

**City of Rolling Meadows
Planning and Zoning Commission
7:00 PM
January 5, 2021
APPROVED**

Call to Order

Chairman Rataiczky called the January 5, 2021 regular meeting of the Planning and Zoning Commission to order at 7:01 pm.

Roll call:

Presiding: Chairman Rataiczky

Present: Duvall, Fink, Sheehan, Sipple

Absent: Buckingham, L. Morrison, S. Morrison

Also Present: Jo Ellen Charlton, Assistant Director of Public Works

Chairman Rataiczky declared a quorum.

Approval of Minutes

Chairman Rataiczky asked for a motion to approve the minutes from the November 18, 2020 Planning and Zoning Commission meeting. Mr. Duvall moved to approve the minutes as written and Mr. Sipple seconded.

Motion carried by unanimous voice vote. Mr. Fink abstained. Minutes approved as written.

Pending Business: NONE

New Business – New Public Hearings:

- 1. Public Hearing and Consideration of a Variation from Section V-2-C of City Code Chapter 122 (City of Rolling Meadows Zoning Ordinance) to reduce the east side yard setback from ten feet (10') to 2.6' to allow a second story addition on top of an existing foundation in an R-3 Zoning District, and other relief necessary to accommodate a full second story addition over the existing foundation, 2104 Quail Lane, John W. Kwandras, Petitioner**

Chairman Rataiczky asked for a motion to open the public hearing and enter the staff report included in the packet into the record. **Mr. Duvall** made the motion. Mr. Fink seconded. Motion carried by a unanimous voice vote.

Chairman Rataiczky asked if proper notice was given, and if the file was in order. Staff indicated that was the case.

Ms. Charlton stated for the record that the Petitioner is the fiancé of the Administrative Services Coordinator, Elizabeth Payne. She is sitting out of the hearing during the consideration of this item and will be back for the second item on the agenda. There is no official conflict of interest, but in the interest of propriety she has stepped away during the discussion of this item.

John Kwandras, 2104 Quail Lane, Rolling Meadows IL was sworn in by Chairman Rataiczkyk.

Mr. Kwandras stated the property is located on the southeast corner of Quail Court and Quail Lane. It is a corner property with 9,655 square feet of land within a subdivision platted in 1956. The home on the lot dates back to at least 1968. Mr. Kwandras further stated he purchased the home in 2010 on a short sale, no plats were provided with the transfer of the property. He only became aware of setback encroachments when he began exploring a second story addition on top of the existing foundation, which required him to get new plat. He respectfully requests permission for the variance.

Ms. Charlton provided an overview of the staff report. The home on the lot dates back to at least 1968, when the City's Zoning Board of Appeals granted a variation to allow the construction of an attached garage within six feet (6') of the west interior side lot line.

At some time between 1968 and 1987, when a plat was submitted as part of a sanitary sewer installation permit, the home was extended further back from the garage to align with the rear building line, so that a 2.6' side yard setback was established at the northeast corner of the home. Staff could find no evidence that this work in or prior to 1987 was authorized.

As the Petitioner indicated, he purchased the property in 2010 on a short sale and typically a plat is not provided. He secured a new plat that noted the side yard setbacks and that is when staff started looking into the history. This situation has existed for quite some time. The new plat shows the existing 2.6' side yard setback for the one story home on the northeast corner of the home, which has existed for over 30 years. A red line was superimposed over the house in the image below which represents that portion of the existing home that falls within the 6' setback authorized by the earlier variation. This encroachment involves a relatively small triangular-shaped area given the irregular shape of the lot and the position of the home on the lot. In total, only 24 square feet, or roughly 1.3 percent of the area of the house on the existing foundation, lies within the 6' setback area. The new plat also indicates that the existing foundation was situated on this irregularly shaped corner lot in a manner that extends into a platted 30' building line on the Quail Court Corner Side Yard. This encroachment was apparently allowed when the home was constructed in the late 50's or early 60's. This encroachment is not in violation of the City's 20' corner side yard setback requirement (Section V-2-C, Table 5.5), and that the small triangular-shaped encroachment is smaller in area than the encroachment on the east side of the house.

