

Mon, Jun 19, 2023, 7:00PM

**Item 23-0608: 4029 E. Calumet St. (31-9-5812-00) The applicant proposes to construct a drive through in the front yard**

**Item 23-0609: 709 S. Memorial Dr. (31-3-0384-00) The owner proposes to alter the lot lines between this property and 703 S. Memorial Dr.**

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**Scott Engstrom (BOZ Member) 01:51**

And Kurt, if you would read the first action item. Again this is Calumet street which has been taken—or we anticipate being withdrawn. Kurt, if you would just read it, please and then we will take action.

**Supervisor Kurt Craanen (Inspections) 02:06**

Sure the applicant proposes to construct a drive-thru in the front yard section 23-49(a) of the zoning ordinance prohibits drive-thru facilities in the front yard. And staff recommends the case be administratively withdrawn.

**Scott Engstrom (BOZ Member) 02:18**

Noting that staff recommendation, I will entertain a motion to approve the administrative withdrawal of that first action item.

**Karen Cain (BOZ Member) 02:27**

So moved.

**Scott Engstrom (BOZ Member) 02:28**

Okay.

**Kevin Loosen (BOZ Member) 02:28**

Seconded.

**Scott Engstrom (BOZ Member) 02:29**

Moved and seconded. We'll take a vote. Miss Cain?

**Karen Cain (BOZ Member) 02:34**

Aye.

**Scott Engstrom (BOZ Member) 02:34**

Mr. Sperl?

**Kelly Sperl (BOZ Member) 02:35**

Aye.

**Scott Engstrom (BOZ Member) 02:35**

Mr. Loosen?

**Scott Engstrom (BOZ Member) 02:36**

And I'll vote aye as well. That's four eyes. The matter is administratively withdrawn.

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**Kevin Loosen (BOZ Member) 02:36**

Aye.

**Scott Engstrom (BOZ Member) 02:44**

So then Kurt, I believe we would move to the second action item, the only one that we're going to actually address here substantively tonight. And if you would please read that for us.

**Supervisor Kurt Craanen (Inspections) 02:55**

Owner proposes to alter the lot line between this property and 703 S Memorial Drive. The lot coverage of the proposed new parcel will be 55%. Section 23-95(g)(2) of the zoning ordinance limits lot coverage to 50%.

**Scott Engstrom (BOZ Member) 03:10**

Okay. Ma'am, are you the applicant? It—please feel free to come up and stand at the podium. We have the microphone ready for you. And if you could just introduce yourself and your relationship to the property.

**Barb Kolosso 03:25**

My name is Barb Kolosso. And I am the trustee of my parents.

**Scott Engstrom (BOZ Member) 03:32**

Okay, and what can you tell me about your application?

**Barb Kolosso 03:36**

All right, my parents bought the properties—the 709 Memorial Drive in the 70s. They put a pool in their backyard in like 1975. The pool is on the property of 709, and the equipment for the pool is in their garage on 703 South Memorial.

**Scott Engstrom (BOZ Member) 03:58**

Okay. And can you describe a little bit about what you're asking of the board?

**Barb Kolosso 04:07**

What we're trying to do is break the lot line to include the pool with the 703 South Memorial Drive property so we can eventually settle my parents' estate. They're both deceased. At this point, neither property is sellable the way it is.

**Scott Engstrom (BOZ Member) 04:31**

Can you explain that a little bit, why they're not sellable?

**Barb Kolosso 04:34**

Because if the pool's on one property and all the equipment—it's an inground pool. So all the equipment is on the other property.

**Kelly Sperl (BOZ Member) 04:42**

I'm assuming the pool is still operational.

**Barb Kolosso 04:45**

Yes.

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**Karen Cain (BOZ Member)** 04:46

And the equipment's not movable? It's...?

**Barb Kolosso** 04:48

No. I don't. Yeah, no.

**Kelly Sperl (BOZ Member)** 04:51

Not without a pretty large expense?

**Barb Kolosso** 04:52

Right, right.

**Scott Engstrom (BOZ Member)** 05:06

Can you describe each of these lots a little bit? I mean, what—are there any unique characteristics that the lots have? We have these—we have maps here that we can take a look at. But can you describe them a little bit? Because I believe that Kurt has explained that in order to grant a variance, there has to be a hardship. A lot of times a hardship will relate to the physical dimensions or nature or layout of the property itself.

