

Board of Zoning Appeals
Public Hearing Meeting
August 24, 2015
Minutes

The Regular BZA Meeting was called to order by Chairman Stanard at 6:02pm.

PRESENT AT ROLL CALL: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mr. Stanard
ABSENT: Mayor Renda

Others Present: Rick Loconti, Building Commissioner, Aimee Lane, Assistant Law Director, Jeff Filarski, Village Engineer, Sherri Arrietta, Clerk of Council

Mr. Bolek made a motion seconded by Mr. Stanard to approve the minutes from the Regular BZA Meeting of July 27, 2015.

ROLL CALL:

AYES: Mr. Bolek, Mr. Stanard, Mr. Pogatschnik

NAYS: None

ABSTENTIONS: Mrs. Cooper, Mr. Fritz

MOTION CARRIED

At this time, Mrs. Lane administered the oath to those who wanted to speak at the hearing. Chairman Stanard declared the public hearing open at 6:04pm.

Lyons Residence

55 Riverstone Drive

Area Variance –

Rear Yard Setback (Deck)

Mr. John Peterson with Exscape Design was present at the meeting. He stated that Mr. and Mrs. Lyons are proposing to build a deck at the back of their residence which will extend a little over 3 feet into rear yard setback. Mr. Peterson stated that the Lyons live on a corner lot which does not have a traditional layout. The back property line is heavily wooded with Evergreen trees and therefore the adjacent house can barely be seen.

There was no one present wishing to speak; therefore Chairman Stanard declared the public hearing closed at 6:06pm.

Mrs. Cooper disclosed that she is a neighbor of the Lyons, living across the street on Quail Hollow. She stated that her house is set pretty far back and there are Evergreens between her house and the Lyons' house; however she stated that she would recuse herself, if preferred. Mr. Stanard stated that he did not think it necessary for Mrs. Cooper to recuse herself, however, he would defer to Mrs. Lane. Mrs. Lane stated that since a board member received a notice regarding a variance, it certainly raises the issue of a possible conflict of interest. She stated that it can be handled one of two ways; for the member to recuse themselves or to identify the issue and ask the applicant if there is any objections if the member were to participate. Mrs. Lane asked Mrs. Cooper if she feels that she would have a conflict. Mrs. Cooper stated that she does not feel she would be biased, since the distance is pretty great between their properties, but if anyone has a problem with it, she will certainly recuse herself. Mrs. Lane stated that Mrs. Cooper can participate as no one has an objection.

Mr. Fritz asked if northeast view is looking toward neighbor's house. Mr. Peterson stated that it is. Mr. Bolek asked about the view in the other picture provided. Mr. Peterson stated that the Lyons did have concrete patio in that area shown in the picture, but it was removed. Mr. Bolek asked if that is the same area where the deck will be going. Mr. Peterson stated that the deck will be somewhat in that area, however, the deck will extend about 2 feet further than the old patio. Mr. Peterson stated that no trees will need to be removed. Mr. Stanard reported that the Village Architect approved the drawings with no notes. Mr. Loconti stated that he visited the site and he could not see the neighbor's house from the area where the deck will be located.

Mrs. Lane asked when the Lyons purchased property. Mr. Peterson was unsure; Mrs. Cooper stated that she thinks they purchased the home probably about 10 years ago to which Mr. Peterson agreed.

At this time Mrs. Lane read the findings of fact. Mrs. Lane stated that Steve and Nancy Lyons have requested a variance of the rear yard setback requirement as set forth in Section 1151.13, seeking a 42 inch variance for constructing a deck on the rear of their house. The following findings are as follows:

1. Special circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district.

2. Specifically the house is situated very close to back property line and has been constructed at a rather strange configuration on lot making the rear yard very narrow.
3. The property will yield a reasonable return and there can be beneficial use of the property without the variance, however, in order to create an appropriate size and usable deck, the variance is necessary.
4. The variance is insubstantial being just less than 3.5 feet and the testimony provided shows that there is an existing patio that currently extends into the required setback.
5. The essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer substantial detriment as a result of the variance.
6. The variance would not adversely affect the delivery of governmental services.
7. The property owner did not purchase the property with the knowledge of the zoning restrictions.
8. Special conditions or circumstances do not exist as a result of the owner's actions.
9. The owner's predicament can be feasibly obviated through some method other than a variance, but as previously stated, the variance is necessary in order to create an appropriate sized and usable deck.
10. The spirit and intent behind the zoning requirement will be observed and substantial justice will be done by granting the variance.
11. Granting the variance will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
12. A literal interpretation of this Code would deprive the applicant rights commonly enjoyed by other properties in the same district.

Mrs. Cooper made a motion seconded by Mr. Stanard to approve the findings of fact

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, , Mr. Stanard

NAYS: None

MOTION CARRIED

Mr. Fritz made a motion seconded by Mr. Bolek to approve the 3 foot 6 inch (42 inch) rear yard setback variance for the deck located at 55 Riverstone Drive.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mr. Stanard

NAYS: None

MOTION CARRIED

Mrs. Cooper made a motion seconded by Mr. Bolek to adjourn the meeting at 6:17pm.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mr. Stanard

NAYS: None

MOTION CARRIED

Respectfully Submitted,

Sherri Arrietta, Clerk of Council