

**CITY OF WAUKESHA****Administration**

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Committee: Board of Zoning Appeals	Date: 2/1/2021
Item Number: ID#21-1585	Date: 2/1/2021
Submitted By: Maria Pandazi, City Planner	City Administrator Approval: Kevin Lahner, City Administrator
Finance Department Review: Bridget Souffrant, Finance Director	City Attorney's Office Review: Brian Running, City Attorney
Subject: The appeal of Michael Collier for a dimensional variance from section 22.58(2)(J)(3) of the zoning code. If granted the variance would allow a solid fence which was built in the street yard at 235 Richard Street to remain when solid fences are not permitted in street yards.	

Details: 235 Richard St. is zoned Rs-3 Single Family Residential. It is located at the corner of Richard St. and S. Grand Ave. The house faces Richard St. and the property is unusually wide, over 150 feet, along that frontage. On the west side frontage, facing S. Grand, the width is 85 feet at the street, but it tapers so it is only 52 feet on the east side. The house just barely meets the 25-foot street yard setback on the front and is set back between 17 and 26 feet back from the rear lot line, well under the 40 foot minimum setback. The house was built in the early 1960's, so it predates the current zoning ordinance. As a result of this lot configuration the rear yard has an area of roughly 1100 square feet. The side yard to the east of the garage has additional area of roughly 2,000 square feet where a privacy fence could be located. Typical rear yards in the surrounding neighborhood are between 4,000 and 6,000 square feet.

A privacy fence was built in 2007, mostly within the rear yard but extending about five feet into the street yard facing S. Grand Ave. The fence ordinance was approved in its current form several years before that, so it did not qualify as a legal non-conforming structure, but nobody ever complained to the city and no enforcement action was taken. Last year the applicants expanded the fence to the edge of the sidewalk, to give more space in the rear yard. The new fence stands six feet high from the top of small retaining wall at the edge of the yard. The department received a complaint about the fence from a property owner whose variance request for a similar fence was denied last year.

The applicants have stated that they built the fence in the street yard facing S. Grand Ave. rather than the side yard area because a utility pole and low hanging power lines in the side yard make it impossible for their children to use it fully, specifically for practicing sports activities.

Options & Alternatives:

Financial Remarks:**Staff Recommendation:**

If the applicant proves a hardship exists, the Board may consider granting a variance to allow the fence to remain in the street yard at 235 Richard St.