

CITY OF OLNEY  
BOARD OF APPEALS  
DECEMBER 7, 2020

AGENDA #1 “CALL TO ORDER” The December 7, 2020, meeting of the Board of Appeals was called to order at 7:00 p.m. in the Council Chambers of the Olney City Hall, 300 S. Whittle Avenue, Olney, Illinois, with Tony Zuber presiding.

AGENDA #2 “ROLL CALL” The following Board of Appeals members were present: Kurt Ginder, Zachary Holder, Tony Zuber, David Abell, and Pat Everette. Scott Jones was absent. Also present were Code Enforcement Officer Dallas Colwell, and City Clerk Kelsie Sterchi.

AGENDA #3 “APPROVE MINUTES OF THE BOARD OF APPEALS MEETING ON NOVEMBER 2, 2020” Mr. Holder moved to approve the minutes from November 2, 2020, seconded by Mr. Ginder. Mr. Ginder, Mr. Holder, Mr. Zuber, Mr. Abell, and Mr. Everette voted yes. There were no opposing votes. The motion carried.

AGENDA #4 “SWEARING IN” Mr. Zuber asked that anyone wishing to testify on behalf of the item being discussed to stand and be sworn in. City Clerk Sterchi asked the individuals to stand, raise their right hand, and “swear to tell the truth, the whole truth and nothing but the truth so help me God.” Dave Carter, Walter Buss, and Bryan Yager were sworn in.

AGENDA #5 “VARIANCE: 509 E. LAFAYETTE STREET” Jeremiah Everingham submitted a Request for Variance for property located at 509 E. Lafayette Street, Olney, Illinois, Property Index Number 11-03-406-007. Mr. Everingham was requesting a variance in the front yard setback to allow for an 18-foot setback rather than the 25-foot front yard setback required in Title 17 (Zoning) of the City of Olney Municipal Code. If the variance is approved, it would allow the petitioner construct a living room extension on a home.

Mr. Yager was present on behalf of Mr. Everingham. He and Mr. Everingham were business partners.

Mr. Zuber asked if the extension would be brought out to where the stoop currently sat. Mr. Yager replied that the stoop would be eliminated and the home would be brought out to that level. The extension would put the home in line with the other homes. Mr. Yager continued that the home was very small and the extension would allow for better use of the space. He and Mr. Everingham planned to remodel the property and then sell.

No comments of support or objection had been received by the City Clerk. Mr. Zuber asked if the Board had any other questions. The Board had nothing further to ask.

Mr. Everette moved to approve the variance request that would allow for an 18-foot front yard setback rather than the 25-foot front yard setback at 509 E. Lafayette Street for the purpose of constructing living room extension, seconded by Mr. Ginder. Mr. Ginder, Mr. Holder, Mr. Zuber, Mr. Abell, and Mr. Everette voted yes. There were no opposing votes. The motion carried.

AGENDA #7 “VARIANCE 2009 EASTGATE STREET” Dave & Jennifer Carter submitted a Request for Variance for property located at 2009 Eastgate Street, Olney, Illinois, Property Index Number 06-35-401-215. Mr. & Mrs. Carter were requesting a variance in the front yard setback to allow for a 1-foot setback rather than the 30-foot front yard setback, and a variance in the distance an accessory building can be from a main building to allow for a 7-foot distance rather than the 10-foot distance required in Title 17 (Zoning) of the City of Olney Municipal Code. If the variances are approved, it would allow the petitioner construct a garage.

Mr. Buss had e-mailed the City Clerk a few articles of objection that were e-mailed to Board members, except for Mr. Holder. Mr. Holder was provided with a hard copy at the meeting. The City Clerk had also received a note of support from John Hockman.

Mr. Buss told the Board that he had several questions. First, Mr. Buss was aware that the zoning ordinance had different setback requirements for different zoning categories. He wondered how those were determined.

Mr. Zuber indicated that different parts of town were older than others. At the time some homes were constructed, there was no zoning ordinance. Therefore, several properties were grandfathered in once the zoning ordinance was placed. Additionally, code requirements would change over the years for new construction in different zones.

Mr. Buss then asked for clarification on what was considered a front yard. Mr. Zuber indicated that corner lots that fronted two different streets would technically have two front yards no matter which direction the front of the home was placed. Mr. Colwell added that even though an easement existed on the east side of the property, the east portion could not be considered a front yard because no street had been constructed.

Mr. Buss then wondered about all yard setbacks for this property. Mr. Colwell replied that the side yard setback requirement was 8-feet, and the rear yard setback requirement was 35-feet. Mr. Colwell clarified that those setbacks would be for a home, but not for an accessory building.

