

Board of Adjustment
Special Meeting
September 13, 2018

1. CALL TO ORDER/ROLL CALL

Pleasant Hill Board of Adjustment special meeting was called to order at 5:00pm on Thursday, September 13, 2018 at the City Council Chambers by Chairperson LeAnne Krell. Present: LeAnne Krell, Ted Dyer, Stan Pollpeter, Carla Rivas, and Marc Swanson. Absent: None.

2. APPROVAL OF AGENDA

RIVAS/SWANSON moved to approve the agenda. Ayes: Unanimous. Motion carried.

3. APPROVAL OF MINUTES JULY 12, 2018 MEETING

POLLPETER/DYER moved to approve the July 12, 2018 meeting minutes. Ayes: Unanimous. Motion carried.

4. VARIANCE REQUEST

A request to appeal the fence and walls ordinance in Chapter 166, Section 04, Article 1 has been filed by Billy Dodson owner of property located at 293 Christie Lane to allow for a recently constructed fence to remain 2' higher than the required maximum height of 6' in a residential district.

The property identified in the petition is legally identified as:
LT 1 HARRELSON PLACE

And locally known as:
293 CHRISTIE LANE

Zoned:
R-2 ONE AND TWO FAMILY

FOR THE RECORD

Notice of Public Hearing was published in the Des Moines Register on September 4, 2018.

CITY REPORT

Chris Widmer, Associate Planner, introduced the variance request stating Billy Dodson has applied for a variance for his property of residence located at 293 Christie Ln. Applicant is requesting the variance to allow for the recently constructed additional 2' of height on the north section of his fence to provide additional screening for privacy due to grade changes between the adjacent properties.

The privacy fence was originally built and approved by City inspectors in August 2017 to the permitted height of 6'. An additional 2' of fencing was later added onto the north section of the fence, creating an 8' fence, without applying for a building permit or requesting a variance. The City received a complaint and notified the owner on July 30, 2018 of the fence height zoning violation, allowing 14 days from the violation date for a response by the owner. In response, the owner contacted the Pleasant Hill Police Department to file a harassment claim on his neighbor and applied for a variance to allow for the 2' addition. The zoning violation is pending Board of Adjustment variance ruling. The owner has also added black landscape fabric to his side of the fence, screening to the view through the fence. Making a fence opaquer in this manor is not restricted by the zoning code.

Under the current zoning restrictions, fence heights are limited to 6' in the rear and side yards. For a fence to be allowed to be above 6', a variance permitting the additional height would be required.

166. Zoning Ordinance General Regulations & Nonconforming Uses.

166.04. Fences and Walls.

1. Residential Districts. In any residential zoning district, fences not exceeding six (6) feet in height are permitted within the limits of side and rear yards

APPELLANT

Billy Dodson – 293 Christie Ln – was present to discuss request. Dodson stated need for the 2' extension, citing a) neighbor's constant vigilance of his back yard and activities; b) granddaughter's refusal to go outside due to being frightened by neighbor's constant vigilance; c) grading differences between the abutting yards; d) inadequate screening of 6' fence due to lower elevation of his yard; e) ongoing neighbor disputes; and f) constant reporting of ordinance infractions resulting in City, Police Department, and Polk County Weed Commission involvement. Dodson also stated a) lack of knowledge regarding permit expiration period; b) lack of understanding of and reasoning for current fence ordinance regulations; and c) pending fence violation notification. Dodson stated the ongoing dispute between him and his neighbor is a tax on the City's services and will likely resume if he is forced to remove the 2' extension.

PUBLIC INPUT

The following residents submitted concerns prior to the meeting:

1. Don & Pat Harvey – 301 Christie Ln – expressed disapproval of the fence and concerns in a letter regarding a) fence aesthetics; b) encroachment of fence onto their property c) line of sight between the abutting rear yards; e) potential negative impact on their property value; f) operation of drones in the neighborhood; g) Dodson's reasoning for the 2' extension, behaviors, activities, and trespassing tendencies; and h) Dodson filing a complaint regarding their fence also being non-compliant. Requests denial of the variance request and neighbor abiding by the City's code.

The following residents spoke at the meeting:

1. Randy Harvey on behalf of his father, Don Harvey - 301 Christie Ln – expressed disapproval of the fence and concerns regarding a) validity of Dodson's claims regarding his father's behaviors; b) encroachment of fence on the Harvey's property; c) validity of Dodson's claims to ignorance regarding fence regulations, citing information available on City's website; and d) Dodson's installation of cameras oriented towards the Harvey's bedroom windows.
2. Debbie Daugherty – 298 Christie Ln – spoke in favor of the variance request, discussing a) history of deputed between Dodson and Harvey; b) desire to regain peace in the neighborhood; and c) extensive improvements Dodson has made to his property. Requests approval of variance request, stating belief that Harvey will drive Dodson out of the neighborhood, causing the property become a rental property.

