ZONING BOARD OF APPEALS
THURSDAY, SEPTEMBER 10, 2020
CITY HALL ROOM 400 – 1:00 P.M.

MEETING AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF AUGUST 13, 2020 MINUTES

4. REGULAR BUSINESS
   Deliberations will be held at the end of each case after public comment has been closed. No public comment is allowed during deliberations.

   **CASE NO. ZBA 3069**
   Public Hearing on the request of Brian D. Mooty of Kavanagh Scully, P.C., on behalf of Collin and Kayla Krause, to obtain a Minor Variance from the City of Peoria Unified Development Code Section 5.4.6 Fences and Walls, to increase the height of a fence from 3 feet to 6 feet, for a fence in the front yard of a corner lot, in a Class R-2 (Single Family Residential) District and a Class R-4 (Single Family Residential) District, for the property located at 3416 N Knoxville Ave (Parcel Identification Nos 14-28-451-001 and 14-28-451-002), Peoria, IL (Council District 3)

   **CASE NO. ZBA 3070**
   Public Hearing on the request of Charlie Thomas to obtain a Minor Variance from the City of Peoria Unified Development Code Section 5.4.6 Fences and Walls, to increase the height of a front yard fence from 3 feet to 6 feet, in a Class R-2 (Single Family Residential), for the property located at 619 W Forest Lawn Avenue, (Parcel Identification No. 14-04-303-012) Peoria, IL. (Council District 5) **THIS CASE HAS BEEN WITHDRAWN.**

5. CITIZENS’ OPPORTUNITY TO ADDRESS THE COMMISSION

6. ADJOURNMENT

Please note:
Governor JB Pritzker's Executive Order 2020-43, issued on June 26, 2020, continues to limit any gatherings of more than fifty people. Governor JB Pritzker's Executive Order 2020-44, requires that public bodies take steps to provide video, audio, and/or telephonic access to meetings. The CDC recommends social distancing of at least six feet between persons. City Hall is now open to the public with capacity and social distancing restrictions Monday through Friday from 8 a.m. to 5:00 p.m. To comply with these recommendations and requirements, the City is implementing the following changes and restrictions for the Zoning Board of Appeals Meeting on September 10, 2020 while complying with the spirit of the Open Meetings Act:

- The Zoning Board of Appeals Meeting will be conducted in person with the members of the Commission and Community Development Staff present. Plexiglass has been installed between desks to prevent the spread of COVID-19.
- The public can physically attend the meeting, but in order to maintain social distancing guidelines there can only be 15 people from the public inside City Council Chambers at one time. There will be a wait to enter City Council Chambers once the public capacity of 15 people is met. Public comments can be made by those that are inside City Council Chambers.
- Anyone wishing to make a public comment can do so by sending those comments in writing to, Leah Allison, at lallison@peoriagov.org or via fax at 309-494-8674 no later than September 9, 2020. The email or fax should be labeled "Public Comment for September 10, 2020 Zoning Board of Appeals Meeting," and we ask that you include your name and address.
- Media will be allowed to physically attend the meeting; however, due to capacity restrictions only one person from a media outlet will be allowed inside City Council Chambers.
- Temperature screenings are required for access inside City Hall. Face coverings are required to be worn at all times inside City Hall.
- The agenda, minutes and a video for the meeting will be available online at http://www.peoriagov.org/boards-commissions/
A regularly scheduled Zoning Board of Appeals Meeting was held on Thursday, August 13, 2020 at 1:00 p.m., City Hall, 419 Fulton Street, Room 400, with Chairperson Richard Russo presiding and with proper notice having been posted.

ROLL CALL
The following Zoning Board of Appeals Commissioners were present: Richard Russo, Doug Draeger, Dorian LaSaine, Ryan Cannon – 4. Absent: Lon Lyons, Laith Al-Khafaji – 2.

Staff Present: Leah Allison, Megan Nguyen, Brandon Hayes, Kerilyn Weick

SWEARING IN OF SPEAKERS
Speakers were sworn in by Megan Nguyen.

MINUTES
Commissioner Cannon moved to approve the minutes for the Zoning Board of Appeals meeting held on Thursday, July 9; seconded, by Commissioner LaSaine.

The motion was approved unanimously viva voce vote 4 to 0.