Encroachment into the interior side yard setback defines the home on this lot as nonconforming. Section VII-3(2) of the Zoning Ordinance authorizes expansion of nonconforming structures, but only if the enlargement does not create any new bulk regulation nonconformity, or increase the degree of the existing bulk regulation nonconformity. The proposed second story addition on top of the existing foundation does not create any new bulk regulation nonconformity, but the additional height in the nonconforming setback does increase the degree of the existing bulk regulation nonconformity. The remedy is authorization of a variation to reduce the interior side yard setback from the six foot (6') previously granted to the minimum 2.6 foot setback of the existing foundation. Authorization of this variation would remove the non-conforming status of the structure. If authorized, a condition of approval will be recommended that the variation only applies for a structure constructed in substantial conformance with the submitted plans. This would ensure that a future owner of the property could

not construct another structure on the lot with a continuous 2.6' setback from the side property line. Instead, the 2.6' setback would only apply in one location, where the angle of the existing structure falls within the yard, and for the roughly 24 square feet of the structure that sits between there and the previously authorized 6' setback. The new Zoning Code allows for reductions in dimensional requirements via the variation process.

The requested variation is the minimum relief required to allow an owner of ten years the ability to remain in the community. The lot and the position of the home on the lot is unique, and the requested variation allows for the home to grow with the least amount of impact on surrounding properties. The 2.6 foot setback variation exists only at one corner of the structure, and only 24 square feet of the structure falls less than the six foot setback that was allowed as part of an earlier variation on the property. Staff recommends approval of the requested variation.

Chairman Rataiczky asked if the encroachment happened as part of a permitted build as it was unclear.

Ms. Charlton stated that she only knows that they received the variation and built the garage and then later came back and submitted a plat for a sanitary project that showed a new plat that included the extension. There is no evidence that they got a permit or variation. Lack of such evidence does not mean does not exist, just that staff was unable to find it. Sometimes the files are so old on some of these homes and neighborhoods that the files just don't exist.

QUESTIONS AND COMMENTS FROM THE BOARD:

Chairman Rataiczky opened the meeting to Commissioners' questions and comments.

Discussion ensued regarding findings of fact and the process of approval of the variation.

Mr. Duvall asked if the massive tree on the 2102 side of the lot is going to be damaged or modified during the construction. Mr. Kwandras stated that it would take a minimum trimming.

Mr. Duvall asked if the 2102 neighbor was asked to be here tonight. Mr. Kwandras stated that he just informed them of the process and he informed them of the public hearing.

Mr. Duvall stated the text said that his neighbor is fine with all of this and all the conditions but he would, personally, like to hear from the neighbor that he accepts the changes. The impact is not the light, the sun, the air or any other potential items; the impact is on the neighbor at 2102 standing in the backyard and seeing a 25 foot tall structure three feet from his fence. He noted that, failing testimony from the neighbor, he was in agreement with the petition.

Mr. Fink asked if, because this is a variation, it sets a precedent. Ms. Charlton stated that the variation only impacts this address.

Mr. Sipple stated he liked the conditions.

Chairman Rataiczky asked if the architect had any concerns with building in that area, given the lack of specific history. Mr. Kwandras stated that the joists are 2x8 and they recommend 2x10.

Chairman Rataiczky inquired if there were any foundation related concerns. Mr. Kwandras stated that they dug a hole and confirmed the depth of the foundation.

QUESTIONS AND COMMENTS FROM THE AUDIENCE:

Chairman Rataiczky opened the meeting for comments from the public. No members of the public came forward to comment.

Mr. Duvall made a motion to close the public hearing. Mr. Sipple seconded. With a unanimous voice vote, the public hearing was closed.

