CALL TO ORDER – ZONING BOARD OF APPEALS

ROLL CALL for the Zoning Board of Appeals: Randy Mohr (Chair); Scott Cherry, Karen Clementi, Tom LeCuyer, Donna McKay, Dick Thompson and Dick Whitfield

MINUTES: Approval of minutes from the July 27, 2015 Zoning Board of Appeals meeting

PETITIONS:

1. **15-13 Gary Kritzberg**
   Request: Variance from front yard setback for a garage
   Location: 1211 Game Farm Road, Yorkville
   Purpose: To construct a garage in the front yard

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD

NEW BUSINESS/ OLD BUSINESS

PUBLIC COMMENT

**ADJOURN ZONING BOARD OF APPEALS**- Next meeting on September 28, 2015
CALL TO ORDER
At 7:00 p.m., Chairman Randy Mohr called the Zoning Board of Appeals meeting to order.

ROLL CALL
Members present: Randy Mohr (Chairman), Scott Cherry, Karen Clementi, Donna McKay (Vice-Chair) and Dick Thompson
Members absent: Dick Whitfield, Tom LeCuyer
Also present was: Mike Hoffman-Teska Associates, Inc.
In the audience:

MINUTES
Chairman Mohr asked if there were corrections. Mr. Thompson noted a couple grammatical corrections, and a voting correction. Motion to approve April 27, 2015 corrected minutes by Karen Clementi, seconded by Donna McKay. Approved 5-0.

PETITIONS

1. 15-13 Gary Kritzberg
Request: Variance from front yard setback for a garage
Location: 1211 Game Farm Road, Yorkville
Purpose: To construct a garage in the front yard

Mr. Hoffman stated that Mr. Kritzberg wants to build a garage in his front yard. His property slopes back to Blackberry Creek. The petitioner wants to locate the garage within six feet of the right-of-way which would be within the normal setback for structures. Staff has proposed three other locations that could be done besides the location requested by the petitioner. The first two sites, A and B, would not require variances. Site A was rejected by petitioner as he would like to divide his property into another lot sometime in the future. Site B was rejected by the petitioner due to a significant amount of landscaping and underground utilities being present. Site C would require a variance but would be about thirty feet back from the right-of-way. This would be consistent with some of the other buildings in the area. Site C would be staff’s recommendation. Petitioner did not like staff’s proposal and wished to stay with his original proposal. The County is currently awaiting comment from the United City of Yorkville as it is surrounded by Yorkville and may be annexed by them in the future. Mr. Hoffman stated it would be ready by the next meeting. Yorkville staff was apparently comfortable with County staff’s recommendation.
Chairman Mohr stated that as he has known Mr. Kritzberg for a long time. Due to his personal relationship he will recuse himself from any discussions and voting; however, he will do his duty as Chairman to bring the vote to the Zoning Board of Appeals. He then asked if there were any additional questions for staff before opening the meeting for public comment.

Ms. Clementi asked if it was possible to get a GIS map for the next meeting for the Zoning Board of Appeals. Mr. Hoffman stated he would inquire.

Ms. McKay asked if staff was aware of Yorkville setback requirements. Mr. Hoffman stated as it was not zoned in the City he could not give a definitive answer. He continued that adjacent properties were typically zoned residential which required a forty foot setback. He finished that the County’s required setback for this property is fifty feet.

Chairman Mohr opened the meeting for public testimony. Chairman Mohr noted that staff spoke to Mr. Krtizberg and told him he did not have to attend the meeting as it would be continued.

Ms. McKay made a motion to continue the public hearing to the next meeting. Mr. Cherry seconded. **Approved 5-0.**

**REVIEW PBZ APPROVALS BY COUNTY BOARD & CHANGES** – No changes

**NEW BUSINESS/OLD BUSINESS** –

Ms. Clementi spoke on the trailer from case 15-10: Frank Schmalz. It has been moved and some lawn care has been undertaken. She asked for an update from staff. Mr. Hoffman stated that he Mr. Schmalz is currently looking into moving the trailer into the backyard and has gotten his truck operating.

