Agenda
Zoning Board of Appeals
Tuesday, December 22, 2020
5:00 pm

Anderson Lattimore, Chairperson
Dennis Filippelli
Amy Lonergan

Michael Hawes, Vice-Chairperson
Richard Gallo

Call to Order
Roll Call

Approval of the Minutes from the Meeting held August 4, 2020

1. Variance Request from JKP Properties, LLC for Relief from the Visual Clearance Regulations [Section 2.06 B(2)] for a new fence at 723 58th Street (Parcel #12-223-31-481-001); Zoning – B-3 Central Business District. (District 2) PUBLIC HEARING

Commissioners’ Comments

Due to the COVID 19 Pandemic, no in-person public attendance at this meeting is allowed. If you wish to observe the meeting audibly, dial into the meeting at 312-626-6799 or 646-558-8656, Meeting ID 986 0766 1371.

Persons wishing to provide public comments on a particular agenda item are encouraged to provide those comments in advance of the meeting by electronic mail to the City at comments@kenosha.org, which will then be read into the Commission record during the public hearing phase. If providing a written comment, please include a subject line identifying this Commission and either the agenda item number or the agenda item subject. Alternatively, persons wishing to express a comment during a noticed public hearing may call in to the meeting at 312-626-6799 or 646-558-8656, Meeting ID 986 0766 1371.

Meetings of the Commission are typically recorded. The archive of the meeting is typically available two business days after the conclusion of the meeting, at https://www.kenosha.org/government/common-council/agendas-minutes-video.

IF YOU ARE DISABLED AND IN NEED ASSISTANCE,
PLEASE CALL 653-4030 BY NOON BEFORE THIS MEETING
The meeting was held via teleconference and was called to order at 5:01pm by Mr. Lattimore, roll call was taken and quorum was present.

Citizens Comments

Anthony Garza, 1213 55th Street was available to answer any questions on the item presented.

A motion was made by Ms. Lonergan, seconded by Mr. Filippelli to approve the minutes of September 24, 2019. The motion passed. (Ayes 4, Noes 0)

1. Variance Request from Jodee Ahrens for Relief from the Rear Yard Property Line Setback Requirement [Section 3.08 F(3)] and Side Yard Property Line Setback Requirement [Section 3.08 F.2.a.] for a single-family residential addition at 420 43rd Street (Parcel #11-223-30-476-013); Zoning – Rg-1 General Residential District; District 1. PUBLIC HEARING

Mr. Wilke explained the applicant at 420 43rd Street is looking to add an addition to the west side of the property. The addition would be located no closer to the rear lot line than the existing residence portion of the structure and the applicant is also adding 3 feet to the front of the garage. He explained what was included in the staff report.

Mr. Wilke noted the following facts must apply:

a) Preservation of Intent – No variance shall be granted which is inconsistent with the purpose and intent of the regulations for the district in which the use, building or structure is located. No Variance shall have the effect of permitting a use in any district that is not a listed permitted use, accessory use, or Conditional Use in the particular district.

   - Staff Comment: The intent of Section 3.08 F(3) of the Zoning Ordinance is to require a rear yard of twenty-five feet (25’) for a lot with a typical 2:1 depth to width ratio. The current property was platted many years ago and doesn’t meet this standard layout. The property measures fifty feet (50’) wide by sixty-six feet (66’) deep. Another property in this block currently does not provide the twenty-five foot (25’) rear yard setback, and the vacant property directly east of this property was granted a variance in 2018 for a reduced rear yard setback for a new home that has yet to be constructed. Both of those lots are at the same depth as the subject
property. Application of the twenty-five foot (25’) rear yard appears burdensome in the case of this property. The same comments apply to the side yard setback requirement.

The intent of the Zoning Ordinance is preserved.

b) **Exceptional Circumstances** – There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot, building, structure, or intended use that do not apply generally to other similar lots, buildings, structures or uses in the same district, and the granting of the Variance should not be of so general or recurrent nature as to amount to an Amendment of this Ordinance or a Rezoning.

   ➢ Staff Comment: *The proposed site is an unusually small lot in an older area of the City, where strict adherence to yards would cause a hardship.*

   There are Exceptional Circumstances that warrant a Variance.

c) **Economic Hardship and Self-Imposed Hardship not grounds for Variance** - No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

   ➢ Staff Comment: *The applicant has indicated that this request is not for an economic reason and Staff agrees. The hardship appears to be imposed by the Zoning Ordinance.*

   The hardship is not economic or self-imposed.

d) **No Variance shall be granted that is contrary to the health, safety and general welfare of the City of Kenosha.**

   ➢ Staff Comment: *A variance in this case would not be contrary to the health, safety or general welfare of the City of Kenosha. An addition to the house as proposed would not be any closer to any structures adjacent to the rear yard of this property.*

   A Variance would not be contrary to the health, safety or general welfare of the City of Kenosha.

