

City of Polk City
Board of Adjustment Meeting
May 24, 2012

The Board of Adjustment for the City of Polk City met on May 24, 2012 at City Hall in Polk City, Iowa. Present were Mike Bakken, Bill Currie, Anthony Capaldo, John Calhoun, Dixie Bequeaith and Ken Morse. Absent was Deanna Deason. Also present were City Administrator Gary Mahannah and Safe Building Representative Denny Bernholtz. Chairman Capaldo called the meeting to order at 6:00 p.m.

The variance request for 1209 Westside Drive was presented to the Board. The application is requesting a five foot intrusion into the side yard and a 21 1/2 foot intrusion into the rear yard. The variance sought is in relation to Chapter 165.09 dealing with minimum side yard and rear yards. Chairman Capaldo asked if notices were sent. The Board learned that on May 2, 2012 notices were sent to residents within 250 feet. The City received no written comments. Inquiries were received, but no oral comments had come forth. The Board of Adjustment application fee had been paid. Chairman Capaldo asked staff to give an outline of the events that led up to this and a statement of the applications request. The board learned that on April 7, 1975 a permit was issued for the house as new structure in a new subdivision. In May 1978 it was issued a permit for a detached garage that met all of the setbacks of the R-1 zoning due to the fact that this was a detached structure. Aug 22, 1994 a permit was issued for a house addition which connected the detached garage to the house thus making it an attached structure and all in one structure. This action was approved by Polk City was in violation of the Polk City zoning ordinance. No action had been taken by the Board of Adjustment or City Council in approving the creation of non-conforming use. In March of 2012, Mr. Sparks started reassessing and changing the pitch on the roof, siting that there were leakage and drainage problems with the way the various roofs were constructed and intersecting on various sections of the residential structure. It was learned that there was no building permit issued as none was applied for this work. Learning that a permit was needed for the roof reconstruction, the applicant made the application but was denied due to the fact that they were adding on to the once detached structure with an additional 16 x 20 addition that also was within the 8 foot required side and the 35 foot required rear yard. Applicant wants to extend the rear of the garage and enclose the porch into the required side yard and required rear yard.

The applicant proposes a 3 foot side yard or a 5 foot intrusion into the required side yard of 8 feet, and proposes a 13 1/2 foot rear yard or 21 1/2 foot instruction into the rear yard. The board questioned the building inspector on the fire wall separation that was required on the once accessory structure. It was learned that a 1/2 inch Gipson board is needed on the walls where the garage and the residential structure are connected. It was further learned that a one hour fire wall is needed on the west wall of the garage and of any new structure since it will be closer than 8 feet to the property line. Joan Hemmer, 1208 W. Broadway, was recognized by the Chairman. She wanted to know how much more would be built. It was noted that his work had already been started without a building permit and that the work would not entail any further intrusion into his yard as that which now stands. A question on any public utility easements revealed that there is a 10 foot P.U.E. in the rear yard. Chairman Capaldo questioned the answer to the supporting information which asked if the necessity for the variance was

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created by Mr. Sparks. In Mr. Sparks' information presented to the board he indicated the answer was yes, however,

As the board discussed, it was the general consensus that the necessity was actually created by the City by not requiring the property owner to go to the Board of Adjustment in 1994. They did find there was a partial creation of necessity for the variance in the fact that Mr. Sparks did not receive a building permit. The Board further questioned the response on a variance being based solely on economic reasons. The board discussed the term "economic reasons" and decided this was misunderstood at the time the applicant filled out the application for variance, in that there was not an economic reason and it was not based on an economic reason. Question by the Board on the need to extend the roof over the area to the rear of the garage measuring 16 x 20 and why the need to extend this roof line. Answered by Sparks was that it dealt with the roof helping the drainage as the rain water was shed from the roof and solves a large drainage problem in the yard. There was a question on the difference of setbacks on an attached and detached garage. It was learned that a detached garage under Polk City's zoning ordinance is considered to be an accessory structure and therefore can extend into the required side and rear yard as long as detached. An attached garage is considered part of the house and must conform to the side and rear yard requirements.

Motion was made by Calhoun, seconded by Currie, to approve the requested variance into the side and rear yard with the stipulation that the fire rating on the existing garage be part of the construction that is being undertaken at this address. Roll call was taken and voting was as follows: Bakken, yes; Currie, yes; Calhoun, yes; Bequeaith, yes; Morse, yes; Capaldo, yes and Deason absent. Chairman Capaldo declared the motion approved.

The Board voted vocally and unanimously to adjourn the meeting at 6:30 p.m.

Gary Mahannah, City Administrator