



March 7, 2024

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

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

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CASE NO: #000946-2024

HEARING DATE: March 14, 2024

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

- 1.) Reduce the west side yard setback from 5 feet to 2.5 feet as measured from the eave, to allow for the reconstruction of a fire damaged house.
- 2.) Reduce the west side yard setback from 4 feet to 1.42 feet to accommodate an existing air conditioning unit.

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#### GENERAL INFORMATION

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OWNER: George Moldovan

# OF PARCELS: One

SIZE: 0.19 acres, per Lake County's Geographical Information Systems

LOCATION: 42509 N FOREST LN, IL 60002

PIN: 0110109007

EXISTING ZONING: Residential-1 (R-1)

EXISTING LAND USE: Single family home.

PROPOSED LAND USE: The applicant is proposing to re-construct a single-family home that had been destroyed beyond 50% of its value.

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#### **SURROUNDING ZONING / LAND USE**

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EAST: Open Space (OS) / Fox River

NORTH: Residential-1 (R-1) / Single-Family Residential

SOUTH: Residential-1 (R-1) / Single-Family Residential

WEST: Residential-1 (R-1) / Single-Family Residential

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#### **DETAILS OF REQUEST**

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ACCESS: Direct access is provided via W. Forest Ln.

NONCONFORMING LOT: The subject property is a nonconforming lot due to lot area and width.

FLOODPLAIN / WETLAND: The property contains a small area of mapped floodplain along the Fox River at the east edge of the lot.

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

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#### **ADDITIONAL COMMENTS**

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- The minimum interior side setback for a structure on a nonconforming lot is a function of the lot width. Lake County Code Section 151.233(C)(1)(b) specifies the minimum interior side setback shall be four feet or 10% of the lot width, whichever is greater. In this instance, 10% of the lot width is 5 feet.
- The house is a nonconforming structure because it intrudes into the side yard setback. Per Section 151.232 (E) Nonconforming Structures, if a nonconforming structure is destroyed by disaster to the extent of more than 50% of the replacement cost of the structure located above the average ground elevation, it may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located, or in compliance with 151.232 subsection (H).
- Per 151.232 (H) (1) (b), A legal nonconforming single-family dwelling on a foundation may be restored if deteriorated, damaged, or destroyed to an extent greater than 50% of the

replacement cost of the structure, provided that the following standard is met: The restored structure is located at least ten feet from the street lot line and at least four feet from the side and rear lot lines. The structure does not meet the minimum 4-foot setback.

- Per Section 151.131 (C) (3) (j) Heating units, cooling units, and generators may encroach into required setbacks, provided they do not encroach more than three feet into a required setback and are located at least four feet from all lot lines.
- The applicant is proposing to reconstruct a single-family fire damaged home in its existing location. According to assessment records, the house was built in 1957 and according to these records, the house was remodeled in 1982. Building permit records are not available for improvements made before the 1990s.

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### **STAFF COMMENTS**

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Miriam Vega – Health Department

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

Andrew Heuser – Engineering Division

The Engineering Department has no objection to the variance requests. Additional documentation regarding the floodplain will be required as part of the permit review and additional floodplain regulations may apply.

Hayden Greene – Building Division

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

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### **RECOMMENDATION**

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In Staff's opinion, the application meets the approval criteria for variations specified in Lake County Code Section 151.056(C)(4) and recommends approval of the variances for the following reasons:

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

Comment: Variance request 1:

The subject property is a nonconforming lot due to not meeting the minimum lot area and width for the zoning district.

The house was constructed in 1957 before the current dimensional standards were adopted. The building's walls do not run parallel to the lot lines and the house encroaches into the required side yard setback, 2.5 feet from the lot line at its closest point.

Variance request 2:

An air conditioning condensing unit was installed within the minimum required setback for cooling units sometime before 2000 and before the current dimensional standards were adopted.

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

Comment: Variance request 1:

While the house was destroyed beyond 50% of its value, a substantial portion of the house remains intact, including the portion of the structure within the required side setback.

Requiring the owner to move or reconfigure the structure to meet the setback would either negatively impact the site, possibly by (1) damaging the septic system and roots of the mature tree which is near the house or (2) impact the functionality of the home's living space by creating impractically dimensioned rooms.

Variance request 2:

There is no location along the western wall of the house on which the condenser unit could be relocated to meet the required setback. While it could be located somewhere along one of the other walls, these walls are located near the home's outdoor communal spaces. The noise generated by the unit would be a disruption if placed in those locations.

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

Comment: Variance requests 1 & 2:

Granting the variances will confirm legal non-conforming status to the house and air conditioner condensing unit, allow the owner the opportunity to restore his property, and will have no appreciable impact on neighboring properties.

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**RECOMMENDED CONDITION**

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In the event the Board grants the proposed variance, staff recommends the following conditions:

1. The location of the structure shall be consistent with the site plan accompanying ZBA application #000946-2024.