**PUBLIC COMMENT** - There were no additional comments by members in the audience.

**ADJOURNMENT OF THE ZONING BOARD OF APPEALS** - Next meeting will be on August 31, 2015.

Ms. McKay made a motion to adjourn the Zoning Board of Appeals meeting, Ms. Clementi seconded the motion. Chairman Randy Mohr adjourned the Zoning Board of Appeals meeting at 7:12 p.m.

Respectfully Submitted,

Andrez P. Beltran
Economic Development and Special Projects Coordinator
15-13
Gary Kritzberg
VARIANCE- Front Yard Setback for Garage

SITE INFORMATION

PETITIONER  Gary Kritzberg
ADDRESS      1211 Game Farm Road, Yorkville
LOCATION

TOWNSHIP  Bristol
PARCEL #  02-29-276-010
LOT SIZE  3.675 acres
EXITING LAND USE  Single Family Home
ZONING  A-1 Agricultural District

<table>
<thead>
<tr>
<th>LRMP</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roads</td>
<td>Game Farm Road is currently under construction, with a 3 lane cross section planned in front of this home</td>
</tr>
<tr>
<td>Trails</td>
<td>A trail was recently constructed on the east side of Game Farm Road. No sidewalk exists on the west side of the street</td>
</tr>
</tbody>
</table>
REQUESTED ACTION

Request for a variance to allow a garage within the front yard setback. Required setback is 50’, request is to reduce the setback to 33’ from R.O.W. to accommodate the garage.

APPLICABLE REGULATIONS

Section 5.15B – Development of Non-Conforming Lots – notes that the R2 setback requirements apply to single family homes in the A-1 District if they were constructed prior to the adoption of the ordinance – which is the case for this property.

Section 8.07.E. – R2 Yard Areas, which requires a 50’ front yard.
Section 13.04 – Variation procedures and requirements

SURROUNDING LAND USE

<table>
<thead>
<tr>
<th>Location</th>
<th>Adjacent Land Use</th>
<th>Adjacent Zoning</th>
<th>LRMP</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Single Family Residential</td>
<td>A-1</td>
<td>Suburban Residential with Natural Resource Overlay</td>
</tr>
<tr>
<td>South</td>
<td>Single Family Residential</td>
<td>A-1 and R3</td>
<td>Suburban Residential</td>
</tr>
<tr>
<td>East</td>
<td>3 Single Family Residential Homes, RR Drywall &amp; Painting, Hillside Nursing &amp; Rehab</td>
<td>R2 and Office in Yorkville</td>
<td>Urbanized Area (Yorkville)</td>
</tr>
<tr>
<td>West</td>
<td>Open Space (Blackberry Creek Flood Plain)</td>
<td>A-1</td>
<td>Suburban Residential with Natural Resource Overlay</td>
</tr>
</tbody>
</table>

GENERAL

The normal building setback in the A-1 District is 100’ from the right-of-way. However, Section 5.15B of the zoning ordinance notes that “a lot which was established in an agricultural district by recorded deed or is part of an approved plat of subdivision, or was otherwise legally established on or before the adoption of this amendatory ordinance, may be used for single family residence purposes provided that the yard requirements of the R-2 District are complied with. That is the case here, so the 50’ front setback in the R-2 District is the relevant setback.

While this property was platted to the centerline of Game Farm Road originally, the City of Yorkville recently acquired 36’ of right-of-way in front of Mr. Kritzberg’s home to accommodate roadway improvements. The City is nearing completion of this improvement, which includes a 3-lane cross section with curbs and a bike path on the east side of the street. No sidewalk exists on the west side (Kritzberg) side of the street, and according to the property owners no sidewalk is planned given topography and the fact that a wider bike path was constructed on the east side of the street.

While originally proposed for the north side of the lot, the petitioner has amended the request by shifting the location of the proposed garage to the south side of the property. The proposed garage location is approximately 33’ from the newly acquired Game Farm Road right-of-way, and approximately 10’ off the southern property line. The garage door would face Game Farm Road, and would require a new curb cut. The applicant has stated they have discussed this potential curb cut with the United City of Yorkville. While no specific architectural plans have been provided, the property owner has described the proposed garage as a coach house –type structure designed to blend with the existing home. The structure will be designed as a flexible space, which can be used for indoor play activities or crafts, as well as the storage of a vehicle in winter. The approximately size of the garage will be 14’ x 24’. No indoor plumbing of any kind is planned.

