

KINDRED CITY COUNCIL SPECIAL MEETING

12-20-2021 at 7:00 pm

Kindred City Hall

Present: Mayor DuBord, CMs Amerman, Stoddard, and Peraza. Absent: CM Spelhaug. Also present were Lance & Kari Nokleberg, P&Z Chair Sue Kersting, PWS Rich Schock, City Auditor Tabitha Arnaud, Building Administrator Mike Blevins (via conference call), City Attorney Sarah Wear (via conference call).

Mayor DuBord called the meeting to order at 7:03pm.

1. Public Hearing: Appeal Decision on Variance Application by Lance & LaVonne Nokleberg for 140 Linden St - Reduced Rear Setback for Accessory Structure

Mayor DuBord opened the public hearing.

Lance Nokleberg stated that he had submitted a variance application so he could construct his garage closer to the alleyway at 140 Linden St. Ordinance required 10-foot setback, he requested 3.5 feet as he had constructed by measure off the gravel line not the property line. Planning and Zoning held a public hearing for the variance application at the November 17, 2021 meeting and denied Mr. Nokleberg's request. He formally requested an appeal to city council on December 3, 2021.

Council reviewed the application and timeline of applications and permits for this property. Previous variance application was approved in August 2020 for ground coverage and building height, but not rear setback. Once foundation for the new garage was set and inspected, it was brought to Mr. Nokleberg's attention that the structure was placed too far back, encroaching on the 10-foot rear set back requirement.

Public Works was asked if the reduced setbacks would cause concerns with snow removal. Rich said as long as there was no concrete poured out into the alleyway, it would be manageable. Concrete is not allowed to be placed outside the property line; however, the set elevation of the garage will add some grade for entry from the alleyway, even more so with a reduced setback. The reduced set back would also not allow for parking outside the garage in the rear. P&Z Chair Kersting noted that if the 10-foot setback was followed there would have been room for rear parking.

CM Stoddard asked if a survey was completed. Mr. Nokleberg said it was not due to expense.

Review of the ordinance revision in 2020 that removed the language of "one-foot rear setback allowed if no overhead door accessed the alleyway." P&Z Chair Kersting said the P&Z board revised this ordinance to help with utility easements and reduce obstructions for alley maintenance concerns. CM Peraza stated that he drove the alleyway and it does look really tight. Other property owners in this alley are currently encroaching the alley right-of-way as well. CM Amerman stated that the city is trying to work towards the future and that means that ordinances need to be considered for new construction.

Mr. Nokleberg stated that he understood that the rear property line was the alleyway or edge of gravel. He measured 10-feet from the gravel line for setting the garage foundation. He added that if anything comes of this, he is hopeful that this is more clearly identified for others. Tabitha noted the meeting minutes from the 8-19-2020 P&Z meeting that state "The setbacks are within code at 4' on side/East and 10' on rear/South/alley." She is also confident that the ordinance definitions reflect the "property line" not the "alleyway" and always references property lines when discussing building plans or setback requirements for projects or variance applications. Mike Blevins stated that the site plan that Mr. Nokleberg provided indicates the lot with a 140-foot depth, which is correct according to the Cass County property records, and a 10-foot setback from the rear. CM Amerman said that the box is drawn correctly on the site plans and shows the property line distance, but doesn't show the gravel line indicating the alley boundary.

Mayor DuBord stated that he sees a lot of gray area with this case, and a smaller setback would encourage parking inside the garage, further reducing the potential for exterior clutter in the alley areas. Mr. Nokleberg ensured that they would not be parking in the rear of the garage, it would be for entry only.

Mr. Nokleberg confirmed the garage foundation and floor heat plumbing has already been set but the concrete has not been poured for the garage foundation or the driveway.

P&Z Chair Kersting said that the P&Z board always recommends surveys but ordinance does not require them. She asked Mr. Nokleberg if the property pins were found prior to setting the foundation. He stated that the east property pins were located upon excavation of the old garage, but he didn't remeasure from those points.

No others comments or inquires were made to City Hall prior to the meeting. CM Amerman said we need to get past personal opinions of property owners saying the will or won't use their property a certain way and need consider future owner/occupant use; need to go by the city ordinances. Mayor DuBord shared that he personally doesn't see a problem with this request since it appears to match other properties in the area. Mike Blevins did not have anything else to add. CM Peraza stated that he had to go thru a similar process when installing a fence on his property this summer; had to have a survey completed or had to change the fence placement to ensure he wasn't out of ordinance compliance. Mayor DuBord said that a variance request could have been requested, as a variation of the ordinance requirements. CM Spelhaug was not in attendance but did share with Tabitha prior that his feeling is to stick to P&Z recommendation of not reducing the rear setback from 10-feet.

Mayor DuBord asked for a motion to approve the variance request. No motion was made. City Attorney Sarah Wear stated that since this was an appeal there should be a motion and a vote by council.

**MOTION, passed – To uphold Planning & Zoning's recommendation and not approve the reduced rear setback on the garage for 140 Linden St;
Stoddard moved, Peraza seconded. RCV; Motion carried unanimously.**

Mayor DuBord thanks Mr. Nokleberg for going through the proper motions and application process, as well as P&Z and Council members for hearing all sides and making decisions for the community.

ADJOURNMENT

Meeting adjourned at 7:35 pm.

Jason DuBord, Mayor

Attest: _____
Tabitha Arnaud, City Auditor

Date approved: _____