

MINUTES OF THE CITY OF PONTIAC PLANNING & ZONING BOARD

The City of Pontiac Planning and Zoning Board held a meeting on Monday, October 25, 2021 at 4:30 p.m. in the City Hall Council Chambers to consider the following:

Amy Tomasello, petitioner, has requested an after the fact variance to exceed the maximum allowed fencing requirements in an R-1 zoning district. Sec. 103-15(a)(11) of the Pontiac Municipal Code Book states fences and walls not exceeding 5 feet in height above natural grade level in front yards and not exceeding 6 feet in height in side and rear yards. Petitioner's fencing contractor made an error making the fence height 6 feet in the front yard. Petitioner would like to keep this height due to medical reasons. The legal description is as follows: LOT 10 OF BLOCK 3 IN DRIVING PARK ADDITION to Pontiac, IL, otherwise known as 603 E. Timber St., located in a R-1 One-Family Residential District.

The following members were present: Bill Abraham, Paul Giordano, Tim Lewis, and Matt Stock. Rick Baier, Bill Cole, and Pat Martin were absent. Also present were David Wilson, Building & Zoning Officer, Brittney Miller, Building and Zoning, Bob Karls, City Administrator, Amy Tomasello, petitioner, and Sam Tomasello and Bill Wheat, representatives for petitioner. With a quorum being present, the meeting began at 4:30 p.m.

Tim Lewis made a motion to approve the minutes from the September 13th, 2021 meeting, and with a second from Bill Abraham and with a unanimous yes vote, the minutes were approved.

Bill Wheat explained to the Board that due to the documented health concerns, this 6-foot fence would provide security and safety. Mr. Wheat mentioned to the Board that the fence does not cause any traffic hazards or disruptions to the community. Mr. Wheat also mentioned that petitioner's doctor is offering his assistance to help her keep the fence. Paul Giordano stated that the extra foot would not provide any extra security and that petitioner should look into purchasing a security system. Amy spoke saying that she would never have asked for a 6-foot fence if she didn't feel it was needed and that the City had approved the permit prior to the variance, however David Wilson denied that it was approved at 6 feet all around. The Board discussed future plans for the fence when the property is eventually sold. The Board was shown the site plan which does not specifically state 6 feet all around. Bill Abraham brought attention to the Board that the petition stated that an appeal will take place if variance did not pass, to which Mr. Wheat mentioned that an appeal will not be taken and that he should not have said such. Bob Karls read Section 103-309 of the Pontiac Municipal Code which states:

A variation shall be granted only where the evidence presented in the particular case shows:

- (1) The particular physical conditions, shape, or surroundings of the property would impose upon the owner a practical difficulty or particular hardship, as opposed to a mere inconvenience, if the requirements of this chapter were strictly enforced;
- (2) The plight of the property owner was not created by the owner and is due to unique circumstances;

- (3) The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties classified in the same zoning district or used for the same purposes;
- (4) The difficulty or hardship resulting from the application of this chapter would prevent the owner from making a reasonable use of the property; however, the fact the property could be utilized more profitably with the variation than without the variation shall not be considered as grounds for granting the variation;
- (5) The proposed variation will not impair an adequate supply of light and air to adjacent property or otherwise injure other property or its use, will not substantially increase the danger of fire or otherwise endanger the public health, safety and welfare, and will not substantially diminish or impair property values within the neighborhood;
- (6) The variation, if granted, will not alter the essential character of the neighborhood and will be consistent with the goals, objectives, and policies set forth in the comprehensive plan; and
- (7) The variation will not unreasonably increase the congestion in public streets.

Mr. Karls discussed with the Board that each variance has to meet all criteria and that the Board needs to determine if this particular variance meets such criteria. Mr. Karls also stated that the zoning code is for the property, not for personal matters. Petitioner and representatives mentioned again that the City approved the fence when the site plan was shown for the permit application. Mr. Wilson wanted the record to show that this is not technically an after the fact variance because there was no ill will and that the contractor admitted to the mistake. Brittney Miller, Building and Zoning, wanted the record to show that the site plan was approved based on the information received from the contractor. The site plan does not show 6 feet in the front yard, but due to the contractor being in the business for 30 years, it was approved based off his knowledge of the rules. Again, this is not at fault of the petitioner, but the contractor.

Bill Abraham made a motion to propose allowance of fence because of this unique circumstance, until such time petitioner is in the home. When petitioner leaves home, fence needs to come into compliance before selling. With a second from Matt Stock and with a unanimous yes vote, the motion was approved.

Tim Lewis made a motion to adjourn the meeting and with and a unanimous yes vote, the meeting was adjourned at 5:15 p.m.

Minutes submitted by,

Brittney Miller
Building and Zoning