



July 5, 2024

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

FROM: Thomas Chefalo, Principal Planner
Lake County Department of Planning, Building, and Development

CASE NO: #000952-2024

HEARING DATE: July 11, 2024

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

1. Increase the maximum height for a retaining wall from 6 feet to 14 feet.
 2. Reduce the setback from the ordinary high-water mark for a retaining wall from 30 feet to 10 feet.
 3. Reduce the side yard setback for a retaining wall from 4 feet to 0 feet.
 4. Reduce the setback from the ordinary high-water mark for a patio from 30 feet to 10 feet.
 5. Reduce the side yard setback for a patio from 6 feet to 2.4 feet.
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GENERAL INFORMATION

OWNER: Robert L. Larsen and Karla Ann Larsen

OF PARCELS: One

SIZE: 0.45 acres, per Lake County's Geographical Information Systems

LOCATION: 26044 W SPRING GROVE RD ANTIOCH, IL

PIN: 0111406036
EXISTING ZONING: Residential -2 (R-2)
EXISTING LAND USE: Single family home.
PROPOSED LAND USE: Single-family home with patio addition.

SURROUNDING ZONING / LAND USE

EAST: Residential-2 (R-2) / Single-Family Residential
NORTH: Open Space (OS) / Channel Lake
SOUTH: Residential-2 (R-2) / Single-Family Residential
WEST: Residential-1 (R-1) / Single-Family Residential

DETAILS OF REQUEST

ACCESS: Direct access is provided via W. Spring Grove Rd.
NONCONFORMING LOT: The subject property is a conforming lot.
FLOODPLAIN / WETLAND: The north portion of the property, at the base of the bluff, is within mapped floodplain. There is also mapped wetland on a small portion of the property.
SEPTIC AND WATER: The subject property is serviced by a private septic system and well.

ADDITIONAL COMMENTS

- According to records available, the subject property was rezoned, subdivided, and developed in 2005. At that time, a variance was approved by the ZBA to allow an individual sewage disposal system on a lot less than 40,000 square feet and less than 130 feet of lot width.
- The applicants constructed the patio with retaining walls without the required permits in fall 2023.

- The ordinary high-water mark is defined in Section 151.271 Definitions of the LCC as the point on the bank or shore at which the presence and movement of surface waters are continuous so as to leave a distinctive mark, such as by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other recognized characteristics.
- Section 151,146 Performance Standards for all Development (H)(6)(C)(d)(1) of the LCC requires that all proposed public road rights-of-way, buildings, structures, driveways, and parking areas shall be set back at least 30 feet from the ordinary high water mark with a tributary drainage area of 20 acres or more.
- Section 151.113(C)(2)(a) of the Lake County Code (LCC) requires that the minimum interior side and rear setbacks for accessory structures on conforming lots shall be six feet.
- Section 151.113(L)(2) of the Lake County Code (LCC) requires that retaining walls (i.e., walls that support fill) shall be set back a minimum of four feet from all property lines at a maximum height of six feet, unless site conditions warrant a modification of these requirements, in which case, the Planning, Building and Development Director shall be authorized to allow a reduced setback and/or increased height. However, the Lake County Code allows this type of request to be deferred to the Zoning Board of Appeals. Given the number of variances and the extent of deviation requested by the applicant and the potential interest of the public in the request, the Planning, Building and Development Director has deferred this application request to the Zoning Board of Appeals.

STAFF COMMENTS

Mark Mussachio – Health Department

- The Health Department has no objections to the variance requests.

Andrew Heuser – Engineering Division

- The Engineering Division has no objection to these variance requests. The project is within the Regulatory Floodplain and a site permit will be required.

David Modrzejewski – Building Division

- The Building Division has no objection to the variance requests.

RECOMMENDATION

In Staff's opinion, variance request #3 meets the approval criteria for variations specified in Lake County Code Section 151.056(C)(4) and recommends approval of this variance. However, staff is compelled to recommend denial of variance requests #1, 2, 4, and 5 since, in staff's opinion, these requests do not meet the required approval criteria for variations specified in Lake County Code Section 151.056(C)(4) for the following reasons:

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

Comment: **Variance requests 1, 2, 3, 4 and 5:**

The subject property is a conforming lot in the R-2 zoning district. The house was constructed adjacent to a steep lakeside bluff. This topography is somewhat unique to the portion of the Channel Lake shoreline abutting the subject property and surrounding properties in the vicinity. This exceptional condition necessitates the use of retaining walls and other grading features to stabilize the bluff.