REGULAR BUSINESS
CASE NO. ZBA 3068
Public Hearing on the request of David Rodatz of Hilton Displays, on behalf of Peoria Retail LLC, to obtain a Minor Variance from the City of Peoria Unified Development Code Section 8.3.10 Temporary and Permanent Signs, to increase the area of a menu board sign from the maximum allowed 30 square feet to 36.28 square feet, and to increase the height of two menu board signs from the maximum allowed 5 feet to 5 feet, 5.25 inches, for the property located at 1605 N. Knoxville Avenue (Parcel Identification Numbers 18-04-178-055 and 18-04-178-032), Peoria, IL (Council District 2).

Senior Urban Planner Kerilyn Weick, Community Development Department, read Case No. ZBA 3068 into the record and presented the request to increase the area of a menu board sign from the maximum allowed 30 square feet to 36.28 square feet, and to increase the height of two menu board signs from the maximum allowed 5 feet to 5 feet, 5.25 inches, for the property located at 1605 N. Knoxville Avenue.

Staff does not object to the requested demands of the petitioner based upon the criteria for a minor variance with condition that temporary signs may not be added physically to or located next to either menu board sign.

1) The plight of the owner is due to unique circumstances.
2) The variation, if granted, will not alter the essential character of the locality or be injurious to the public or other property or properties.
3) The proposed variance represents the minimum deviation from the standards necessary to accomplish the desired improvement.
4) The conditions of the variances requested are not self-created.
5) The granting of the variation will result in a public benefit to the surrounding neighborhood and the City as a whole. The public benefit may include, but is not limited to, preservation or enhancement of desirable site characteristics or natural features or historic resources, design that enhances the surrounding area, economic development which may enhance the local economy, or efficient use of land as it relates to surrounding structures and services.

Chairperson Russo opened the Public hearing at 1:15pm.

Shawn Taylor provided a brief explanation of the case. He discussed that this is a branding issue for Starbucks. With the smaller signage, they would not be able to market all their products and would lose money. Also, the smaller size is not the standard size for Starbucks drive-through signs.

Commissioner LaSaine asked if the larger signage would impede vision of traffic. Ms. Weick responded that Public Works staff did not comment concern regarding size of sign. Mr. Taylor also advised that the location of the sign, to rear of building, would not present any threats to traffic.

In response to the commission, Ms. Weick summarized staff's findings for the standards of approval and reason for the recommended condition.

With no further interest from the public to provide testimony, Chairperson Russo closed the Public Hearing at 1:19pm.

**Discussion:**
Chairperson Russo read the City of Peoria Unified Development Code Section 2.6.3.F. Standards for Minor Variations. It was determined by the commission that criteria 1, 2, 3, 4, 5 were found to be true.

**Motion:**
Commissioner LaSaine moved to approve the variance, subject to compliance with the conditions made by staff; Commissioner Draeger seconded the motion.

**CITIZENS OPPORTUNITY TO ADDRESS THE COMMISSION**
There was no interest from the public to address the Zoning Board of Appeals at 1:29PM.

**ADJOURNMENT**
Commissioner Draeger moved to adjourn the Zoning Board of Appeals Meeting; seconded by Commissioner LaSaine.

The motion was approved unanimously viva voce vote 4 to 0.

The Zoning Board of Appeals meeting adjourned at approximately 1:30pm.
TO: City of Peoria Zoning Board of Appeals
FROM: Kerilyn Weick, Senior Urban Planner
DATE: September 10, 2020
CASE NO: ZBA 3069

SUBJECT: Public Hearing on the request of Brian D. Mooty of Kavanagh Scully, P.C., on behalf of Collin and Kayla Krause, to obtain a minor variance from the City of Peoria Unified Development Code Section 5.4.6 Fences and Walls, to increase the height of a fence from 3 feet to 6 feet, for a fence in the front yard of a corner lot, in a Class R-2 (Single Family Residential) District and a Class R-4 (Single Family Residential) District, for the property located at 3416 N Knoxville Ave (Parcel Identification Nos 14-28-451-001 and 14-28-451-002), Peoria, IL (Council District 3).

PROPERTY CHARACTERISTICS
The subject property includes two land parcels, under common ownership, and is considered one zoning lot. The larger parcel is 0.59 acres (25,700 SF) in size and zoned Class R-2 (Single Family Residential) District. The smaller parcel is 38 feet wide and 0.09 acres (3,920 SF) in size and zoned Class R-4 (Single Family Residential) District. The property contains a single-family dwelling, constructed in the early 1920s, and a detached garage. The dwelling faces Knoxville Avenue. There is a driveway that extends from both Knoxville Avenue and from E Orchard Place. The property is surrounded by Class R-2 (Single Family Residential) to the north and south, Class R-4 (Single Family Residential) to the east, and Class R-1 (Single Family Residential) to the west. Dwellings along E Orchard Place face E Orchard Place.

