

**CITY OF MASCOUTAH
ZONING BOARD OF APPEALS
#3 WEST MAIN STREET
MASCOUTAH, IL 62258-2030**

APRIL 26, 2023

The minutes of the virtual regular meeting of the Zoning Board of Appeals of the City of Mascoutah.

CALL TO ORDER

Meeting was called to order at 7:00 p.m.

PRESENT

Board members Chairman Don Taylor, Bob Scott, Robert Skeen, Jim Kuehn, and Rich Fuess.

ABSENT

Kimberly Kilgore and Dean Smith.

ALSO PRESENT

Assistant City Manager Kari Speir, Planning & Zoning Administrator Tiffany Barrows, Residents Phyllis Range and Sharon Fortune, Property owners Ryan Haas, Jennifer Jones, Billy and Kathryn Monroe, Jay Vasquez, and Robert Etter.

ESTABLISHMENT OF A QUORUM

A quorum of Zoning Board of Appeals members was present.

MINUTES

Minutes of the March 1, 2023, Zoning Board of Appeals were approved as presented. All that were present were in favor.

AMEND AGENDA

None.

BOARD BUSINESS

Public Hearing

ZBA 23-02, 211 South 4th Street, Setback Variance

Residents Phyllis Range and Sharon Fortune, on behalf of property owners Mark Israel and Melissa Best, are requesting variance for minimum rear yard 11 ft setback of the property located at 211 South 4th Street.

The property is zoned RS-8, Single Family Residential. Maricia Laquet is seeking to construct an 10'x16'6" ADA bathroom addition. According to the contractor's submission, the approximately 933 square foot sunroom addition will be attached to the rear side of the home. The proposed addition would encroach on the setback resulting in an 11-foot rear yard setback

on the south side of the property. The neighboring property's accessory structure to the south is located five feet from the property line.

Planning & Zoning Administrator Tiffany Barrows gave the property and proposed project summary. The property is zoned RS-8, Single Family Residential and would consider the parcel as an exceptionally narrow lot.

Commission members discussed the property line and property's fence placement.

There was no further comment.

Scott moved, seconded by Skeen, that the Zoning Board of Appeals approve a variance for the minimum rear yard setback of 25 feet to 11 feet on the south side of the property located at 211 South 4th Street.

Motion passed. AYE's – 5 – Kuehn, Fuess, Scott, Skeen, Taylor. NAY's – none.

Absent – Kilgore, Smith.

Public Hearing

ZBA 23-03, 9599 Mallard Drive Covered Porch Addition, Encroachment Variance

Residents Ryan Haas and Jennifer Jones, are requesting variance for the allowance to construct attached covered porch that proposes to be 6ft from existing pool, at the property located at 9599 Mallard Drive.

The property is zoned RS-10, Single Family Residential. Property owners, Ryan Haas and Jennifer Jones, are seeking to construct a 12'x36' covered porch-addition to principal structure. According to the resident's submission, the approximately 432 square foot covered porch will be attached to the rear side of the home. The Zoning Code requires a 10-foot minimum distance between the swimming pool and principal building. The national building codes, as outlined by the National Fire Protection Association (NFPA), require all swimming pools to be at least 10 feet away from the walls of a house (principal building). Principal building means the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.

Planning & Zoning Administrator Tiffany Barrows reported that staff does not have a recommendation and refers to the zoning and building code. She also stated that the fire chief did not see an issue regarding emergency access. He has been provided with the submission plans and will respond if he has concerns.

Chairman Don Taylor asked applicant to describe the construction.

ZBA members, questioned the zoning code and the need for a variance.

Barrows stated that a swimming pool is characterized as an accessory structure.

Board members questioned why the covered porch structure is considered part of the principal building.

Barrows stated that since the attached roof is part of the home, it is considered part of the principal building.

Taylor asked if the swimming pool needs to be 10ft from the principal building.

Barrows pointed out the neighboring cities follow the same building code requirements. She also stated that building inspector Jerry Green confirmed that there are many reasons for the 10 ft distance requirement which includes, but not limited to, the Life Safety clearance. Barrows stated that Chief Zinck was consulted, and he did not see an issue.

Commission members discussed if it is necessary to grant such a variance if the property owners will not be constructing a wall. Commission members stated that as long as it is an open structure it should not require a variance.

Barrows pointed out that a property owner is required to get a building permit if they close in a porch with walls.