Public Hearing Opened.

Thomas Santarelli, 1108 56th Street, Attorney for property owner was available to answer any questions.

Public Hearing Closed.

A motion was made by Ms. Lonergan, seconded by Mr. Hawes to approve the Variance. On a roll call vote the motion passed. (Ayes 4, Noes 0)

**Board Member Comments** –

Commissioner Lattimore thanked the staff and IT staff for setting up the virtual meeting during these difficult times.
A motion to adjourn was made by Ms. Lonergan, seconded by Mr. Filippelli. The motion passed. (Ayes 4, Noes 0) The meeting adjourned at 5:11 pm.

Certification that the minutes have been approved by the Zoning Board of Appeals.

Rich Schroeder, Deputy Director of City Development

Meeting Minutes Prepared by: Laurie Bauman, City Development
Variance Request from JKP Properties, LLC for Relief from the Visual Clearance Regulations [Section 2.06 B(2)] for a new fence at 723 58th Street (Parcel #12-223-31-481-001); Zoning – B-3 Central Business District. (District 2) PUBLIC HEARING

NOTIFICATIONS AND APPROVAL REQUIREMENTS:

Alderperson Siel, District 2, has been notified. Pursuant to Section 9.07 C. of the Zoning Ordinance, property owners within 100 feet of the proposed variance have been notified. The Zoning Board of Appeals is the final review authority.

LOCATION AND ANALYSIS:

Site: 723 58th Street
Zoning: B-3 Central Business District

1. The applicant is proposing to construct a new chain-link fence behind the building located at 723 58th Street. The building at 723 58th Street and the neighboring building at 5800 7th Avenue (owned and operated by Herzing University) are built out to the public sidewalk. The applicant would like to construct the new fence abutting the sidewalk from building corner to building corner. The applicant has indicated the fence is for security for their vehicles as well as residents who reside on the upper floors of their building. The applicant was allowed by Staff to place a temporary fence at the sidewalk while the variance application is reviewed.

2. Per Section 2.06 of the Zoning Ordinance, visual clearance must be maintained at the intersection of a private drive and a public street. In this case, there is a private driveway to access the open area behind 723 58th Street. Specifically Section 2.06 B.2. defines the visual clearance area as "The intersection of any existing or proposed street right-of-way line with any existing or proposed alley right-of-way line or the line formed by the edge of any driveway, and a line joining points on such lines located a minimum of fifteen (15') feet from their intersection." Buildings or structures located within the defined visual clearance area must be no taller than three feet (3') in height. One of the listed exceptions to this rule is "Unobscured four (4) foot wire fences located within the defined visual clearance area formed by the intersection of a private driveway and public right-of-way line." The applicant’s proposed fence would be six feet (6’) in height. Without a variance, the applicant’s fence would either have to be lowered to four feet (4’) in height or brought back outside of the visual clearance area.

3. Whether a variance is approved or not, Staff must approve the materials of the fence through a fence permit. Staff will not support chain-link fence in the Downtown area. The fence should be a decorative fence.

All of the following facts and conditions shall apply to the variance request in order to approve a variance.

a. Preservation of Intent. No variance shall be granted which is inconsistent with the purpose and intent of the regulations for the district in which the use, building or structure is located. No variance shall have the effect of permitting a use in any district that is not a listed permitted use, accessory use, or conditional use in that particular district.
➢ Staff Comment: The intent of Section 2.06 B (2) of the Zoning Ordinance is to provide for visual clearance for the safety of both pedestrians and motorists at the intersection of a private driveway with a public street. Any visual obstruction could hinder the view of a motorist exiting the site which endangers the safety of pedestrians on the public walkway.

The intent of the Zoning Ordinance is not preserved.

b. Exceptional Circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot, building, structure, or intended use that do not apply generally to other similar lots, buildings, structures or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to amount to an amendment of this Ordinance or a rezoning.

