



## PLANNING AND ZONING

### Cerro Gordo County Courthouse

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March 19, 2020

TO:            Cerro Gordo County Board of Adjustment

FROM:        John Robbins

SUBJECT:    Next Meeting – *Tuesday, March 31, 2020; 4:00 p.m.; Board Room*

Ladies and Gentlemen:

The next meeting of the Cerro Gordo County Board of Adjustment is scheduled for **Tuesday, March 31, 2019 at 4:00 p.m. in the Board Room at the Courthouse**. The Board will be considering four variance requests and two annual reviews.

In seeking to adhere to Governor Reynold's State of Public Health Disaster Emergency Proclamation related to COVID-19 Community Spread Mitigation, the hearing will be conducted via telephone conference call. You will call the phone number below and enter the Conference ID when prompted. Please let me know if you have any questions about this.

**Conference phone:** (641) 421-3113  
**Conference ID:** 3044#

#### New Business

1.      Case No. 20-25      Jeff and Mary Petersen      15277 Crane Street  
(Lots 17-19, Block 8, Crane and Hills)

The Petersens propose to construct a 30'x56' addition to the existing garage (See Figures 1 & 2). The proposed addition will be primarily additional storage space. A portion of the existing garage will be converted to a dwelling.

The proposed addition will be 6' from the rear lot line (east lot line). A 30' rear yard setback is required in the R-3 District (See Figure 3). On corner lots, the Zoning Ordinance defines the narrow street-side as the front side, or if equal, the front is the side that is obviously the front by custom or regular practice within the block it sits. On this lot, the front is the west side because it has historically been treated as such and is addressed and accessed from Clark Street.

The orientation of the lot is unique along the block, as other lots in the block are access along Crane Street. If the street was more typical and accessed from Clark Street, only a 9' setback would be required on the block.

The garage was granted a variance for an accessory use prior to a principle use by the Board of Adjustment in 1992 and is, therefore, considered legally non-conforming. If constructed, the proposed conversion to a dwelling will bring the lot into compliance with the ordinance and would be infill development, which are both preferred scenarios.

With the garage's current location, a detached dwelling would not be practical under the rules. A 10' minimum separation distance from the garage, a 22'-wide minimum width for a dwelling, and the required setbacks make the construction of a detached dwelling unfeasible.

The proposed configuration will not be closer than the existing setback of the current garage (See Figure 3). It will also have a similar setback from Clark Street as houses to the east (See Figure 4). The neighboring lot to the east has a small shed and is otherwise empty (See Figure 5). There are no foreseeable negative impacts.

### *Recommendation*

1. Approve a rear yard setback variance for the addition to be no closer than 6'.

2. Case No. 20-26      Jana Mentzer      15293 Pascal Street (W½ of Lots 1 & 2, Block 5, PM Park)

Ms. Mentzer proposes to construct a 6'-tall privacy fence extending 64' along the east side property line, which will be entirely on her property (See Figures 1 & 2). She states in the application that the purpose of the fence is to gain some privacy for a lot that provides a limited amount.

The proposed fence is 10' from the front (north) lot line (Figure 3). The lot, which runs through the block from Abbott Drive to Roseman Drive, is defined as a "through lot" in the Zoning Ordinance. Further, the front lot line for a through lot is the side "which obviously is the front by reason of the prevailing custom of the other buildings in the block," which is the north side in this block. Article 6.11 of the ordinance takes an average of front yard setbacks within the block to determine the setback requirement. The average calculated to 12.6' for this lot. Fences are prohibited in the required front yard on residential properties.

The proposed fence is 8' from the rear (south) lot line (See Figure 4). Article 6.15 of the Zoning Ordinance specifies that required rear yards be treated as a required front yard on through lots. It does not provide for a setback average for required rear yards on through lots. A 30' front or rear yard setback is required in the R-3 District.

Fences, 6' or less in height, are permitted in the required side or rear yards on typical lots without a setback requirement so long as they are entirely on the applicant's property. They are not permitted where a front yard is required. Through lots create a unique situation.

Property owners of a residential lot are entitled to a reasonable residential use of their property. There is an existing, reasonable residential use of the property. The lack of a fence does not diminish the residential use of the property. The through lot status and small size of the property would only allow for a about 40' length of fence in the required east side yard.

