

**CHANNAHON PLANNING AND ZONING COMMISSION
MEETING**

January 9, 2012

Chairperson Karen Ciarlette called the meeting to order at 6:00 p.m.

Chairperson Karen Ciarlette led the Pledge of Allegiance.

Commissioners present were: Karen Ciarlette, James Proffitt, Casey McCollom, Jeff Simon, Chantal Host and Phil Loizon. Also present were Director of Community Development Mike McMahon.

Commissioner Proffitt made a motion to approve the November 14, 2011 minutes. Seconded by Commissioner Host.

ROLL CALL: ALL AYES

MOTION CARRIED

Newberg Variance Request

Mr. McMahon presented the Newberg Variance Request.

Craig and Laura Newberg of 24405 S. Edwin Drive are requesting a variance to construct a 12' x 16' shed 21' inside their 30' building set back line.

In September 2011, Chief Building Official Dave Cavanaugh witnessed a new shed installed at the subject property and promptly notified the Newbergs that a building permit is required. The Newbergs applied for a permit. After reviewing the permit application, Mr. Cavanaugh determined the shed violates the side yard setback for corner lots and denied the permit.

Sec. 156.020 of the Village Code stipulates that on corner lots the required front yard setback shall apply to each side of a lot fronting a public street. The front yard setback for that zoning district is 30 ft.

Corner lots are subject to this requirement due to site-line issues with motor vehicles at intersections and providing continuity with building lines on adjoining streets. The Newbergs placed their shed across the setback line encroaching on the setback by 6'.

In a meeting with the Newbergs it was revealed that the location chose for the shed is the only place it can go as their septic system lines take up the entire back yard. Structures are not allowed to be placed over septic lines.

The Village Code allows variances for setbacks that meet a set of criteria and specific cases in which there are practical difficulties or particular hardship in the way of carrying out the strict letter of the regulations of this chapter. The Planning and Zoning

Commission (PZC) has the power and duty to determine and vary the applicants of such regulations that are in harmony with their general purpose and intent, but only in accordance with the requirements hereinafter set forth.

1. The PZC shall not vary the provisions of the chapter unless it shall have made findings based upon the evidence presented. A variation shall be permitted only if the evidence, in the judgment of the PZC, sustains each of the three conditions enumerated below.

- a. That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.

Since the property is residential and the owners of the property are not utilizing the property to make a profit or sell the property, staff finds this does not apply.

- b. That the plight of the owner is due to unique circumstances; or

The entire neighborhood is on septic and therefore it is not unique. However, the fact that this property is on septic and on a corner lot does diminish the amount of useful land that structures can be constructed and thus could be considered unique.

- c. That the variation, if granted, will not alter the essential character of the locality.

Staff studied the intersection and found the shed in its current location, 6' over the setback line, does not create a site-line issue with motor vehicles. Nor does it break up the continuity of other building lines on the adjacent street. There are numerous sheds in the neighborhood and this one would not interfere with the character of the locality.

2. Whenever there are practical difficulties or particular hardship and for the purpose of supplementing the above standards, the PZC shall also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

- a. That the particular physical surroundings, shape or topographical conditions of the specific property involved will bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;

Staff finds the physical surroundings, shape or topographical conditions of the property does not create a particular hardship.

- b. That the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zone's classification;

Similar conditions do exist in this zoning classification and in particular this neighborhood.

- c. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property;

The purpose is based on the heightened enjoyment of the property.

- d. That the alleged difficulty or hardship has not been created by any person presently having an interest in the property;

The alleged difficulty was created by Village Ordinances and septic system placement prior to current ownership.

- e. That the granting of the variation will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located, or

Placement of the shed at this location will not be detrimental to the public welfare or unduly injurious to other properties in the neighborhood.

- f. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.

Staff finds there will be no negative effect to adjacent properties or otherwise endanger public safety or impair property values within the neighborhood if the variance were granted.

Granting of a setback variance is allowed per the Village Code and the PZC may require additional conditions and restriction placed upon the premises as may be necessary to comply with the standards set forth in this section to reduce or minimize the effect of such variation upon other property in the neighborhood, and to implement the general purpose and intent of this chapter. Staff recommends the following condition:

The owners of the property must relocate the shed inside the 30' building set back line if: 1) The current septic system is no longer required; or 2) A new septic system is installed whereby it will be required that the current or new septic lines must be repositioned to allow the shed to be relocated.

The Newbergs are here tonight for any questions the PZC may have.

Commissioner Simon questioned who actually owns the property and is the shed already in place.

Mr. McMahon explained that the Newbergs parents own the property and they currently rent from them.

Chairperson Ciarlette asked for clarification of the location of the septic system on the diagram with the house on the property.

