

MINUTES
BOARD OF ADJUSTMENT
JULY 7, 2011

THOSE IN ATTENDANCE:

Gary Soule, Chairman
Victor Cohen
Anne Martin
Mel Disney
Anne Bishop

Jason Jaggi, Senior Planner
Kevin O'Keefe, City Attorney

Chairman Soule called the meeting to order at 5:00 p.m. He welcomed everyone to the meeting, introduced himself and asked that the other members of the Board and staff introduce themselves.

Chairman Soule stated that the members of this Board are appointed by the Mayor and approved by the City's Board of Aldermen and serve without monetary compensation. He stated that the applicant must demonstrate practical hardship with regard to the property in order to justify the granting of a variance. He then advised that this is a duly advertised, duly noted meeting and that the proceedings are of record. He indicated that there is a full compliment of the Board this evening and that four members must vote in favor of the variance in order for it to be granted. He noted that there was one application to be heard this evening and verified that the applicant was in attendance.

MINUTES

The minutes of the meeting of May 5, 2011 were presented for approval. The minutes were approved, as amended, after having been previously distributed to each member.

AN APPLICATION FOR AN APPEAL FROM RONALD & KAREN POLISHUK FOR THE PROPERTY AT 630 LANGTON DRIVE

Karen Polishuk, owner, was in attendance at the meeting.

Those wishing to speak this evening regarding the appeal were sworn in by the recording secretary.

Chairman Soule asked Jason Jaggi to provide an overview of the appeal.

Jason Jaggi began a PowerPoint presentation, stating that the proposal is for the construction of a 10 X 11 composite deck to be located between the basement window wells and the A/C unit that will connect to the existing stoop/steps. A slide depicting the existing conditions was presented. Jason noted that the subject 1 story structure was built in 1955. A slide depicting the variance

request (3.4-foot variance beyond the 12' setback encroachment allowance for decks) was presented. Jason indicated that he would like to address a mathematical issue in that the 3.4-foot determination was based on subtracting 12 foot (allowance) from 15.4-feet (distance from rear property line); however, if 12-feet is subtracted from 30-feet, the result is 18-feet and 18-feet from 15.4-feet equals 2.6-feet (versus 3.4-feet). Therefore, a case could be made that the variance request is only 2.6-feet and not 3.4-feet, although he recommends granting the 3.4-foot variance to allow the deck to be located no closer to the rear property line than 15.4-feet. A slide depicting the subject property as shown on the zoning map and a slide depicting an aerial view of the subject site were presented. Jason explained that the subject property contains a rear yard garage and the neighbor has a side entry garage; otherwise, the properties are similar.

Chairman Soule asked if the City had any exhibits to present.

City Attorney O'Keefe noted that the City had the following exhibits to offer into evidence:

- A. City's Code of Ordinances; specifically the Zoning Regulations, Board of Adjustment Article
- B. Section 405.1900.2(a) of the R-2 Single Family Dwelling District Zoning Ordinance regulations;
- C. Application for variance along with all supporting documentation;
- D. City files including staff report.

Chairman Soule asked if there were any objections to these exhibits.

None were received.

Chairman Soule noted that since there are no objections, these exhibits will be entered into the record.

Ms. Polishuk introduced herself. She stated that she has the smallest lot in the subdivision and only a tiny area to work with and that they have nowhere to go enjoy the outside; no patio, no deck. She stated that as an appraiser, she is aware that the property value will increase with the addition of a deck. She added that it is not a large deck and that her small yard is totally fenced in. She presented a note from her neighbor (640 Langton) supporting her proposal. (marked as Applicant's Exhibit No. 1). Ms. Polishuk reiterated the difficulty in enjoying their back yard as it is currently.

Chairman Soule asked if there were any questions.

Anne Martin asked where the Holden's live.

Ms. Polishuk replied "to my right".

Chairman Soule asked if there is a practical difficulty/hardship with regard to this appeal.

Jason Jaggi replied “yes”, stating the difficulty of the lot with regard to its shape and shallow depth.

Chairman Soule asked if granting the variance would observe the spirit of the Zoning Ordinance and secure public safety and welfare.

Jason Jaggi replied “yes”, stating that the Zoning Regulations allows for exterior decks and that this deck is not excessive in size nor is it out of scale with the property.

Chairman Soule asked if deviation from strict application of the Zoning Regulations authorized by the variance would not constitute a change in the district map, impair an adequate supply of light and air to adjacent property, increase congestion in public streets, increase the danger of fire, materially diminish or impair established property values within the surrounding area and would not in any other respect impair the public health, safety, comfort, morals and welfare?

Jason Jaggi replied “no”, stating that decks are a typical component of residential structures.

Chairman Soule asked about alternatives.

Jason Jaggi indicated that alternatives were discussed; however, placing a deck in the back yard without the need for a variance would result in covering the window wells (which serve as egress from the basement of the home) or being placed where the existing A/C unit is. Jason stated that the proposed location for the deck is appropriate.

Ms. Polishuk informed the members that their basement is finished and that the window well area is the only direct access to the exterior.

Chairman Soule asked if there were any other questions.

Being no further questions or comments, Chairman Soule made a motion to grant a 3.4-foot variance beyond the allowance of 12-feet for decks so as to allow the deck to be placed 15.4-feet from the rear property line. The motion was seconded by Mel Disney and unanimously approved by the Board.

The variance was granted.

Being no further business for the Board of Adjustment, this meeting adjourned at 5:25 p.m.

Recording Secretary