The property is a corner lot, located at the south east intersection of Knoxville Avenue, a principal arterial, and E Orchard Place, a local road. With frontage on two streets, the property has two front yards. The first front yard is between the property line along Knoxville Avenue and the front of the house. The house faces Knoxville Avenue. The second front yard is between the property line along E Orchard Place and the side of the house.

REQUESTED VARIANCE:
The petitioner is requesting a variance from Section 5.4.6.C of the Unified Development Code to increase the height of a front yard fence from the maximum allowed 3 feet to 6 feet, a difference of 50% which is a minor variance. A six foot tall, solid wooden fence has been installed in the front yard along E Orchard Place and extends southerly into the rear yard. A fence may not protrude in full or part on a right-of-way.

The petitioner finds the standards for a front yard fence along E Orchard Place cannot be met because of the orientation of the property.

DEVELOPMENT REVIEW BOARD RECOMMENDATION
The Development Review Board’s recommendation is to APPROVE WITH THE CONDITION that the fence shall be setback at least 15 feet from the property line along E Orchard Place and that the fence shall be to the west of the driveway off E Orchard Place.

1) The plight of the owner is due to unique circumstances.
   Staff: While the property is over half an acre, the large front yard along Knoxville Avenue and two existing driveways, reduce the area available to create a continuous fenced-in space. The second parcel extends the size of the rear yard which acts as a buffer to the adjacent residential property.
2) The variation, if granted, will not alter the essential character of the locality or be injurious to the public or other property or properties.

Staff: This standard is met only with the recommended condition which restricts the placement of the 6 foot tall fence. A 6 foot tall solid fence with a lesser setback would be inconsistent with the location, height, and design of fences along E Orchard Place.

3) The proposed variance represents the minimum deviation from the standards necessary to accomplish the desired improvement.

Staff: The petitioner desires security and privacy. Privacy and security can be gained via a fence installed with the recommended setback of at least 15 feet. The fence does not need to be on the property line, in the front yard, to have security and privacy.

4) The conditions of the variance requested are not self-created.

Staff: The placement of structures, driveways, and subsequent width and depth of yards which reduce the area available for continuous fenced-in space are not created by the applicant.

5) The granting of the variation will result in a public benefit to the surrounding neighborhood and the City as a whole. The public benefit may include, but is not limited to, preservation or enhancement of desirable site characteristics or natural features or historic resources, design that enhances the surrounding area, economic development which may enhance the local economy, or efficient use of land as it relates to surrounding structures and services.

Staff: A fence, with the desired height and recommended setback and location would constitute an efficient use of land for the property owner. The setback alleviates some of the design and height inconsistency with the surrounding properties. The rear yard acts as a buffer to the adjacent residential property.
Disclaimer: Data is provided 'as is' without warranty or any representation of accuracy, timeliness or completeness. The burden for determining fitness for, or the appropriateness for use, rests solely on the requester. The requester acknowledges and accepts the limitations of the Data, including the fact that the Data is in a constant state of maintenance. This website is NOT intended to be used for legal litigation or boundary disputes and is informational only. -Peoria County GIS Division
ZONING BOARD OF APPEALS
VARIANCE APPLICATION

1. PROPERTY INFORMATION
   a) Address: 3416 North Knoxville Peoria, IL 61603
   b) Tax ID Number(s): 14-28-451-001 and _____
   c) Parcel Area (acres or square feet): 25,734 and 4,099 sq feet
   d) Current Zoning District: R-2 Single Family District
   e) Current Property Use: Single Family Residential

2. OWNER INFORMATION – REQUIRED
Collin Krause and Kayla Krause
Name
14-28-451-001
Address, City, State, ZIP+4
309-863-0747 krausej.collin@gmail.com
Phone Fax Email
Collin Krause Kayla Krause
Signature of Owner(s) & Date

3. APPLICANT INFORMATION – engineer, architect, attorney or other, if applicable
Brian D. Mooty attorney for applicants
Name
Kavanagh Scully
Company
301 SW Adams Street Suite 700 Peoria, IL 61602
Address, City, State, ZIP+4
309-676-1381 309-676-0324 Brianmooty@ksswf.com
Phone Fax Email
Signature of Applicant & Date