Regarding the required front (north) yard setback, the proposed 10' setback is roughly even or within 1' or so of the front building line. Functionally, the fence would not have a foreseeable, significant impact to the vicinity, so I have no concerns in that case.

Regarding the required rear (south) yard setback, I have somewhat of a safety concern. Roseman Drive is a one-lane, one-way street with traffic flowing from east to west toward Pascal Street. My concern is that a 6'-tall fence so close to the road would exacerbate visibility for both backing out of Mentzer's driveway and for traffic coming from the east along Roseman Drive (See Figures 4-6). Cars parked in the driveway on the adjacent property and trees to the east and beyond can create a blocking effect that makes visibility more difficult. Any approval should not exacerbate this effect.

The Board would be justified to limit the request. The proposed fence comes in 8' long sections. One less section would prevent further exacerbation of visibility along Roseman Drive while also accomplishing the desired privacy.

### *Recommendation*

1. Approve a front yard setback variance for the fence to be no closer than 10'.
2. Approve a rear yard setback variance for the fence to be no closer than 15'
3. These variances are approved with the condition that the fence is constructed entirely on Mentzer's property and that the fence is no taller than 6' in height.

3. Case No. 20-27 Daniel and Pamela Osgood 16403-A 300<sup>th</sup> Street  
(NE<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub>, Section 27, Lime Creek Township)

The Osgoods propose to construct a 36'x'36' detached garage on their property (See Figure 1). Including a 3' overhang, the proposed garage is 16' from the east side yard lot line. A 25' side yard setback is required in the A-1 District (See Figure 2).

The property has several factors that contribute to the feasibility of the placement of the garage. First, the property is surrounded by woodland area and wetlands. Second, the leech field for septic treatment is located behind the house and is not suitable to be developed upon (See Figure 3). And lastly, the access driveway is located along the east side of the property, and an additional driveway from 300<sup>th</sup> Street would be less safe and not meet the requirements of the County's Road Access Policy (See Figures 1 & 2).

I have also noted that the east side lot line does not sit straight north to south and the orientation of the existing driveway will cause any new structure located in front of the house to be closer to the east side lot line the further north a structure is (See Figure 2). While the Board would be justified in limiting or denying the request, the location of the proposed garage will not have a foreseeable negative impact to nearby neighbors and is consistent with the rural character of the area. It is also preferable to not locate the proposed garage directly in front of the house.

### *Recommendation*

1. Approve a side yard setback variance for the garage to be no closer than 16'.

4. Case No. 20-28 William Mason 16142 300<sup>th</sup> Street  
(SW<sup>1</sup>/<sub>4</sub> of the SW<sup>1</sup>/<sub>4</sub>, Section 22, Lime Creek Township)

Mr. Mason constructed a 60'x6' wrap-around porch addition to the existing house on the property (See Figure 1). The project was completed prior to a permit being issued. The administrative fee for building without a permit has already been paid. The porch is 41.6' from the front lot line. A 50' front yard setback is required in the A-1 District (See Figure 2).

Mr. Mason notes that the original house was constructed 47.6' from the right-of-way of 300<sup>th</sup> Street and is legally non-conforming. The front door necessitates sufficient ingress and egress from the house. While this could be accomplished with steps that do not exacerbate the setback, the porch also accomplishes this and offers an aesthetic improvement.

The porch is consistent with the rural character of the area, and I have no safety concerns. Although the Board would be justified to deny the variance request, this would require removal of the porch and an alternate method for entering the house. I do not view that as necessary and would recommend approval due to the fact that the porch is already there.

#### *Recommendation*

1. Approve a front yard setback variance for the porch to be no closer than 41.6'.

#### **Annual Reviews**

1. Tom Newman's Salvage Yard 7393 Killdeer Avenue

Tom Newman's Salvage Yard is up for its annual review, which is a condition stipulated in the Special Use Permit. The salvage yard includes auto wrecking and salvage. A site review was conducted on Friday, March 13, 2020 to satisfy this condition. A staff report for the annual review has been attached for Board members to review.

2. Gene Baker's Salvage Yard (B-20 Auto Parts) 7600 300<sup>th</sup> Street

Gene Baker's Salvage Yard (B-20 Auto Parts) is up for its annual review, which is a condition stipulated in the Special Use Permit. The salvage yard includes auto wrecking and salvage. A site review was conducted on Friday, March 13, 2020 to satisfy this condition. A staff report for the annual review has been attached for Board members to review.