Mr. Duvall made a motion that, based on the submitted petition and testimony presented, the Rolling Meadows Planning and Zoning Commission adopt the findings for variations listed in the staff report prepared for the January 5, 2021 Planning and Zoning Commission meeting, and recommend to City Council approval of the variation from Section V-2C of City Code Chapter 122 (City of Rolling Meadows Zoning Ordinance), to reduce the east side yard setback from ten feet (10') to 2.6' to allow a second story addition on top of an existing foundation in an R-3 Zoning District, and to authorize construction of a second story addition over an existing foundation when a corner of the existing foundation is located 2.2' into a platted 30' corner side yard building line (27.8' corner side yard setback), subject to the following conditions:

- a. Encroachment into the eastern side yard setback variation, and the into the western platted 30' building line is only authorized for construction over the existing foundation as shown on the Plat attached as Exhibit 3 and the Architectural Plans attached as Exhibit 5.

Mr. Sipple seconded.

Roll call:

Mr. Duvall: Yes

Mr. Fink: Yes

Chairman Rataiczky: Yes

Ms. Sheehan: Yes

Mr. Sipple: Yes

Yeas – (5) – Duvall, Fink, Rataiczky, Sheehan, Sipple

Nays – (0) None

Absent – (3) – Buckingham, L. Morrison, S. Morrison

Abstain – (0) – None

Motion Approved.

Chairman Rataiczky noted that this item will appear on the January 26, 2021 City Council agenda.

2. Public Hearing and Consideration of a Text amendment to add the underscored language below to Section III-5-C-8(b)(vii) of City Code Chapter 122, City of Rolling Meadows Zoning Ordinance:

- vii. For multi-tenant commercial buildings only, the outdoor seating area shall be immediately adjacent to the principal building, having only one row of tables, and located directly adjacent to the space which is occupied by the restaurant; City of Rolling Meadows, Petitioner.**

Chairman Rataiczky asked for a motion to open the public hearing and enter the staff report included in the packet into the record. **Mr. Duvall** made the motion. Mr. Sipple seconded. Motion carried by a unanimous voice vote.

Chairman Rataiczky asked if proper notice was given, and if the file was in order. Staff indicated that was the case.

Ms. Payne state that in 2017, the City had three applicants for special uses for outdoor seating at the same time. The City Council and City Manager gave direction that the Economic Development Committee consider changes to the existing code regarding outdoor seating to streamline the process and allow for more administrative approval. Subsequently, it was decided to postpone those changes so that the outdoor seating section could be updated as part of the comprehensive Zoning Code Update. Throughout the course of the Zoning Code update, several discussions regarding outdoor seating were held with the Planning and Zoning Commission. Regulations in both multi-tenant commercial shopping center buildings and stand-alone operations were discussed. The updated Zoning Code was approved by City Council on November 13, 2020 in Ordinance 20-47, and took effect on January 1, 2021. Staff believes that the regulations as written into the code were an oversight, and should include allowances for stand-alone buildings. Making the proposed change to the code will allow more room for administrative approval of outdoor seating, per the initial direction of City Council, and conversation held by the Planning and Zoning Commission.

The text amendment as proposed by staff would maintain the intent of regulating multi-tenant shopping centers, while also providing flexibility to stand-alone establishments with the flexibility to propose outdoor dining that makes sense based on their available space. The minor change to the language would accomplish this goal. This change will state that this condition is applicable to multi-tenant buildings only, allowing for additional flexibility and administrative approval for stand-alone restaurants.

QUESTIONS AND COMMENTS FROM THE BOARD:

Chairman Rataiczky opened the meeting to Commissioners' questions and comments.

Discussion ensued regarding findings of fact and the process of approval of the text amendment.

Mr. Fink stated he remembered that the some of the sidewalks were very narrow and inquired as to how it would change with the text amendment. Ms. Payne stated that would be difference between a stand-alone restaurant, such as Bulldog Ale House, and a multitenant building, such as Pita Pita or Panera. The language that is added is just for multi-tenant buildings, limited to one row of tables immediately adjacent to the restaurant.

Ms. Sheehan asked if staff gets approval from the property manager or owner of the multi-tenant building, even though it is allowed by the City, as it might not be allowed based on the building's insurance policy. Ms. Payne stated with the special uses that had come forward, such as Rep's Place and Pita Pita, written permission from the owner is required with their petition. That is something the City would require going forward for any multi-tenant submittals.

