



Zoning Board of Appeals

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Chair

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September 7, 2023

TO: Gregory Koeppen, Chair
Lake County Zoning Board of Appeals

FROM: Krista Braun, Planning and Zoning Manager
Lake County Department of Planning, Building, and Development

CASE NO: VAR-000863-2023

HEARING DATE: September 14, 2023

REQUESTED ACTION: Variances from the requirements of Lake County, Illinois Code of Ordinances (Lake County Code) to:

1. Reduce the minimum lot area required for the establishment of an accessory dwelling unit in the R-1 zoning district from 80,000 square feet to 27,756 square feet.
2. Allow an accessory dwelling unit to exceed 1,000 square feet.
3. Allow an accessory structure to exceed one story.

GENERAL INFORMATION

APPLICANTS: Kristopher Krane and Jenny Janichek

OF PARCELS: One

SIZE: 0.64 acres, per Lake County's Geographical Information Systems

LOCATION: 40956 N. Westlake Ave., Antioch, Illinois

PIN: 01-24-103-030

EXISTING ZONING: Residential-1 (R-1)

EXISTING LAND USE: Single-family dwelling w/attached garage and detached accessory structure.

PROPOSED LAND USE: The applicant is proposing to convert the detached accessory structure to an accessory dwelling unit.

SURROUNDING ZONING / LAND USE

NORTH, EAST & SOUTH: Residential-1 (R-1) / Single-family dwellings

WEST: Residential-1 (R-1) / HOA park and Lake Marie

DETAILS OF REQUEST

ACCESS: Access is provided from N. Westlake Avenue.

LOT CONFORMITY: The subject property is a nonconforming zoning lot in the Residential-1 (R-1) zoning district due to insufficient lot area and lot width.

FLOODPLAIN / WETLAND: The subject property contains no mapped floodplains or wetlands.

SEWER AND WATER: The subject property is serviced by private septic system and well.

ADDITIONAL COMMENTS

- Lake County Code Section 151.113(D)(1)(a) specifies accessory dwelling units shall be an allowed accessory use to any allowed detached house use on lots in the R-1 zoning district with a minimum area of 80,000 square feet or more.
- Lake County Code Section 151.113(D)(4)(a) specifies an accessory dwelling unit shall contain no more than one bedroom and no more than 1,000 square feet of gross floor area.

- Lake County Code Section 151.113 (C)(1) limits accessory structures to one story. Per Section 151.113 (B)(8) of the Lake County Code, attics are permitted in accessory structures only if the rafter or ceiling height is no greater than six feet and the attic is used for storage purposes only.
- Per Section 151.231 of the Lake County Code, a nonconforming use shall not be enlarged or expanded unless the expansion eliminates or reduces the nonconforming aspects of the situation. Further, if a nonconforming use ceases for any reason for a period of a year or more, the use shall be considered abandoned, and the nonconforming status is invalidated.
- In 2006, a variation was approved by the Zoning Board of Appeals to reduce the minimum required northeast side yard setback from 12 feet to 10 feet to allow for an attached garage addition. During the hearing, testimony was provided by the property owner at that time that a portion of the subject structure was used as an apartment for a relative.
- A notice of violation was posted for alterations completed prior to the issuance of the proper permits in the detached accessory structure in November 2022. Significant improvements were made to the structure, including the conversion of the first floor from a garage to habitable living space. The applicant has been working with staff since then in order to bring the property into compliance.
- The applicants are proposing to expand the previously existing nonconforming accessory dwelling unit from approximately 800 square feet to 1,128 square feet and relocate it from the second floor to the first floor. The second floor is to be used for storage.
- The Antioch Township Highway Commissioner and First Fire Protection District of Antioch were provided notice of the variance requests and have provided no objection.

STAFF COMMENTS

1. **Tom Copenhaver – Health Department:** The Department has a site plan showing the septic system and well. Setback requirements would apply for review of a property alteration application.
2. **Andrew Heuser – Engineering Division:** The Engineering Division has no objection to the requested variances.
3. **David Modrzejewski – Building Division:** The Building Division does not have any issues with this variance request.

STAFF RECOMMENDATION

An accessory dwelling unit was previously located on the subject property for many years with little to no negative impact to the surrounding area, and while staff has no objection to an in-kind (same size) relocation of the unit within the building, staff is nonetheless compelled to recommend denial of variance requests #1 and #2 because, in staff's opinion, these requests do not comply with the approval criteria. Staff does recommend approval of variance request #3. Staff's analysis of the requests follows below:

Zoning Variance Approval Criteria – LCC Subsection 151.056 (C)(4)

1. Exceptional conditions peculiar to the applicant's property:

Comment:

Requests #1 and 2-

The subject property is a nonconforming lot in the Residential-1 (R-1) zoning district due to insufficient lot area and lot width. Although the property is somewhat constrained by size and location of the existing structures, there are no particular conditions peculiar to this lot that prevent it from being used as intended by code, as it is already improved with a single-family house and detached accessory structure.

Request #3-

Although assessor records contain no information related to the age of the accessory structure, based on information contained in the application and the County's aerial maps, it was constructed prior to the adoption of current zoning and building codes.

2. Practical difficulties or particular hardship in carrying out the strict letter of the regulation:

Comment:

Request #1-

Per Section 151.005 Purpose and Intent (N) of the Unified Development Ordinance, one of the stated purposes is "Providing standards for all types of dwelling units to ensure access to decent, sound, sanitary and affordable housing for renters and buyers in accordance with the goals of the Federal Housing Act of 1949, among which is the provision of adequate zoning to meet a fair share of the region's housing needs." An accessory dwelling unit is consistent with this goal and staff recognizes the importance of allowing families to house and care for their aging parents. Nonetheless, the UDO currently requires a minimum lot size of 80,000 square feet for an accessory dwelling unit and the subject property is only 27,765 square feet. The subject property already contains a single-family residence, which is considered a reasonable use on parcels below the minimum lot size threshold. As such, there is no particular hardship in adhering to the applicable regulations currently in effect.

Request #2-

The floor area of the proposed accessory dwelling is simply a function of the size of the first floor of the accessory structure and is therefore purely a matter of preference. The floor plan could be reconfigured to limit the living area on the first floor in order to meet the maximum size requirement of 1,000 square feet. Additionally, although relocating the living area from the second to the first floor may improve functionality, there are other accommodations that could be incorporated to increase accessibility, such as an elevator or chair lift.

Request #3-

This variance will confer legal status to an existing nonconformity.

3. Harmony with the general purpose and intent of the zoning regulations:

Comment:

Requests #1 and #2-

Notwithstanding criteria 1 and 2 above, allowing an accessory dwelling unit that contains no more than 1,000 square feet of living area will most likely not have a significant impact on adjacent properties, since a similarly sized unit existed on the property for many years. There are other detached accessory structures along Westlake Avenue that appear to have habitable second floors.

Request #3-

The accessory structure, with two floors, has existed on the property for many years. There is no discernable benefit to the neighborhood to be gained by denying the request.

RECOMMENDED CONDITION

In the event the Board is inclined to grant the proposed variance request, staff recommends:

1. The living area of the first floor be limited to 800 square feet with the remainder devoted to storage.
2. The second floor plumbing fixtures be removed, and the space used for storage purposes only.