**Barb Kolosso** 05:31

Sure. I think I think we're just trying to get a variance to leave the pool there. Because like I said, the 709 property the pool's on, but they don't have the equipment to run the pool. And 703 property has the equipment, but then they won't have the pool.

**Scott Engstrom (BOZ Member)** 06:01

Kurt, do you know if a permit was ever requested when the pool was originally put in? Or what the...?

**Supervisor Kurt Craanen (Inspections)** 06:07

I did speak to somebody associated with your family I believe. I don't have a permanent file. But our digital records go back to 1981-'82. This pool she said I think it was built in the 70s.

**Barb Kolosso** 06:22

Yeah. It was 1975.

**Supervisor Kurt Craanen (Inspections)** 06:24

Possibly there was a permit taken out, but I don't have any record of it.

**Scott Engstrom (BOZ Member)** 06:27

Okay.

**Supervisor Kurt Craanen (Inspections)** 06:29

I think if this is altered, we may ask for a permit just to make sure it meets the setbacks. I think that's why they're—it made the lot on 709 a little smaller, because they're trying to meet the setbacks of our ordinance to fit the pool in there.

**Barb Kolosso** 06:57

I'm sure he had a permit. I have no idea where it would be. You know, my dad died in 2001. We've had—you know, I wouldn't even know where to start to look.

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**Karen Cain (BOZ Member)** 07:12

I'm sorry if I missed it. But Are you the owner at 703 as well?

**Barb Kolosso** 07:16

Yeah, they owned—my parents owned both properties.

**Scott Engstrom (BOZ Member)** 07:19

And I believe they're both held in a trust now. Correct?

**Karen Cain (BOZ Member)** 07:19

Okay.

**Barb Kolosso** 07:22

Yes.

**Scott Engstrom (BOZ Member)** 07:22

Okay.

**Kelly Sperl (BOZ Member)** 07:47

So it's just 709 that's has a 5% overage on the coverage? And do we know what the other percentage is? I mean, is it right at 50%? Or—for 703?

**Supervisor Kurt Craanen (Inspections)** 08:01

What it is, like—what 703 is?

**Kelly Sperl (BOZ Member)** 08:05

Yeah.

**Supervisor Kurt Craanen (Inspections)** 08:08

I'm not sure. It was surveyed. I think we could probably get that information.

**Kelly Sperl (BOZ Member)** 08:13

I mean the reason I ask is just wondering if you could—that boundary between the east side of the pool and the west side of 709, if you could jog it to give some percentages back.

**Supervisor Kurt Craanen (Inspections)** 08:32

They usually don't like jogging.

**Kelly Sperl (BOZ Member)** 08:33

I was gonna say, it gets messy, and...

**Supervisor Kurt Craanen (Inspections)** 08:35

I think they have some language that this is not a good practice to do that, to make...

**Karen Cain (BOZ Member)** 08:41

They want to retain that L shape?

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**Supervisor Kurt Craanen (Inspections) 08:43**

Yeah, yeah. You don't want to make irregular shapes.

**Kelly Sperl (BOZ Member) 08:47**

I was just thinking if you could pull the south lot line of that little bump out for the pool up to the north and keep some of that percentage in 709. But yeah, that's not—that's not desirable either.

**Karen Cain (BOZ Member) 09:18**

Kurt, am I right in stating that the reason for this ordinance is, one, just to not be overdeveloped and, two, soil permeation?

**Supervisor Kurt Craanen (Inspections) 09:28**

You talking about the lot coverage? Yeah. Every zoning district has a minimum lot coverage. And I think in some ways, it's to make sure someone doesn't pave their entire lot.

**Karen Cain (BOZ Member) 09:39**

Right.

**Supervisor Kurt Craanen (Inspections) 09:39**

Okay. Because you want to have some green space just for aesthetics and community standards. And you got to set up some kind of number to stick with. And part of that is drainage. So when it rains, not all of the, you know, the water is going into our storm sewers. It's absorbed into the ground.

**Karen Cain (BOZ Member) 10:05**

Barbara, the area to the—sorry, I think it's the south of the pool, looking at the diagram, it's below the pool. Is that green space there?

**Barb Kolosso 10:15**

In the back of it?

