

Peoria Heights Zoning Board of Appeals

Rick Picl, Chairman

Minutes for November 18, 2019

A meeting of the Village of Peoria Heights Zoning Board of Appeals was held on November 18, 2019 at the Peoria Heights Village Hall. The meeting was called to order by Chairman Rick Picl at 5:30pm.

Mr. Wigginton called roll. Mr. Cady and Ms. Backs were absent.

Chairman Picl entertained a motion to approve the minutes from the previous meeting held on October 21, 2019. Ms. Stevenson noted that there were some corrections to the minutes she would like to make including the dimensions of the 5129 North Prospect variance proposed by Mr. Eric T. Kelton specifically the clarifying the existing language "eighteen-inch overhand and three foot addition to the property line" to reflect the actual approved variance. These changes were approved without objection.

Chairman Picl introduced the first order of Business:

- Variance application by Michael and Kelly O'Neil seeking a front, side and rear setback variances to permit construction of an addition to the existing house, a new deck and a new garage, and seeking approval of a front yard fence on a corner lot, for property located at 1401 East Kelly Avenue, Peoria Heights IL 61616 (PIN 14-22-408-010), which property is currently zoned R-2 (Medium Density Residential District)
- Mr. O'Neil was invited to speak on his requests and explained the unique situation of his lot where the current existing structure is not up to the current code as it is written. Mr. O'Neil passed out plans for the additions that would be made to the existing property. Ms. Stevenson inquired about the height of the garage being the height of the house and Mr. O'Neil noted that the garage would actually be less.
- Mr. Wigginton inquired if Mr. O'Neil had had a survey done and he had. Ms. Bucklar inquired about the distance to the street and it was twelve feet.
- Chairman Picl opened the floor to the public and Mr. O'Neil's neighbor at 1405 E. Kelly, Ms. Nuralle, spoke to her concerns regarding the distance between her property and Mr. O'Neil's. Ms. Stevenson inquired where the air conditioning units would be located, and Mr. O'Neil noted the location.
- Mr. Craig Masters of 1404 E. Marietta Street noted that he thought Mr. O'Neil's plans were an excellent use of the lot space.
- Chairman Picl proceeded to the findings of fact on all the variances after clarifying the need for a variance for the garage was triggered because of the side yard. West side variance of 8 feet and a side yard variance. Chairman Picl also clarified the back-porch

dimensions. Ms. Stevenson also asked about the distance from the curb and from the alley and Chairman Picl noted that this could change in the future.

- Will the strict application of the terms of the Zoning Code relating to the use, construction or alteration of buildings or structures or to the use of land impose practical difficulties or a particular hardship upon the Petitioner?
 - The board answered in the affirmative 7-0
 - If the variation is granted, the property affected by the variation will remain in harmony with the general purport and intent of the Zoning Code.
 - The board answered in the affirmative 7-0
 - The approval of the variation will not merely serve as a convenience to the Petitioner but is necessary to alleviate some demonstratable hardship on the Petitioner.
 - The board answered in the affirmative 7-0
 - Can the variation requested by the Petitioner be granted without substantial detriment to the public good?
 - The board answered in the affirmative 7-0
 - Can the proposed variation be approved without impairing the general purpose and intent of the comprehensive plan as implemented by the Zoning Code?
 - The board answered in the affirmative 7-0
 - If the proposed variance involves a fence, will the fence conform with the standards set forth at subsections 10-4-7D2c(2)-D2c(5) of the Zoning Code?
 - The board answered in the affirmative 7-0
- A motion was made by Mr. Woo to approve the requested variance and was seconded by Ms. Stevenson. The Board passed the variance request unanimously, 7-0.

Chairman Picl then introduced the second order of Business:

- Ordinance No. 2019-1608; An Ordinance Amending the Zoning Ordinance of The Village of Peoria Heights Regarding Adult-Use Recreational Cannabis Businesses
- Village Counsel introduced the bill and noted that the language in the bill had been changed to reflect some realities that the medical cannabis regulations effectively prevent a dispenser to be placed in Peoria Heights. Therefore, the thought process was to reduce the distance between a recreational cannabis distributor and a school, place of worship, daycare, etc. to 500 feet.
- Ms. Stevenson noted that this would make the regulations on medical use more stringent than those on simply recreational use. Village Counsel agreed. Ms. Stevenson also inquired about requiring a bank to accept funds of these facilities to also be located in Peoria Heights. Village Counsel was not aware of such requirement.

Village Counsel also noted that there were requirements for security built into the statute. Ms. Stevenson inquired about placing the B2 in the “War Memorial Corridor” and there was a discussion as to what the definition was. Village Counsel noted that this statute is written with the shopping center across from Alwan’s.

- Mr. Wigginton noted that the most vocal people since he has been on the Board have been the people located near this area and while they were absent, Mr. Wigginton wondered how far 500 feet would be in this area. GIS data was then referenced, and Mr. Wigginton stated that the 500 feet did seem to eliminate a recreational cannabis business from approaching a school or a residential area.
- Mr. Tijerina inquired about the location requirements for liquor license holders and specifically why recreational cannabis businesses would be held to a different standard. Mr. Wigginton noted there was difference between cannabis and alcohol was that cannabis is illegal Federally and that if we applied the same standard to cannabis and had a 100 feet requirement, a dispenser would be able to locate in a more residential area and that could impact property values. Ms. Stevenson inquired of Village Counsel where the 500 feet came from and Counsel replied it was her understanding that this was from the direction of the Village Board. Chairman Picl inquired of the Board members what they were comfortable with of far as distances.
- Mr. Wigginton made a point of order and inquired if an item was not on the agenda i.e. the distance of a medical cannabis distributor to a school or place of worship? Chairman Picl said that it could not be discussed.
- Chairman Picl then called the question and the motion passed on voice vote with Chairman Picl and Mr. Tijerina voting in the negative.

There was then a discussion on the December meeting and January meetings. Mr. Wigginton moved to cancel January’s meeting due to it falling on the Martin Luther King, Jr. Federal Holiday, Ms. Bucklar seconded, and the motion was passed unanimously.

Chairman Picl adjured the meeting at 6:44pm