Mr. Buss then asked about setback requirements on fences. Mr. Colwell replied that fences could technically be placed on the property line, but that the City advised people not do that because they would not be able to maintain the outer portion of their fence.

Mr. Buss then wondered how to tell if the proposed improvement was or was not actually touching City right-of-way. Mr. Colwell indicated that the City did not determine property lines. The building permit applicant was required to detail property line information. Past that, the property owner would need to order a survey.

Mr. Buss asked if the right-of-way on Eastgate Street was 50-feet. Mr. Colwell confirmed. Mr. Buss then determined that measuring 25-feet from the center of the road would determine the property owner’s property line.

Mr. Buss stated he wanted assurance that the proposed improvement was not on the City’s right-of-way. He did not want the proposed structure to prevent infrastructure

improvements such as sidewalks, street lighting, etc.

Mr. Everette asked if Mr. Carter had called in a J.U.L.I.E. before he had started his construction that was ultimately halted once discovered by Code Enforcement. Mr. Carter replied that he had called in a J.U.L.I.E. previously for a fence project, but had not called one in when starting the garage.

Mr. Carter and Mr. Buss then discussed where utilities were located in the area of Eastgate Street.

Looking into the future, Mr. Buss felt that it was possible that a street could be placed so that people would have easier access going north and south and/or to provide access from RCMS to RCES.

Mr. Buss also told the Board that the developer's proposal for the area east of Mr. Carter's property was platted to include 42 lots with infrastructure. He felt if these variances were granted, it would impede the development of the 42 lot area.

Mr. Buss then told the Board that it was often said to be easier to ask forgiveness than to ask for permission. He felt that saying applied to this particular request as Mr. Carter had started construction without any permit or acknowledgement from the City. He could not imagine that the proposed construction would have been permitted. Even so, he understood that Mr. Carter would be facing a potentially considerable loss with what had already been constructed if the variances were not approved.

Mr. Everette asked if there was much room on the east side to the property line. Mr. Buss believed that there was a good bit of room, but noted that an out building was located there as well.

Mr. Buss believed that Mr. Carter could move the proposed construction enough of a distance south that it would not hit the residence. Mr. Zuber thought there were also outbuildings south of the proposed construction. While true, Mr. Buss felt that Mr. Carter should be happy to relocate other buildings in order to accommodate the new structure.

Mr. Colwell pointed out to the Board that a 12-foot utility easement was also on the east side of the property. Some more discussion took place on where utilities were located, but the end result would not matter. Structures could not be placed on easements.

Mr. Holder commented that he would need to go out to the property to physically see the situation. Mr. Zuber had done so, but also referenced the included photo that had been sent that shows the already-started construction was right against the street. The way the variance requests stood, Mr. Zuber felt it should be denied.

Mr. Zuber moved to deny the variance requests for a 1-foot front yard setback and a 7-foot distance from a main building at 2009 Eastgate Street, seconded by Mr. Everette. Mr. Ginder, Mr. Zuber, Mr. Abell, and Mr. Everette voted yes. Mr. Holder abstained. The motion carried.

Mr. Carter then asked the Board what he was supposed to do to fix the problem. Mr. Zuber told Mr. Carter that the Board could only take actions based on variance requests presented to them on the meeting's agenda. Mr. Carter asked if he could ask for a lesser variance. Mr. Zuber stated that it was his opinion that there simply was not room for Mr. Carter's building unless it was moved to the south.

Mr. Carter asked if the Board would be in approval if he moved the building south towards the pool by about 10-feet. Mr. Zuber could not make any promises and stated that would be looked at if another application came through. He pointed out that the Board did not want to be approving requests that could cause problems in the future. Additionally, Mr. Zuber stated that in his opinion, Mr. Carter's lack of applying for a permit before construction, especially as a contractor within the City, did not bode well for him. Any other variance requests would be looked at by the Board upon application. Mr. Carter indicated he would fill out new paperwork.

Mr. Buss again stated that he believed the problem could be fixed by moving the structure to the south. He also thanked the Board and explained that he had benefitted from the evening's meeting. He commented that he would never build anything without first checking with the City.

AGENDA #7 "PUBLIC COMMENTS/PRESENTATIONS" No one from the public wished to speak.

AGENDA #8 "ADJOURN" Mr. Zuber moved to adjourn, seconded by Mr. Abell. Mr. Ginder, Mr. Holder, Mr. Zuber, Mr. Abell, and Mr. Everette voted yes. There were no opposing votes. The motion carried.

The meeting of the Board of Appeals adjourned at 7:25 p.m.

Kelsie J. Sterchi  
City Clerk