Applicant's Interest in Property:
☐ Contractor
☐ Contract Purchaser
☐ Other

Send Correspondence To: Select one entity to receive all correspondence. E-mail will be used for all correspondence unless otherwise requested.
☐ Owner
☐ Applicant
☐ Representative of Applicant
4. VARIANCE INFORMATION

a) Variance being requested ______ Property is a corner lot located at Knoxville and East Orchard Place. Variance is requested to allow six foot fence on Orchard Place in corner lot front yard.

b) From what section of the zoning ordinance is a variance being requested? ______ Variance from 10 foot setback for corner lots from property line for an existing six foot fence.

c) What unique or exceptional characteristics of your property prevent it from meeting the requirements in your zoning district? (Check applicable)

   Too narrow ______ Too small ______ Soil ______
   Subsurface ______ Elevation ______ Slope ______
   Too shallow ______ Shape ______ X ______ Other ______ X size and setback

d) What is your hardship? Please be specific. ______ See Attached

   __________________________
   __________________________
   __________________________
   __________________________

 e) If granted a variance in the form requested, will it be in harmony with the neighborhood and not contrary to the intent and purpose of the Unified Development Ordinance?

    X Yes ______ No ______

    Please elaborate: __________________________
    __________________________
    __________________________
    __________________________

 f) Check all that apply: ☑ Minor Variance (variations from height, yard, bulk, lot area, and fence height provisions that are 20% to 50% of the required standard)

    ☐ Major Variance (variations from height, yard, bulk, lot area, and fence height provisions that are greater than 50% of the required standard and all variations which are not administrative deviations and minor variations)

5. FILING FEE (MUST ACCOMPANY APPLICATION)

Variance Application Fees for any property in the City shall be as set forth below:

$750.00 minimum plus $100 per acre to a maximum of $7500.00

Per Unified Development Code Article 2.14 - Fees Table:

6. REQUIRED SITE PLANS

One copy of the site plan and one on a compact disc or appropriate digital media.
7. FINDINGS OF FACT
If applying for a Minor Variance, please select true or false for the following five questions:

Sections 2.6.3.F. Standards for Minor Variations
No variations from the regulations of this development code shall be granted unless the entity or person granting such variation shall find based upon the evidence presented to them in each specific case that all of the following five criteria are true:

1) The plight of the owner is due to unique circumstances.
   X True   False

   Explanation: The definitions for a corner lot and front and side yards, and as the definitions are interpreted by the City do not reasonably apply to the unusual size of the lot and its larger setback from Knoxville Ave. The City has imposed a restrictive and incorrect interpretation of the rear yard setback for the property. See attached Exhibit and Site Plan.

2) The variation, if granted, will not alter the essential character of the locality or be injurious to the public or other property or properties.
   X True   False

   Explanation: Allowing the variation will not alter the essential character of the neighborhood. The fence as installed has not injured the surrounding properties nor does it injure the public. The essential character of the lots along Knoxville are deep open front yards facing onto Knoxville Ave. The residences front onto Knoxville Ave. The character of the housing on Knoxville and adjacent housing are open front yards and many fenced rear and side yards.

3) The proposed variance represents the minimum deviation from the standards necessary to accomplish the desired improvement.
   X True   False

   Explanation: The height of the fence does not exceed six feet. It is the height necessary to provide security and privacy. It does not extend into the front yard of the property on Knoxville.

4) The conditions of the variances requested are not self-created.
   X True   False

   Explanation: The conditions creating the requirements for a variation are the unique size and configuration of the lot and the residence and the application of the definitions of a corner lot and front, side, and rear yards that do not reasonably apply to the lot including the large setback on Knoxville Ave. The City has imposed an unnecessarily restrictive and incorrect interpretation of the rear yard setback to the property. See attached Exhibit and Site Plan.

5) The granting of the variation will result in a public benefit to the surrounding neighborhood and the City as a whole. The public benefit may include, but is not limited to, preservation or enhancement of desirable site characteristics or natural features or historic resources, design that enhances the surrounding area, economic development which may enhance the local economy, or efficient use of land as it relates to surrounding structures and services.
   X True   False

   Explanation: Approval of the variance will benefit the neighborhood by allowing the investment in and improvement of an older residential structure in a neighborhood and property under stress from heavy traffic and near by transitional and distressed neighborhoods. It will promote the continued use of the property as a single family residence that has a balanced mix of open and private spaces for use by the family, particularly families with younger children who will have access to open space protected from the adjacent streets.
Exhibit for Variance Application

4d) What is your hardship? The subject property is comprised of two lots. The larger lot contains the residence and part of a detached garage. The residence and garage are oriented so that the actual front yard is the yard between the front of the house and Knoxville Ave.