**Kelly Sperl (BOZ Member) 10:20**

To the south side of the pool.

**Karen Cain (BOZ Member) 10:21**

Yeah, there's a square there that looks empty. Is that just green space?

**Kelly Sperl (BOZ Member) 10:28**

In the corner below the pool and behind the existing garage 709. That's where I was talking about if you could jog that property line and bring some of that green space—because I'm sure that's green space.

**Barb Kolosso 10:39**

Behind the pool you mean? Yeah, that's all grass.

**Kelly Sperl (BOZ Member) 10:42**

Yeah. But as Kurt said, that's kind of a—they don't like to do that either.

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**Scott Engstrom (BOZ Member) 11:11**

So I think a little bit of the reason that we're struggling here is because the—a hardship can't be financial, in that we can't rely on that. So making it unsellable or unsaleable, while that's something that is obviously not desirable, or none of us would see as desirable, it's not something we can really consider for purposes of a hardship. So we're trying to get a better sense of is there any sort of dimensional limitation or anything that kind of speaks to the purposes of the code that would permit a variance to be granted? Is there anything not financially related that you can think of that would support this application?

**Barb Kolosso 11:54**

I think it's—I don't think so. You know, unfortunately, when he put that in, you know, I think my dad was planning on doing this years ago and obviously he never did.

**Scott Engstrom (BOZ Member) 12:06**

Sure.

**Barb Kolosso 12:06**

But you know, if everything is left the same, we'd have to take the pool out.

**Scott Engstrom (BOZ Member) 12:11**

Okay.

**Barb Kolosso 12:28**

Right now because my parents owned both properties that two backyards are actually one big backyard. It's fenced in all the way around.

**Karen Cain (BOZ Member) 13:13**

Am I right in seeing that that the square section below the pool, south of the pool, is basically 28 feet, 28 inches—I would say—by about 28 feet?

**Kelly Sperl (BOZ Member) 13:24**

Yeah.

**Karen Cain (BOZ Member) 13:24**

Is that what you're seeing too?

**Scott Engstrom (BOZ Member) 13:52**

Have you spoken to any neighbors or any other adjoining properties?

**Barb Kolosso 13:57**

My parents know the neighbor on Fourth Street. My—that's owned by my parents also.

**Scott Engstrom (BOZ Member) 14:04**

Okay. So you're not aware of any objection or anyone else reaching out? Kurt, there was no one that reached out or...? Okay.

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**Karen Cain (BOZ Member) 14:23**

I think it's a little bit of semantics based on, you know, we're just kind of putting different pieces of the puzzle together. Is there a way that we could say for the record that 709—the lot on 709, there could be no further development there. I mean, I feel like...

**Kelly Sperl (BOZ Member) 15:03**

Well, I think that that happens by default doesn't it, Kurt? Because if we give this variance for the percentage that it is, and then it's maxed out at that point then. If somebody came for a permit, they would deny the permit.

**Karen Cain (BOZ Member) 15:17**

For the same reason.

**Kelly Sperl (BOZ Member) 15:18**

Right. Yeah. Because it would be 5% over the—yeah.

**Kevin Loosen (BOZ Member) 15:33**

Could it say 703 couldn't be further developed so that little area of green space that's there doesn't get built on? So it's still going to be run off for 709.

**Kelly Sperl (BOZ Member) 15:45**

I don't know what you build on that in the back corner like that, anyway.

**Kevin Loosen (BOZ Member) 15:48**

Someone could put a shed there or something.

**Kelly Sperl (BOZ Member) 15:49**

Well, that's true.

**Kevin Loosen (BOZ Member) 15:50**

You know, so what if we put something in variance saying that that couldn't be allowed?

**Kelly Sperl (BOZ Member) 15:53**

I think that—you know, I think a little bit of the hardship is here is the progression of time and codes and things that just happened over, you know, a number of decades in this area. And I think, as a result, you've got this, and as the applicant said that, you know, they own all three of those parcels and it's kind of all blended together. So I think as a result of the passing of time and, you know, wanting to sell these—I think, you know, I guess it's in a sense owner created, but I think if you look at the percentages—if that back corner is roughly 800 to 1000 square feet, if you were to tag that back corner, and, you know, the lots are about 8800 square feet. 10% of that is 800 square feet or eight almost 900 square feet. So technically, you could pick that corner up, but because of the fact it's not good practice in civil design to do that, I think we're limiting—you know, it would be limiting 709 from picking up that corner and then being compliant.