➢ Staff Comment: The proposed site for the fence is in an urban area where the buildings are already built up to the public sidewalk and may limit visibility. However, the applicant’s building is located seventeen feet (17’) away from the driveway entrance and could meet the visual clearance standards. Putting a fence within that visual clearance area will limit visibility. Putting the fence back fifteen feet (15’) from the sidewalk will still allow secured access to the building, a secured parking space and still meet visual clearance standards.

There are not exceptional circumstances that warrant a Variance.

c. Economic Hardship and Self-Imposed Hardship Not Grounds for Variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

➢ Staff Comment: The applicant has indicated that this request is not for an economic reason and Staff agrees. However, the hardship is self-imposed as the applicant has the option to construct a shorter fence or push the fence back on the property to comply.

The hardship is not economic but it is self-imposed.

d. No variance shall be granted that is contrary to the health, safety and general welfare of the City of Kenosha.

➢ Staff Comment: A variance in this case would be contrary to the health, safety or general welfare of the City of Kenosha. The visual clearance standards apply to all properties and are imposed to protect the safety of pedestrians and motorists. There are other options for the applicant at this site that would comply with the visual clearance standards and still provide the security and parking area they are seeking.

A Variance would be contrary to the health, safety or general welfare of the City of Kenosha.

RECOMMENDATION:

A recommendation is made to deny the Variance Request.

Brian Wilke, AICP, Development Coordinator

Richard Schroeder, Deputy Director
City of Kenosha

Pokorny - Request for Zoning Variance

[Map showing the petitioner's property highlighted in yellow]
City of Kenosha

Pokorny - Application for Zoning Variance

12-223-31-466-001
12-223-31-463-005
12-223-31-463-006
12-223-31-478-004
12-223-31-478-006
12-223-31-478-007
12-223-31-478-005
12-223-31-478-001
12-223-31-481-001
12-223-31-481-012

Petitioner's Property

100-foot Notification Boundary

DCD - Planning & Zoning Division - TC - BPH - December 8, 2020 - us
APPLICATION FOR ZONING VARIANCE

Property Owner: JKP PROPERTIES LLC
Phone Number: (262) 401-6800

Owner's Address: 723 - 58th St. #302, Kenosha, WI 53140

Applicant: JKP PROPERTIES LLC
Phone Number: (262) 401-6800

Applicant's Address: SAME
Address of Variance: 723 - 58th St.

Specific Variance Relief Being Requested: CHAIN LINK FENCE TO BE 6'0" HIGH ACROSS ENTIRE LENGTH FROM BUILDING TO BUILDING.

If the applicant is other than the property owner, a notarized signature of the property owner authorizing the applicant to act on his/her behalf is required.

Signature (Owner or Agent for Owner):

Date: 11-20-20

I hereby authorize the staff of the Department of City Development to inspect the premises of the above-described property. I hereby affirm that all statements herein and attached hereto are true and correct to the best of my knowledge and belief.

City Development | 1625 52nd St. Room 308, Kenosha, WI 53140 | T: 262.653.4030 | kenosha.org
**PROPOSAL / CONTRACT**

**Customer:** JKP Properties  

**Street Address:** 723 58th Street  

**City/State/Zip:** Kenosha WI 53143  

**Contact:** Kitty Pokorny  

**Phone:** 247-401-4472 Email: JKPokorny@Sbcglobal.net

Job address where work to be performed if different from above:

**Chain Link** ☐ **Wood** ☐ **Vinyl** ☐ **Ornamental** ☐ **Other** ☐

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<th>Gauge</th>
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<tr>
<td>Galvanized chain link</td>
<td>24'</td>
<td>6'</td>
<td>9</td>
<td>2''</td>
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**Tension Wire (Top)** | **(Bottom)** | **O.D. of Line Posts (QTY)** | **(Inches)** | **End & Corner Posts (QTY)** | **(Inches)** | **Gate Posts (QTY)** | **(Inches)** | **Walk Gate (QTY)** | **(Size)** | **Double Drive Gate (QTY)** | **(Size)** | **Cantilever Gate (QTY)** | **(Size)** |
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<tr>
<td>NEIGH</td>
<td>BLOG</td>
<td>16'</td>
<td>24'</td>
<td>Ave</td>
<td>Install 6' Temporary fence panels until new fence is completed</td>
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**Info:** Cut holes through asphalt and set posts into cemented belled footings. Stretch 24' of 6' wire. Construct and hang 1-16x6' cantilever gate onto 4 Industrial Nylon Rollers, latch with standard lockable cantilever latch. BLOG.