Ms. Sheehan asked what would happen if the owner or property manager did not approve. Ms. Payne stated then that becomes a dispute between the tenant and the property owner. The City would not get involved, and would not issue the permit until it was resolved.

Chairman Rataiczky stated that his recollection of the conversation is that there is a lot of specificity around certain strip malls and businesses and outdoor seating will be a hard thing to navigate, at least in the short term because due to the pandemic, but he thinks it is a good place to start. Ms. Payne pointed out that the City Council did approve some extraordinary allowances for outdoor seating in light of the COVID-19 pandemic. The Zoning Code is not written for the COVID-19 pandemic, but for normal operation outside of that.

Chairman Rataiczky stated that the pandemic is going to change people's behaviors and the way businesses are operating. That will likely change petitions that are submitted to the City. Ms. Payne stated that the idea behind this is to bring fewer of these kinds of petitions before the Commission, and ultimately, the City Council.

QUESTIONS AND COMMENTS FROM THE AUDIENCE:

Chairman Rataiczky opened the meeting for comments from the public. No members of the public came forward to comment.

Mr. Duvall made a motion to close the public hearing. Mr. Sipple seconded. With a unanimous voice vote, the public hearing was closed.

Mr. Duvall made a motion that, based on the submitted petition and testimony presented, the Rolling Meadows Planning and Zoning Commission recommend to City Council approval of the text amendment to add the underscored language below to Section III-5-C-8(b)(vii) of City Code Chapter 122, City of Rolling Meadows Zoning Ordinance:

- vii. For multi-tenant commercial buildings only, the outdoor seating area shall be immediately adjacent to the principal building, having only one row of tables, and located directly adjacent to the space which is occupied by the restaurant.

Mr. Sipple seconded.

Roll call:

Mr. Fink: Yes

Ms. Sheehan: Yes

Mr. Sipple: Yes

Mr. Duvall: Yes

Chairman Rataiczky: Yes

Yeas – (5) – Fink, Sheehan, Sipple, Duvall, Chairman Rataiczky

Nays – (0) None

Absent – (3) – Buckingham, L. Morrison, S. Morrison

Abstain – (0) – None

Motion Approved.

Ms. Payne noted that this item will appear on the January 26, 2021 City Council agenda.

Discussion Items: NONE

Reports: Update of on-going projects and cases

Ms. Charlton stated that the petitioners for Cultivate Change on Berdnick had run into some trouble. There was a provision in their approval that required that they enter into the Development Agreement, which required City, applicant and property owner to be parties to. Because they were still negotiating price and issues, they were unable to come to terms. The timeframe lapsed and there were no intentions of continuing. Staff has adjusted procedures to not accept petitions unless they have a contract to purchase or to lease. The petitioners have not lost interest in the City, and they appreciated Rolling Meadows receptiveness to their use and process they went through. They are scouting other locations in the community and the Business Advocate is working to help them find alternate locations.

Ms. Payne stated that there are a few potential petitions for the February agenda. There is a sign variance that might move forward for Aloft Hotel at 3405 Algonquin, a garage variance, a garage special use and a few other things, but none have officially applied yet.

Ms. Charlton stated that Aloft has been a slow process. Staff reached out to them in May and June regarding deficiencies in their building permit submittals and compliance with the site plans that were approved years ago. There were items that they would not submit that staff needed for a full review, and were finally received in October and November.

Adjournment

A motion to adjourn was made by Mr. Duvall and seconded by Mr. Sipple. Motion carried by unanimous voice vote. The regular meeting of the January 5, 2021 Planning and Zoning Commission was adjourned at 7:40 pm.

Respectfully Submitted,

Judy Brose
Deputy City Clerk

Distribution:

Mayor
City Manager
Planning and Zoning Commissioners
Community Development Department
Clerk's Office

Minutes approved at the March 2, 2021 Planning and Zoning Commission meeting as written.