Mr. McMahon commented that he didn't put the septic lines on the diagram and didn't include the sketch of the septic system from the county. Basically from their original application with the Will County Health Department, the septic lines go right up to where the shed is currently located. They run across the yard.

Commissioner Proffitt questioned if the lines are throughout the backyard and all the way to the fence.

Chairperson Ciarlette asked whether the entire backyard was septic, and if the current deck and hot tub is all over the septic.

Commissioner Loizon commented that if the Newbergs had come to the Village Building Official, Dave Cavanaugh prior to putting this up, what would have they been told.

Mr. McMahon explained that they would have been denied as they have been.

Commissioner Loizon also commented that on the #1 a variation shall be permitted only if the evidence, in the judgment of the PZC, sustains each of the three conditions listed. Therefore they have to meet each (3) conditions, not 1 or 2 out of the three.

In this case they meet maybe two out of the three. The first one certainly can't even be argued. Therefore in my position everything else is meaningless, because the standard and it's the standard across the state, it's a regulation that you meet each of the three conditions or you don't make it. Here we fall short maybe on all three but in the best light for the applicants two out of the three we may make the third one we fall short on.

Mr. McMahon explained that he doesn't feel it applies in this case.

Commissioner Host commented that they don't have to necessarily meet it, it just doesn't apply, and that the interpretation issue that they want us to make.

Commissioner Host questioned if the property has a basement, since they don't have one would this shed give them more storage.

Commissioner Loizon commented that staff's solution would be if the shed could be moved closer, within the 21', is this staff's recommendation.

Mr. McMahon explained that there is no reason why that septic system couldn't go on the whole side yard.

Staff is recommending that you approve the variance with the condition that if the septic system is no longer needed or rebuilt that they make the accommodations and move the shed. If this was a site line issue I would have some issue, there are other conditions that have to be considered. There is no stop sign when you go south on Edwin, so people are not stopping and looking. There is a big evergreen that currently blocks the shed and you can see all the way down to the highway.

Commissioner Loizon agreed and doesn't see it as a problem, the bigger problem he has is that the shed was put there prior to being permitted and this is setting a bad precedence.

Chairperson Ciarlette questioned whether the shed has a foundation where it is currently located.

There is no foundation currently, it could be moved, but there isn't anywhere that it can be moved too.

Commissioner Host commented that this would be why there is a condition on the variance so that as soon as it becomes available it would be done.

It would be enforced when there is an application for a permit to do something to the septic system. There would also be a building file kept and it would be noted in the file.

Chairperson Ciarlette commented that if in two years or next year, how will you know to go to the file.

Mr. McMahon explained that this most likely wouldn't happen; I'm not too concerned about it being moved. The village has no plans to put sewer in the neighborhood. The PZC does have the final say on this.

Commissioner McCollom asked for clarification on the building setback. Will the setback only be 9 feet? So for all intent purposes this side yard doesn't meet the normal side yard on a non corner lot.

Mr. McMahon acknowledged that yes this doesn't meet the normal interior lot 10 foot setback. In response to Commissioner Loizon, an ad was in the paper as well as notice was posted for the surrounding neighbors. There is no public hearing required, only notice has to be made that this is being considered.

Staff recommends approval of a 21' variance to construct a shed inside the current corner lot building setback line with the staff recommended condition.

Chantal Host made a motion to approve the variance with the stipulation that staff has noted. Seconded by James Proffitt.

ROLL CALL: AYES: James Proffitt
Chantal Host
Casey Mc Collom
Jeff Simon

NAYS: Phil Loizon

MOTION CARRIED

Mr. McMahon commented that he will draft a letter, stating the variance requested with the condition in there and will send to the applicant. Dave Cavanaugh, Chief Building Official will then issue the permit, and we will keep it on file.

Mr. McMahon also commented on the corner lots, staff receives a lot of requests every year for people to put fences to the property line on the corner lots and our code states that you can only go up to the building line. We have an instance in Ravine Woods (the duplexes) where the corner lot is angled so that they really have no back yard and they asked the village for a variance. I will email you the specific fence regulations on this, it's pretty old. I spoke with Ed Dolezal about it; he doesn't have a problem with the fence being a 4 foot decorative fence that is at least 50% open for corner lots with that site line issue as well. Obviously a 6 ft. privacy fence would definitely block visibility on corner lots. I'll send you the link in a email if you can go on there and take a look at the code and possibly the meeting in March I will bring in an ordinance that would amend the fence in order to loosen the criteria for a corner lot fence.

What I would like to do is to have where it could be brought all the way to the property line, but it would have to be a decorative or at least 50% open.

Chairperson Ciarlette commented that there haven't been any Board Minutes included in the PZC packets for the last couple of months.

James Proffitt made a motion to adjourn the meeting. Seconded by Chantal Host.

ROLL CALL: ALL AYES

MOTION CARRIED