**Karen Cain (BOZ Member) 17:47**

Which also is not the fault of the owner.

**Kelly Sperl (BOZ Member) 17:49**

Correct

**Karen Cain (BOZ Member) 17:50**

And causes further hardship.

**Kelly Sperl (BOZ Member) 17:52**

Correct. I think that to me is where this becomes a scenario where—again, it's really because of good, the good practice design type with civil engineering and record keeping for lot sizes and configurations.

**Kelly Sperl (BOZ Member) 18:17**

So if you—you know, if you could take that back, that southwest corner, back into lot 9—or I'm sorry lot 709, parcel 709, or address 709 then it would be compliant. So...and then we wouldn't, I guess we wouldn't need the variance or wouldn't be here if we could do that. I don't know if anybody else sees, feels that way or?

**Scott Engstrom (BOZ Member) 18:56**

Another part I'm struggling with is it's only 5% that they're asking.

**Kelly Sperl (BOZ Member) 19:00**

Right.

**Karen Cain (BOZ Member) 19:27**

Do you know is the existing garage for 709, Is that a two-car garage?

**Barb Kolosso 19:31**

Yes.

**Kelly Sperl (BOZ Member) 19:52**

You're right, the percentage is so small that...

**Karen Cain (BOZ Member) 20:13**

I would tend to agree with you, Kelly. You know, the pool installation and the equipment being on two different lots, I think is we could attribute that to seller home—or rather homeowner created. But to your point, the way that we parcel things out now, that that has nothing to do with what the homeowners has done or not done.

**Kelly Sperl (BOZ Member) 20:38**

Right, the good. I—

**Scott Engstrom (BOZ Member) 20:39**

The ground kind of shifted under them a little bit.

**Kelly Sperl (BOZ Member) 20:42**

Yeah, yeah, exactly.

**Kelly Sperl (BOZ Member) 20:50**

So, Scott, at this point in time, I would entertain or take—I would make a motion to approve this for the for the description of what I said that, you know—and as you said—the percentage is real small, and if, if we were not paying attention to good practical civil engineering design and record keeping for that west lot line at 709, they could pick that southwest corner up and be compliant.

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**Scott Engstrom (BOZ Member) 21:18**

For formality, I will acknowledge the motion. So I will take a second.

**Kevin Loosen (BOZ Member) 21:23**

I'll second it.

**Scott Engstrom (BOZ Member) 21:24**

Okay, motion and second. So we'll take it to discussion. I also wonder if there's something to the argument that because it's 709, making the petition, if the petition isn't granted that there is a detriment to 703, which is a non-petitioner. So there—in that sense, there's a hardship almost being imposed by not granting it on a neighboring property. Granted, they are the same—it's owned by the same person.

**Scott Engstrom (BOZ Member) 21:59**

And I, you know, I do look at the purpose of the variances ordinance, you know, allowing relief from the strict application of the zoning ordinance, "as will not be contrary to the public interest." I don't see any public interest that would be harmed by granting it. "Owing to the special characteristics of the property or use." Again, I think that's kind of a little bit of a struggle for me, but I think you have articulated some of those characteristics, and I definitely think the practical difficulty component of that purpose—section subsection 23-67(a)—that not granting it could result in a practical difficulty for the property owner.

**Scott Engstrom (BOZ Member) 22:50**

Are there any further thoughts or anything else that anyone would want to put on the record? Okay. So I have a motion to approve and a second, and I will—hearing no further comment, I will take a vote. Mr. Sperl?

**Kelly Sperl (BOZ Member) 23:09**

Aye.

**Scott Engstrom (BOZ Member) 23:10**

Mr. Loosen

**Kevin Loosen (BOZ Member) 23:10**

Aye

**Scott Engstrom (BOZ Member) 23:11**

Miss Cain?

**Karen Cain (BOZ Member) 23:13**

Aye.

**Scott Engstrom (BOZ Member) 23:14**

I will vote aye as well. So you have four aye votes. You are able to proceed as requested, and we don't have anything further. Good luck.

**Barb Kolosso 23:26**

Thank you very much.