DISCUSSION

Board Members, City Staff, and City Attorney Brad Skinner discussed the Board's role, purpose, and lack of jurisdiction regarding neighbor and property line disputes; definition and qualifiers of hardship; limited scope of determining if a hardship exists; specifics regarding how to address the fence and fence extension; permitted and approved portion of fence; 2' addition to the top of the fence; and variance request submittal post construction and receipt of violation notification. Board Members Swanson and Dyer stated they would abstain from the vote, citing

a conflict of interest regarding long-term friendship with Dodson's neighbor, Don Harvey. Chairperson Krell and Board Member Rivas questioned Dodson regarding hardship definitions, specifics, and applicability to his request. Chairperson Krell questioned Dodson regarding the number of times the police had been called; post violation notification variance request submittal; and pending violation deadline. Krell stated if variance is denied, the violation notification process would have to begin again with a new 14-day rectification period beginning upon the receipt of a new violation letter.

MOTION

RIVAS/POLLPETER moved to deny variance request to allow recently constructed fence to remain 2' higher than the required maximum height of 6' in a residential district. Ayes: Krell, Pollpeter, and Rivas. Nays: None. Abstain: Dyer and Swanson. Absent: None. Motion passed.

5. VARIANCE REQUEST

A request to appeal the accessory building ordinance in Chapter 166, Section 03, Article 2.A. has been filed by Joe Thomas owner of property located at 5838 SE 6th Avenue to allow for an accessory building to be built outside of a rear yard.

The property identified in the petition is legally identified as:
LT 2 COUNTRY SIDE EST PLAT 1

And locally known as:
5838 SE 6TH AVE

Zoned:
R1-90 RESIDENTIAL SINGLE FAMILY

FOR THE RECORD

Notice of Public Hearing was published in the Des Moines Register on September 4, 2018.

CITY REPORT

Chris Widmer, Associate Planner, introduced the variance request stating Joe Thomas has applied for a variance for his property of residence located at 5838 SE 6th Ave to allow for the construction of a 1,536 sq. ft. pole building outside of a rear yard. The property is considered a corner lot, as defined in Chapter 166 Section 05, at the intersection of SE 6th Ave and a planned right-of-way, referred to as Outlot X of Country Side Estates Plat 1 currently owned by Prairie Creek Enterprises LLC., to connect with development to the north. The owner is requesting a variance citing slope of rear yard, presence of a natural waterway from the field to the north, and 10' PUE limiting ability to comply with Chapter 166, Section 03, Article 2.A.

The applicant has proposed placing the accessory building to the north of the primary structure in a location between the front and rear yards. Under the current zoning restrictions, this location would not be permitted. For an accessory building to be located outside of a rear yard, a variance permitting the location in a front yard would be required.

- 166. *Zoning Ordinance General Regulations & Nonconforming Uses.*
 - 166.03. *Accessory Buildings.*
 - 2. *Location and Limits.*
 - A. *May only be erected in a rear yard.*

APPELLANT

Joseph Thomas – 5838 SE 6th Ave – was present to discuss request. Thomas stated need to construct accessory building within front yard setbacks citing hardship due to topography and overland flowage of water through rear yard. Thomas stated he was unaware abutting Outlot X was a road and the corner lot status of his property. Thomas also cited neighboring properties outside City Limits with accessory buildings similar in design and placement to proposed building.

PUBLIC INPUT

None.

DISCUSSION

Board Member Swanson and Thomas discussed placement of accessory building in relation to existing residence and extension of driveway to proposed structure. Chairperson Krell and Board Member Dyer discussed the age of the property plat, significant front yard setbacks, and use of “Outlot X” as annotation for future roadways.

MOTION

POLLPETER/DYER moved to approve the variance request to allow for an accessory building to be built outside of a rear yard. Ayes: Krell, Dyer, Pollpeter, Rivas, and Swanson. Nays: None. Absent: None. Motion passed.

BOARD COMMENTS AND FUTURE AGENDA ITEMS

Board Members Swanson and Dyer discussed visiting properties and speaking with applicants prior to meetings. City Attorney Brad Skinner and Chairperson Krell impressed the legality of remaining impartial to each request, stating Board Members should not obtain information regarding requests prior to the meeting, this includes visiting the properties with or without applicant’s knowledge and conversations with applicant, applicant’s neighbors, or other individuals and City Staff prior to the meetings. Skinner stated while these practices used to be allowed and encouraged in the past, rules have changed and these practices are no longer allowed and are unfair to both the applicant and any opposition.

Board of Adjustment Expectations, Duties, and Rules Training, hosted by the ISU Extension, will be held Thursday, November 1, 2018 at 5:30pm. Dinner will be provided.

6. ADJOURNMENT

SWANSON/POLLPETER moved to adjourn. Ayes: Unanimous. Motion carried. Meeting was adjourned at 6:05 p.m.

Jennifer Bartles
Recording Secretary