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

Comment: **Variance Request 3:**

The bluff runs the length of the subject property from side to side, and all portions of the bluff along that width are subject to erosion and subsidence. As such, requiring retaining walls to meet the 4-foot side yard property line setback would fail to prevent erosion and subsidence of the unsupported side-yard portions of the bluff.

Variance Requests 1 2, 4, and 5:

As noted above, a steep lakeside bluff crosses several residential lakefront lots along this section of Spring Grove Rd. There are currently ten other residentially improved properties along Spring Grove Rd. which have similarly steep terrain and use retaining walls to stabilize the bluff. However, the applicant's request for construction of a singular fourteen-foot wall is significantly out of scale and context with the overall pattern of using a series of terraces and retaining walls found on the other properties located along Spring Grove Road and other properties on Channel Lake as a whole. None of those retaining walls match the 14-foot height of the wall constructed on the subject property.

In addition, while a portion of the retaining wall previously located on the west side of the subject property and adjacent to the neighboring property, had been built within the 30-foot ordinary high water mark setback, the newly constructed wall intrudes further into the setback and has increased this nonconformity.

Further, there is sufficient area available between the house and the ordinary high water mark to create a space for outdoor enjoyment. While utilizing the taller retaining wall may be desired by the applicant to create a level surface for a patio, it is possible to design such a space in a way that would comply both with the wall height and OHWM setback requirements and thus obtain a reasonable use of the property.

In light of the above, there is no practical difficulty inherent with the parcel itself that constitutes a hardship that would warrant granting the requested retaining wall height and water's edge setbacks.

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

Comment: **Variance Request 3:**

The bluff requires stabilization. Neighboring properties have constructed retaining walls that meet the LCC height limits and that are at a 0-foot setback from the side yard property lines. Constructing a retaining wall on the subject property, that meets the LCC height limit and at a 0-foot setback from the property line would have no negative impact on neighboring properties and is in keeping with the neighborhood character.

Variance requests 1, 2, 4 and 5:

The LCC's "Purposes and Intentions" Section contains several provisions relevant to the proposed retaining wall's height and location. Specifically, in relevant part, Section 151.005 provides that the LCC is intended to protect the health, safety, and general welfare of existing and future residents of the unincorporated area of Lake County by: "... (D) *Regulating the intensity of uses and structures through density, intensity, dimensional, and open space standards ...*", "... (E) *Protecting landowners from any adverse impacts associated with development that occurs in unincorporated Lake County...*", and "... (R) *Providing adequate privacy, light, and air...*". The project must be considered within the context of its immediate surroundings, which is typified by site improvements of a much smaller size and scale.

Ultimately, the requested retaining wall constructed as part of the patio platform at a height of over 14 feet with a 2.4-foot side yard setback would be significantly out of character with the other homes along Spring Grove Rd. and the neighborhood in general, and variations to allow the retaining wall and patio at the proposed location and dimensions could be detrimental to the surrounding properties. In particular, the location and size of the proposed retaining wall and patio may have a significant negative visual impact upon the adjacent property owners by introducing a development that crowds the house to its west and by creating a partial visual barrier to the adjacent lakefront, and otherwise impairing the use of surrounding properties through the interruption of natural light at various times of the day. Approval of the requested variances would also potentially set a future precedent for other similar requests along the shores of Channel Lake and in the immediate vicinity of the property. As such, the variation requests are not in harmony with the general purpose and intent of the LCC.

RECOMMENDED CONDITION

In the event the Board grants the proposed variances, staff recommends the following condition:

1. The location of the patio shall be consistent with the site plan accompanying ZBA application #000952-2024.
2. The portion of the shoreline modified to function as compensatory storage shall be inspected at 5-year intervals after its installation to assure that the area has not been filled and continues to function as designed.