As can be seen from the air photograph, neighboring homes and garages typically have less than the 50’ setback required for this property. The home immediately to the south appears to have a 26’ setback, and homes across the street in Yorkville have setbacks ranging from 35’ to 40’.

While a large property, steep slopes and flood plain (Blackberry Creek) on the north and west sides of the property make much of the lot inappropriate for development. Several alternative locations have been suggested by staff. Two of these potential locations would have avoided the need for a variation. The first is on the south end of the property (labeled “A” on the air photo), where the existing vegetable garden is located.
However, the property owner plans to rezone and subdivide off an additional single family lot in this area in the future. As he is not sure where the home would be located, this suggested garage location could be problematic with future improvement plans. The second option discussed is just south and east of the existing attached garage (labeled “B” on the attached exhibit), near where the existing parking pad is located. Photographs of this area are included below. The concern the owner has with this location is it would require removal of a couple of nice trees and landscape, and the relocation of other existing landscape improvements (perennials and shrubs). Per the owner, there are also buried utilities in this area including electric and cable. Staff was unable to find any specific drawings or plans showing these utilities, but a visual inspection of utility poles in the right-of-way and the location of connecting boxes on the house suggest that utilities do exist in this area.

A third alternative, labeled “C” on the air photo, was also suggested by staff. This location would still be within the 50’ setback, but would require only about a 20’ variance (vs. the 38’ variance originally requested). Mr. Kritzberg was not comfortable with this proposed location for aesthetic and dimensional reasons (he felt that this alternative would not work well for them as it did not have sufficient depth before the slope to keep the same garage dimensions they have proposed). This location would also require relocation of an existing driveway light. After the July ZBA meeting, staff and Mr. Kritzberg meet on site to discuss an additional alternative location – labeled “D” on the following page. Based on these discussions, Mr. Kritzberg has modified his application to request a variance to allow him to build the garage in location “D”. This location meets the side yard setback requirement of 10’. In addition, an existing row of mature evergreen trees is located along this property line and will be preserved to provide a buffer to the adjacent home. The garage will be located 33’ from the right-of-way (a 17’ variance), and will require installation of a new drive and curb cut. This location will be well screened from motorists traveling either south or north along Game Farm Road by existing vegetation. The garage door will face Game Farm Road.

Site Photographs of Existing Parking Pad and Extensive Landscaping at Southwest Corner of Garage – image on the left is looking from in front of existing attached garage to the southwest – image to the right is looking west along the south driveway
Site Air Photo with Topography (top) Proposed Garage Location (bottom)
BRISTOL TWP.

Staff has not received any response from the Township

YORKVILLE

Since the property is generally surrounded by the City of Yorkville, the application was provided to the City for review. It was reviewed by staff and the Yorkville Plan Commission on August 12th, and the City Council on August 25th. A staff memo summarizing their recommendation is attached. In short, they are supportive of the front setback variance request, but not the proposed new curb cut.

ZPAC

ZPAC reviewed the case on 7/7/15 and was generally comfortable with the variance request provided it was acceptable to the City of Yorkville.

ZBA

The ZBA opened the Public Hearing on July 27th and continued their hearing until August 31st to allow Yorkville time to provide input.

RECOMMENDATION

Given the extensive landscaping on the site and screening offered by the proposed location, coupled with the pattern of development in the area, County staff is supportive of the proposed 17’ front yard setback variance to allow for the proposed garage. Staff understands the applicant’s desire for a garage, and the selection of the proposed location given site topography and other site constraints. We would suggest the following conditions:

A. If a driveway is to be installed, written evidence shall be provided to the PBZ Department that a curb cut onto Game Farm Road in the proposed location will be allowed by the United City of Yorkville.

B. That the Evergreen Tree buffer along the south edge of the property be maintained, including replacement of trees in the future as needed.

