

CITY OF WASHINGTON

PLANNING & DEVELOPMENT DEPARTMENT

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MEMORANDUM

TO: Mayor Manier and City Council
FROM: Jon R. Oliphant, AICP, Planning & Development Director
SUBJECT: First Reading Ordinance – 407 Edgewood Court Horse Stable Variance Request
DATE: October 9, 2018

Summary: Bernard Behrends of 407 Edgewood Court has requested a variance of the zoning code requirement that there be a minimum of five acres to house horses on a residential property. Horses are allowed in the R-1 zoning district if there is a minimum of five acres and upon approval of a special use. Staff recommends denial of the proposed variance.

Background: Mr. Behrends has inquired about housing horses on his property. The property is 3.09 acres in size and is zoned R-1 (Single- and Two-Family Residential). The zoning code was amended in 1987 to require, by special use, a minimum of five acres in order to have horses on a residential property. A building permit was issued in 1990 for the construction of a barn that is currently on the property. The permit application on file notes that the construction was for a "horse stable." Mr. Behrends purchased the property in 1996.

The petitioner has indicated that there were previously horses on the property. While staff cannot verify that, a resident in attendance at the October 3 Planning and Zoning Commission (PZC) meeting indicated there were horses on the property many years ago. While this property is considerably larger than those nearby, much of it is wooded and not usable. GIS shows approximately one acre containing the built improvements or being open space.

The zoning code allows for a maximum of one horse per acre, provided there is a minimum of five acres. The special use process allows for other conditions to be placed on its operation if approved. It is questionable whether there is sufficient space for at least one horse to be housed on the property. While there does not appear to be a national standard, one acre of open space per horse appears to be the minimum recommended. The subject property's location within a denser subdivision provides more caution to allowing the horses. Due to these factors, staff recommends denial of the proposed variance.

The PZC held a public hearing on the variance request at its meeting on October 3 and voted 4-2 to recommend denial. There were two residents that attended that spoke against the request. A petition was also submitted by one of the residents and signed by other neighbors asking for denial of the variance. A first reading ordinance is scheduled for the October 15 City Council meeting followed by a second reading on November 5. If the variance were approved, the petitioner would then need to seek a special use starting with a public hearing through the PZC.

Enclosures

ORDINANCE NO. _____

(Adoption of this ordinance would grant a variance at 407 Edgewood Court allowing for a waiver of the regulation that requires a minimum of five acres of real estate to permit a horse stable as a special use for any parcel in the R-1 district.)

**AN ORDINANCE GRANTING A VARIANCE FROM THE TERMS OF THE ZONING CODE OF
THE CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, TO THE PROPERTY
LOCATED AT 407 EDGEWOOD COURT TO ALLOW A VARIANCE FOR A WAIVER OF THE
REGULATION THAT REQUIRES A MINIMUM OF FIVE ACRES TO PERMIT A HORSE
STABLE AS A SPECIAL USE IN THE R-1 DISTRICT**

WHEREAS, Bernard Behrends has petitioned the City Council for a variation from the literal terms of the Zoning Code of the City of Washington for the waiver of the regulation that requires a minimum of five acres of real estate to permit a horse stable as a special use located at 407 Edgewood Court in the City of Washington; and

WHEREAS, the Planning and Zoning Commission did on October 3, 2018, hold a public hearing for the purpose of hearing testimony regarding the granting of the variation to the property located at 407 Edgewood Court in the City of Washington, pursuant to property notice; and

WHEREAS, the Planning and Zoning Commission voted 4-2 in recommending against the granting of a variance to the City Council and directed city staff to prepare an ordinance; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WASHINGTON,
TAZEWELL COUNTY, ILLINOIS**, does make the following specific findings of fact:

Section 1. The Petitioner, Bernard Behrends, is the owner of the property located at 407 Edgewood Court in the City of Washington, Tazewell County, Illinois, which is more particularly described as follows:

Legal Description: SEC 20 T26N R3W SHERWOOD MANOR SUBD E 191' LOT 10 & 11, LOT 12 (EXC 160 X 40 IN NW COR) & LOTS 13, 14, 15, & 16 SE ¼

PIN: 02-02-20-406-023

Section 2. That the findings and recommendations of the Planning and Zoning Commission are accepted and the findings of fact made by the Planning and Zoning Commission are made a part of this ordinance.

Section 3. That Section 154.056 (O)(2)(a) of the Code of Ordinances of the City of Washington, provides, in part, that horse stables may be established in the R-1 district provided that the parcel of real estate seeking a special use classification contains a minimum of five (5) acres.

Section 4. That the real estate described herein consists of approximately 3.09 acres.

Section 5. That the granting of the variance will not alter the essential character of the locality within which the property is located.

Section 6. The facts show there are practical difficulties which would result in a particular hardship if a variation were not granted.

PASSED AND APPROVED in due form of law at a regular meeting of the City Council of the City of Washington, Tazewell County, Illinois, on the _____ day of _____ 2018.