**Total cost of Transaction:** $5,624.00  
**Down Payment:** $1,624.00  
**Balance Due:** $4,000.00

Submitted by: Mark Adams  
**Date:** 10-21-2020

Prices are valid for a period of 10 days.

**ACCEPTANCE**

You are hereby authorized to furnish all materials and labor required to complete the work mentioned in the above proposal, for which the undersigned agrees to pay the amount in said proposal and according to the terms thereof. Terms are printed on back.

**AUTHORIZED SIGNATURE**  

**DATE**

**PLEASE READ BACK FOR TERMS AND CONDITIONS.**

Phone (262) 833-0200 • Fax (262) 833-0203  
8310 Industrial Drive, Franksville, WI 53126 • Toll-Free 888-805-1847
723-58th St. West Side Parking Lot Entrance

Kenosha, Wisconsin

Google Maps

Image capture: Jul 2019 © 2020 Google

https://www.google.com/maps/place/723+58th+St,+Kenosha,+WI+53140/@42.582775,-87.8206127,3a,73y,91.15h,78.981/data=!3m6!1e1!3m4!1sH4TYkBxXOk_A-NgsLwXQ!2e0!7i16384!8i8192!4m5...
Existing Site.

(Current fence was allowed on temporary basis.)
hundred (300') feet or the Kenosha Regional Airport Height Limitation, whichever is more restrictive, as authorized by the Review Authority and in accordance with the spacing and setback requirements of Section 4.06 D.13. of this Ordinance.

Public Safety Communication Towers and Antennas may be erected/ constructed to a height which exceeds the height limit established for the district when so authorized by the Review Authority but may in no event be higher than the Kenosha Regional Airport Height Limitation unless an exception is approved in accordance with Section 13.10 K.3. of this Ordinance.

4. Ornamental Appurtenances, Statues, and Monuments shall not exceed the height of the allowable accessory building height for that district, unless approved in conjunction with a Conditional Use Permit/Site Plan Review or a variance is granted by the Board of Zoning Appeals.

5. Buildings in the B-3 Central Business District. Notwithstanding any of the exceptions to height regulations for buildings set forth in this Section 2.04 A., buildings located in that portion of the B-3 Central Business District located between 50th Street and 60th Street and between the Chicago and Northwestern Railroad and Lake Michigan may exceed the building height limit established for the foregoing portion of the B-3 Central Business District when so authorized by the Review Authority.

B. Establishing Height Measurements on Through Lots. On through lots, the height of a building or structure may be measured from the established curb grade on either street.

2.06 VISUAL CLEARANCE

A. Purpose. The primary purpose of this Section is to provide adequate visual clearance at intersections within the City for children, pedestrians and for drivers and operators of all motor vehicles, bicycles and other forms of conveyance so that they be observed by each other in a timely manner to lessen the possibility of accidents and to promote public safety within the City. The secondary purpose of this Section is to regulate fences in residential districts of the City.

B. General Regulations. No obstructions, such as buildings, structures, fences, parked vehicles or vegetation, which are constructed, erected, maintained or planted after November 5, 1984, shall be permitted in any District between the heights of three (3') feet and nine (9') feet above:

1. The triangular space formed by any two existing or proposed intersecting street right-of-way lines and a line joining points on such lines located a minimum of fifteen (15') feet from their intersection.

2. The intersection of any existing or proposed street right-of-way line with any existing or proposed alley right-of-way line or the line formed by the edge of any driveway, and a line joining points on such lines located a minimum of fifteen (15') feet from their intersection.

Hereafter, the above regulations shall be referred to as "visual clearance" at intersections.

C. Exceptions. The following shall be excepted from the regulations of §2.06 B. of this Ordinance:


2. Authorized traffic signs and signals, utility poles and installations, railroad crossing signs and barricades, mailboxes, bus stops, flagpoles, decorative lamp poles, public fixtures, and similar items which do not substantially impair visual clearance.

3. Outdoor pole signs, which are permitted to be located in the visual clearance area under the provisions of Chapter 15 of the Code of General Ordinances and which are located on top of a single support pole not exceeding eight (8") inches in diameter.
4. Parking facilities constructed and maintained prior to the effective date of this Ordinance.

5. Unobscured four (4) foot wire fences located within the defined visual clearance area formed by the intersection of a private driveway and public right-of-way line.

D. Parked Vehicles. The visual clearance regulations of Section 2.06 B. of this Ordinance shall apply to parking facilities, as defined by this Ordinance. Such parking facilities shall be constructed and maintained in accordance with Section 6.01 of this Ordinance, and Sections 5.08 and 7.131 of the Code of General Ordinances.