FINDINGS OF FACT

§ 13.04.2 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to grant variations. They are listed below in italics. Staff has provided some preliminary findings in bold below based on our recommendation to modify the request to relocate the proposed garage to location “D” as shown on page 4 of this report and grant a 17’ variation from the required 50’ front yard setback. Depending on additional evidence provided at the public hearing and input from the City of Yorkville, these draft findings may need to be modified.

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. The topography of this property limits potential locations of any structure on this property. However, the proposed provides an alternative that considers the unique character of the property and minimizes the required variation.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. This is a unique property within the County’s A-1 Zoning District, as it is generally surrounded by the City of Yorkville. This location, plus the unique topographic conditions of the property do not exist on most other A-1 zoned property in the County.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. Recent right-of-way acquisition by the City of Yorkville which increased the setback from the original property line (center of the road) was not a hardship created by the owner. Likewise, the current owner had no influence over the unique topography of the site or the placement of the home on the property, both of which limit potential garage locations.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The proposed garage location will have a significant landscape buffer from both the adjacent home to the
south and from Game Farm Road. The proposed variation and resulting garage setback will generally be consistent with other such structures in the area.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. The proposed variation will not impact the supply of light or air to adjacent property. This proposed garage will have no impact on traffic, as it is for a car that is currently stored outdoors on the property. Given the existing landscape buffering and proposed construction materials that will match the existing home, the improvements should not diminish or impair neighboring property values.

ATTACHMENTS
1. Plat of Survey
2. Yorkville Staff Report
Staff Recommendation Summary:

Staff has reviewed the memorandum from Kendall County Planning and Zoning and the subsequent documents attached. This property is located within one and a half miles of the planning boundary for Yorkville allowing us the opportunity to review and provide comments to Kendall County. The petition is a request for a variance to allow a garage structure within the front yard setback. The required Kendall County setback is 50’ and the request is to reduce that setback to 6’ from R.O.W. to accommodate the garage structure. The County has informed the City that the petitioner has revised the location of the garage structure and will now be requesting that the setback of 50’ be reduced to 33’ from R.O.W.

The current 2008 Yorkville Comprehensive Plan designation for this property is Suburban Neighborhood and Parks/Open Space. After reviewing the memo from the County, staff evaluated the petition as if it were annexed into the City under the R-1 zoning classification. The Yorkville Zoning Code front yard setback in R-1 is 40 feet, similar to the County’s regulation. After reviewing the County’s recommendations, city staff would be in favor of reducing the front yard setback from 50’ to 33’. City staff would not be supportive of the current request of adding an additional driveway and curb cut on Game Farm Road. The petitioner currently has two curb cuts onto Game Farm Road to service the property. An additional curb cut would be uncharacteristic of the surrounding properties and it is not in the City’s general practice to grant more than two curb cuts for residential properties. At this time, the City staff is not acceptable to another curb cut onto Game Farm Road.

This item was delivered to the City on July 23, 2015. This item was heard at the July 7, 2015 Kendall County Zoning, Platting & Advisory Committee (ZPAC) meeting at the County Office Building and was scheduled for a public hearing at the Zoning Board of Appeals meeting at the County on July 27, 2015 but the County staff requested that the item be continued to the August 31, 2015 meeting to allow time for the City’s feedback.

Plan Commission Recommendation:

This item was discussed at the August 4, 2015 Economic Development Committee and was in concurrence with City staff and the County’s recommendation of supporting a setback of 30 feet. This item was then discussed at the August 12, 2015 Plan Commission meeting where the Commissioners were also in concurrence with staff regarding the setback proposed at 33 feet from the new Game Farm Road right-of-way. However, during the meeting, the Plan Commission expressed support of the Petitioner’s request for a third curb cut onto Game Farm Road. While the setback variance is subject to Kendall County review and approval, as the
property is unincorporated, the requested additional curb cut onto Game Farm Road would require issuance of a City permit by the Public Works Department. Staff will be available to answer any questions the City Council may have regarding the County Petition.

**Attachments:**
1. Kendall County Planning and Zoning Memo with Attachments.