1. The front yard between the house and the property line with Knoxville is very deep at 93 feet with a total of 103 feet to the curb on Knoxville.

2. The code is not clear regarding the definition of front and side yards for corner lots. The definitions at 5.4.6.C:

<table>
<thead>
<tr>
<th>RESIDENTIAL, OFFICE, COMMERCIAL, INSTITUTIONAL, AND I-1 ZONING DISTRICTS</th>
<th>I-2 AND I-3 ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Height</td>
<td>Required Setback</td>
</tr>
<tr>
<td>Front Yard</td>
<td>3 feet</td>
</tr>
<tr>
<td>Corner Side Yard</td>
<td>3 feet</td>
</tr>
<tr>
<td>Side Yard</td>
<td>6 feet</td>
</tr>
<tr>
<td>Side Yard</td>
<td>6 feet</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>6 feet</td>
</tr>
</tbody>
</table>

3. The City has advised the applicant that the front yard between the side of the residence and East Orchard is considered to be a front yard per the code.

4. The Code’s definitions of yards set forth in Appendix A at Section 10 are:

- **Yard:** An existing or required open space on the same lot with a principal building, and lying along the adjoining lot lines, open, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of the front yard or the depth of the rear yard, the mean horizontal distance between the lot line and the principal building shall be used.

  **Yard, Front:** The minimum horizontal distance between the property line and any buildings, or any projection thereof, other than the projection of the usual steps, front porch, stoop or entrance way and extending for the full width of the lot.

  **Yard, Corner Side:** The minimum yard required on corner lots between any building and the property line adjacent to the street upon which the principal building does not front. This yard may be observed only when other lots with frontage on this side
of the street in the same block do not have, nor have the ability to have, a principal building fronting this street.

Yard, Rear: A space, unoccupied, except by a building of [or] accessory use as herein provided extending for the full width of the lot between the area lot line and the extreme rear line of the principal building. On corner lots, the rear yards shall be considered as parallel to the street upon which the principal structure faces. On interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side: A yard between any building and the side line of the lot and extending from the front lot line to the rear lot line.

5. Attached as Exhibit B is a annotated GIS map that indicates the area that the City has designated as the front yard(s) for the property. Exhibit B also describes the area actually defined by the Code as the rear yard of the property.

6. Applicant is requesting a variance to maintain the installed fence where it is currently located.

7. The Applicant’s request, based upon the definition of Yard, Rear—set forth in the Code—is specifically for the area between the side of the residence and East Orchard Street. (The portion of the fence located within the dark blue dotted line).

8. The balance of the fence should be allowed to remain where located without a variance as it is located with the rear yard as defined by the Code.(the area with in the dotted yellow line).

9. However, the variance request is for the entire fence on the Orchard Place side of the street if that area from the side of the residence on Orchard street is deemed to be a front yard.

10. The specific hardships are:

10.1 That the City’s definition in a pending ordinance violation deems the entire area on the Orchard Street side to be a front yard.

10.2 The corner lot definitions of front and side yards impose cumbersome and unrealistic requirements for very large corner lots that have frontage depths between the front of the residence and a street deeper than most residential lots in the City. Here, the distance is more than 100 feet to the front porch of the house.

10.3 The code provisions do not adequately and fairly apply to the property regarding the purpose of the definitions of front and side yards due to the unique circumstances of the Applicant’s very large lot and large setback from Knoxville Ave.

10.4 The requirement as imposed by the City prevents the Applicants from maintaining a fence to provide privacy and security for the north side of the property.
Exhibit B to Variance Application

Peoria County, IL

Disclaimer: Data is provided 'as is' without warranty or any representation of accuracy, timeliness or completeness. The burden for determining fitness for, or the appropriateness for use, rests solely on the requester. The requester acknowledges and accepts the limitations of the Data, including the fact that the Data is in a constant state of maintenance. This website is NOT intended to be used for legal litigation or boundary disputes and is informational only. -Peoria County GIS Division

Rear yard as defined by the City

Code definition of rear yard. Yard, Rear: A space, unoccupied, except by a building of [or] accessory use as herein provided extending for the full width of the lot between the area lot line and the extreme rear line of the principal building. On corner lots, the rear yards shall be considered as parallel to the street upon which the principal structure faces. On interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Appendix A Section 10 Definitions