderson said a letter from the neighbor to the south was not submitted. Anderson questioned if the petitioner discussed the variance request with the neighbor that would be the most impacted.

Commissioner Anderson questioned the petitioner if he asked his neighbor to the south to sign a letter.

Mr. Hard said he discussed the variance request with the neighbor to the south after the neighbor noticed the Public Hearing sign. Mr. Hard said his neighbor supported the request. Mr. Hard said he did not ask his neighbor to the south because he did not know him that well.

Mr. Kepple noted the neighbor had notice of the Public Hearing and was not present to object to the request.

Commissioner Anderson requested setback requirements for front, side, and rear yard setbacks. Discussion ensued regarding setback regulations with multiple frontages according to the Zoning Ordinance.

Commissioner Oyler expressed concern for the petitioner’s awareness of the Zoning Ordinance’s setback requirements with multiple frontages.

With no further interest from the public to provide public testimony, Chairperson Barry closed the Public Hearing at 2:00pm.

Motion:
Commissioner Oyler made a motion to approve the requested variance to decrease the rear yard setback from 25’ to 5’; seconded, by Commissioner Jackson.

Commissioner Blackwell expressed concern for the approval of the 5’ setback. Blackwell encouraged the commission to review the 14.5’ setback request.

Commissioner Anderson agreed with Blackwell. Anderson said home as the garage addition was important for the petitioner, due diligence should have been conducted by the petitioner prior to the purchase of the home.

Commissioner Oyler said the appliances that were housed in the existing garage presented a hardship; Oyler supported the request. Oyler expressed concern the petitioner was unaware the property had multiple frontages.

Commissioner Anderson moved to reopen the Public Hearing; seconded by Commissioner Oyler.

The motion to reopen the Public Hearing was approved viva voce vote 5 to 0.

Mr. Hard spoke to the concerns raised by Commissioner’s Blackwell and Anderson. Mr. Hard said the GIS measure was not to scale; the garage addition would maintain 5’ from south neighbor’s property line.

With no further interest from the public to provide public testimony, Chairperson Barry closed the Public Hearing at 2:05p.m.
Chairperson Barry read the Findings of Fact.

The motion failed by roll call vote.
Yeas: Jackson, Oyler – 2.

Motion: 
Commissioner Anderson made a motion to approve the requested variance to decrease the rear yard setback from 25' to 14.5'; seconded by Commissioner Blackwell.

The motion was approved by roll call vote.
Nays: None.

**ELECTION OF OFFICERS**

Chairperson:
Commissioner Blackwell moved to elect Richard Russo as the Chairperson of the Zoning Board of Appeals; seconded by Commissioner Anderson.

The election of Chairperson Russo was approved viva voce vote 5 to 0.

Vice Chairperson:
Commissioner Anderson moved to elect Zachary Oyler as the Vice Chairperson of the Zoning Board of Appeals; seconded by Commissioner Jackson.

The election for Commissioner Oyler as Vice Chairperson was approved viva voce vote 5 to 0.

**CITIZENS’ OPPORTUNITY TO ADDRESS THE COMMISSION**

There was no interest from the public to provide public testimony at 2:13 p.m.

**ADJOURNMENT**

Commissioner Anderson moved to adjourn the Zoning Board of Appeals Meeting; seconded by Commissioner Blackwell.

The motion was approved viva voce vote 5 to 0.

The Zoning Board of Appeals meeting adjourned at approximately 2:13 p.m.

Leah Allison, Senior Urban Planner