E. Natural Objects-Vegetation. Natural objects and vegetation such as trees and shrubs must be removed, trimmed or planted so as to provide, restore or maintain visual clearance as regulated in §2.06 B. of this Ordinance. Trees which, when mature, grow to a height of thirty (30') or more feet need not be removed from a visual clearance area, but must be trimmed so that the lower branches do not obstruct visual clearance from the ground to a height of nine (9’) feet.

F. Fences. Fences constructed in any Zoning District, shall in addition to complying with the visual clearance general regulations of §2.06 B. of this Ordinance, conform to the following provisions:

1. Fences existing in any Residential District prior to the effective date of this Ordinance which do not meet the regulations of §2.06 B. of this Ordinance are permitted to be:
   a. Repaired for ordinary maintenance repairs solely limited to painting and cleaning.
   b. Added to or altered, including the addition, replacement or relocation of boards, posts, and cross members provided that when additions or alterations are proposed for any portion of a fence which is within the visual clearance area, the nonconforming section of the fence shall meet the visual clearance regulations of §2.06 B. of this Ordinance.
   c. Relocated provided that any relocation of any portion of a fence which is within the visual clearance area shall meet the visual clearance regulations of §2.06 B. of this Ordinance.
   d. Reconstructed provided that any reconstruction of any portion of a fence which is within the visual clearance area shall meet the visual clearance regulations of §2.06 B. of this Ordinance.

2. Fences abutting alleys shall provide a minimum yard of two (2') feet from the lot line. However, in instances whereby residences/buildings provide a yard of five (5') feet or less from the alley, a yard of less than two (2') feet is permitted for a fence.

3. Fences shall not be more than six (6') feet in height. This provision shall not apply to fences existing prior to November 5, 1984; however, such fences shall not exceed eight (8') feet in height.

4.a. No fence shall be constructed in any required front yard of a B-1, B-2, or B-3 zoned district, unless said fencing is approved in conjunction with a Conditional Use Permit/Site Plan Review or a variance is granted by the Board of Zoning Appeals.
   b. Fences on a Lot-Doubl Frontage, as defined in Section 12.0 of this Zoning Ordinance, shall be installed in accordance with the required front yard setback on both streets, except where otherwise approved in conjunction with a Conditional Use Permit or Site Plan Review.

5. Fences in street side yards, as defined, which are located along a lot line abutting a business, manufacturing or Institutional-Park district need not meet the visual clearance provisions of §2.06 B. of this Ordinance, for that portion of the fence along the abutting lot lines.

6. The Director of Department of City Inspections may prohibit or limit the location or construction of any fence when the location or construction may adversely impact the safe evacuation or Fire Department access, for the principal occupied building of the property upon which it is situated or upon abutting or neighboring properties.
NOTICE OF PUBLIC HEARING

Petition for Variance to Section 2.06 B.2. of the Zoning Ordinance
723 58th Street (JKP Properties, LLC)

The Zoning Board of Appeals will hold a public hearing on a Petition for a Variance to Section 2.06 B.2. of the Zoning Ordinance at 723 58th Street. The applicant is proposing to construct a six foot (6') tall chain-link fence in the vision clearance triangle.

A Variance is the approval authorizing the construction or maintenance of a building or structure inconsistent with Zoning Ordinance standards. The Zoning Board of Appeals has the authority to approve a Variance. A Variance may only be granted in cases owing to special conditions whereby a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship. A Variance shall maintain the spirit of the Ordinance and protect the public interest.

You are being notified of this public hearing as the owner of property located within one hundred (100') feet of the proposed Variance.

The public hearing will be held at the Zoning Board of Appeals meeting as follows:

Zoning Board of Appeals – Tuesday, December 22, 2020 at 5:00pm

Due to the COVID 19 Pandemic, the public hearing will be held via teleconference. Persons wishing to provide public comments are encouraged to provide those comments in advance of the meeting by electronic mail to the City at comments@kenosha.org, which will then be read into the Commission record during the public hearing phase. If providing a written comment, please include a subject line identifying the committee and either the agenda item number or the agenda item subject. Alternatively, persons wishing to express a comment during the public hearing may call into the number posted on the agenda which is located at www.kenosha.org/government/common-council/current-agendas-and-supporting-documents. If you have any other questions on this contact us at 262.653.4030.

The public hearing provides an opportunity to voice any concerns or ask any questions about the Special Exception Request.

BRW:llb
Enclosure