Commission members stated that they are setting a precedent.

Assistant Manager Kari Speir stated that they will have to investigate if it is possible to change the code since it is an IBC standard.

There was no further comment.

Kuehn moved, seconded by Skeen, that the Zoning Board of Appeals approve a variance for the allowance to construct attached covered porch 6ft from existing pool located at 9599 Mallard Drive.

Motion passed. AYE's –5– Kuehn, Fuess, Scott, Skeen, Taylor. NAY's – none.
Absent – Kilgore, Smith.

Public Hearing

ZBA 23-04, 444 South Railway Street, Setback Variance

Residents Billy and Kathryn Monroe are requesting variance to construct a 24' x 50' detached, 2-car garage that proposes to be 6ft from south property line, at the property located at 444 South Railway Street.

The property is zoned RS-8, Single Family Residential. Property owners, Billy and Kathryn Monroe, are seeking to construct a 24' x 50' detached, 2-car garage. According to the Monroe's building site plan submission, the approximately 1,200 square foot structure will be located on the rear side of the property, abutting the south property line by 6ft. The Zoning Code requires a 10-foot minimum side yard setback.

Planning & Zoning Administrator Tiffany Barrows reported that staff would consider the parcel as an exceptionally narrow lot. The minimum side yard setback is 10 feet. The proposed

detached garage would encroach on the rear side setback resulting in a 6-foot setback on the south side of the property. The neighboring property's accessory structure, to the south, is located twenty-five-feet from the property line. Barrows also stated that the fire chief was consulted and did not see an issue regarding emergency access. He has been provided with the submission plans and will respond if he has concerns.

Chairman Don Taylor asked and it was confirmed that the abutting parcels are rentals. He stated that the proposed placement is the only area on the lot available to put an additional garage.

ZBA member Richard Scott stated that the garage will be 6 ft away from the fence.

Keuhn asked for the distance between the structure to the north and the proposed structure because it does not look like there will be enough room.

Billy Monroe stated that there is an approximately 10 ft distance.

ZBA members discussed distances and property lines.

Monroe stated that drainage from the structure will run towards Market Street, east of the property. He continued to describe the drainage design matching the existing, current drainage flow.

Barrows reported that a resident within the buffer zone, reached out to the city inquiring about the placement.

The lot coverage was not listed in the report. RS-8 allows for 30% total coverage.

Keuhn and Taylor did a quick calculation, and it is below 30%.

There was no further comment.

Skeen moved, seconded by Scott, that the Zoning Board of Appeals approve a variance for the allowance to construct detached, 2-car garage 6ft from property line located at 444 South Railway Street.

Motion passed. AYE's –5– Kuehn, Fuess, Scott, Skeen, Taylor. NAY's – none.
Absent – Kilgore, Smith.

MISCELLANEOUS

Residents Jay Vasquez and Robert Etter questioned and discussed the covenants for a subdivision.

Kari Speir stated that the city does not govern the covenants.

Chairman Taylor confirmed.

Vasquez and Etter believe that there was never an active HOA but there is supposedly covenants and restrictions. He stated that Haas came to the city when there were covenants and restrictions for such a structure.

Fuess stated that any homeowner can bring legal action against anyone that does not follow the agreed and signed covenants and restrictions.

Taylor stated the city cannot enforce with an HOA. The city governs the building and zoning codes.

ZBA members discussed HOA situations.

Vasquez and Etter discussed items in the neighborhood that were allowed but not permitted under the subdivision guidelines.

Speir and Barrows stated that they do not use subdivision covenants and restrictions as part of the permitting process.

Vasquez stated he did not have to sign any rules but did get a copy of what was approved through the development of the subdivision.

Speir stated that the city stays out of HOA disputes. The city only advises on the city zoning and building code.

Fuess stated that HOA disputes would be a civil matter not a city matter.

Vasquez and ZBA members discussed HOA authority.

Ryan Haas stated that he brought this application to the city because his fiancé, Jennifer Jones never received any paperwork nor was told when purchasing the home about any covenants and restrictions.

ZBA members continued conversation regarding different covenants and restrictions.

Chairman Don Taylor stated to the board members that they should have received something from the county regarding their appointments and to make sure to fill it out the paperwork and send it back.

There was no further comment.

ADJOURNMENT

The Board adjourned at 7:46 p.m. ***Motion passed.*** Passed by unanimous yes voice vote.