Ayes: _____

Nays: _____

Mayor

ATTEST:

City Clerk

CITY OF WASHINGTON, ILLINOIS

APPLICATION FOR VARIANCE

To have a complete application for a variance, you must submit the following:

- Signed and completed application
- Plat showing subject property and proposed site improvements
- Ownership documentation (lease, deed, mortgage, etc.)
- Application fee of \$100 payable to the City of Washington

Name(s) of Applicant(s): Bernard Charles Behrends

Phone Number of Applicant: 304-339-1489

Address of Applicant: 407 Edgewood Ct. Washington, Ih. 61571

Owner of Property: same as above

Address of Owner: same as above

I would like to receive correspondence by: ☒ Mail ☒ Email

Email Address: bernbehr53@yahoo.com

Property Tax ID (PIN) number: 02 - 02 - 20 - 406 - 023

Current zoning classification of the property: residential

Current use of the property: owner occupied

Describe how your property cannot yield a reasonable return, if it is required to be used only under the general conditions of your zoning classification:

I Purchased property because I could have horses, Horse barn, special pastures for diet, Fencing and electric inner Fencing. Property on market and interest is in Keep horses. The value of the Property is diminished without original zoning. Keeping

To the best of your knowledge, can you affirm that the hardship described above was not created by an action of anyone having property interests in the land after the Zoning Ordinance became law? Yes ☒ No ☐

If "no," explain why the hardship should not be regarded as self-imposed. (Self-imposed hardships are NOT entitled to variations.)

Describe how your situation is unique or different from any other property: The value (substantial) of property has been ~~the~~ Negatively affected by the Zoning Change

Describe the alteration or change, if any, in the basic character of the neighborhood the variation, if granted, would make:

None - There are seven Homes on dead end Rd. and my property is at dead end. House between Rd. and pastures setting pastures back from Rd.

Describe the nature of the variation you are requesting (attach dimensioned site plan):

Residential ~~to~~ Variance To Allow Horses on less Than five Acres

PUBLIC HEARING: Your case will be referred with staff's recommendation to the next regularly scheduled Planning and Zoning Commission (PZC) meeting for a public hearing. The PZC meets the first Wednesday of every month at 6:30 p.m. at the Washington District Library meeting room at 380 N. Wilmor Road. At the PZC meeting, you will present your request. A variance cannot be granted by the PZC unless the PZC finds, based upon the application and evidence presented at the public hearing, that a strict application of the terms of the Zoning Ordinance imposes practical difficulties or particular hardship. The following are examples of variances that can be granted:

1. To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown of record.
2. To permit the reconstruction of a nonconforming building which has been destroyed or damaged to an extent of more than fifty percent (50%) of its value, by fire or act of God, or the public enemy, where the PZC shall find some compelling public necessity requiring a continuance of the nonconforming use, but in no case shall such a permit be issued if its primary function is to continue a monopoly.
3. To make a variance, by reason of exceptional narrowness, shallowness or shape of a specific piece of property of record, or by reason of exceptional topographical conditions the strict application of any provision of this chapter would result in peculiar and exceptional practical difficulties or particular hardship upon the owner of such property, and amount to a practical confiscation of property, as distinguished from a mere inconvenience to such owner, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the general purpose and intent of the comprehensive plan as established by the regulations and provisions contained in the Zoning Ordinance.
4. To interpret the provisions of this chapter where the street layout actually on the ground varies from the street layout as shown on the district map fixing the several districts.
5. To waive the parking requirements in the business or industrial districts whenever the character or use of the building is such as to make unnecessary the full provision of parking facilities or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or convenience.
6. To permit a building to be erected, reconstructed, altered, or enlarged so that the building lines would extend beyond the distance specific in this chapter into side yards or into front yards; provided that such variance may not be granted:
 - a. Unless there is a building in the block that extends beyond the distance from the front street line specified in this chapter, in which case the building line may be permitted to extend as near to the front street line as such nonconforming building;
 - b. Unless the lot is irregular in shape, topography, or size; or
 - c. Unless the street line of the lot is directly opposite the street line of a lot which is irregular in shape, topography, or size.
7. To permit in any district such modifications of the requirements of the regulations of this chapter as the Board may deem necessary to secure all appropriate development of a lot where adjacent to such lot on two or more sides there are buildings that do not conform to the regulations of the district.

Certification: To the best of my knowledge, the information contained herein, and on the attachments, is true, accurate, and correct, and substantially represents the existing features and proposed features. Any error, misstatement, or misrepresentation of material fact or expression of material fact, with or without intention, shall constitute sufficient grounds for the revocation or denial of the proposed Variance.

Signature of Applicant

Date



Signature of Owner

9-6-18

Date

After receiving a completed application, the City Clerk will file notice of your request with the local newspaper and with the adjoining property owners. If you have any questions, please contact Becky Holmes, Building and Zoning Supervisor, at (309) 444-1122.



SCHOOL ST.

EDGEWOOD CT.

PEACH ST.

900

930
920
910

970

871

105

100
102

104

108

945

923

101
103
105

102
104

1037

1065

1091

401

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413

Blue line indicates approximately 1.52 acres of usable property on the 3.09 acre parcel. Note the change in contour lines as they get into the wooded ravine area of the property.

