

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, January 18, 2012

Call to Order

The January 18, 2012 BZA meeting was called to order at 7:02 p.m.

Those members present: John Barnhart, Gary Meyer, George Prentice, and Prue Dana.

Those members excused: Todd Hollenbaugh.

Staff members present: Jung-Han Chen, and Amy Blankenship.

Staff members excused: None.

Executive Session

Mr. Barnhart made motion to adjourn to Executive Session at 7:03 p.m. Ms. Dana seconded the motion. All were in favor.

Mr. Prentice made motion to reconvene to regular meeting at 7:09 p.m. Mr. Barnhart seconded the motion. All were in favor.

Mr. Meyer asked that the record show that the BZA met during an Executive Session to discuss pending legal litigation and the election of officers. During the Executive Session everyone agreed that the election of officers should be postponed until a full quorum was present. Mr. Meyer stated that agenda item "Election of Officers" would be removed from the agenda.

Ms. Dana made motion to approve the agenda as amended. Mr. Barnhart seconded the motion. All were in favor.

Adjudication Hearing(s)

BZA-01-2012 38 Christopher Drive, Variance to Section 1143.02(c)(2)(B) Minimum rear yard setback, Sheila Croucher, Applicant

Mr. Barnhart made motion to adjourn to BZA-01-2012. Ms. Dana seconded the motion. All were in favor.

Mr. Chen reported that the Applicant wished to construct a screen porch over an existing wood deck. Mr. Chen reported that during the zoning review it was realized that the existing deck exceeded the required rear yard setback. The Applicant stated that the deck existed when she purchased the home. Mr. Chen noted that there was no record to determine when the deck was installed. The home was built in 1994 and the Applicant purchased the property in 1997. Mr. Chen added that this was a substantial variance as the minimum rear yard setback is 35 feet and the proposed porch is approximately 23 feet from the rear lot line. Mr. Chen referred to the lot's narrowness and that anything the Applicant would want to do she would have to go before BZA, which would include installing one step at the rear entrance of her home.

Mr. Barnhart reiterated that the deck was present when the current owner purchased it and that the 12' footprint already existed. Mr. Barnhart inquired if we could order the deck to be removed. Mr. Chen stated they could certainly proceed with that avenue.

Mr. Meyer swore in the Applicant. Ms. Croucher stated she had purchased the home in 1997 and that every house on the same side of the street had a deck and same sized yard.

Mr. Barnhart inquired if most had fences. Ms. Croucher stated some do.

Ms. Croucher stated that she was asking for the 12' where the deck already exists. Mr. Chen referred to the site plan in the packet where lot coverage detail is provided.

Mr. Prentice inquired if any neighbors had screened porches. Ms. Croucher stated that no one on her side of the street did.

Ms. Croucher stated that the adjacent property owners offered their support for this hearing. Ms. Croucher noted that the neighboring properties were concerned with the outcome of her case and if they could be told to remove their decks.

Mr. Barnhart made motion to reconvene to regular meeting. Ms. Dana seconded the motion. All were in favor.

Ms. Dana inquired if there were many decks in that neighborhood built the same way, same size. Mr. Prentice inquired if there were any concerns at the time of building. Mr. Chen stated he was not sure. Mr. Chen noted that even if at the back door the Applicant wished to install a couple of steps that they would encroach into the rear yard setback.

Ms. Dana felt the sunroom would be an enhancement to the home.

The BZA deliberated and made the following Findings of Fact:

1. The subject property will yield a reasonable return and can be used beneficially without the variance.
2. The variance is substantial.
3. The request would not affect the essential character or substantially alter the neighborhood, and adjoining properties would not suffer a substantial detriment as a result of the variance. Most other properties in the neighborhood have decks on the back of their homes and same sized lots.
4. The variance would not adversely affect the delivery of government services.
5. The property owner did not purchase the property with the knowledge of the zoning restriction. The existing deck existed at time of purchase.
6. The property owner could not obviate the issue through some other method other than the variance.
7. The spirit and intent of the Zoning Code would still be observed, and substantial justice would be done, by granting the variance.

Ms. Dana made motion approve BZA-01-2012 38 Christopher Drive, variance to Section 1143.02(c)(2)(B) to allow a covered porch encroach into the rear yard setback based on criteria #3, #4, #5, #6, #7 of the Decision Standards.

Mr. Meyer added an amendment to state "to approve the Variance as submitted in the reviewed

drawings". Mr. Barnhart seconded the motion.

AYE: Mr. Barnhart, Ms. Dana, Mr. Prentice, Mr. Myer (4)

NAY: None (0)

ABS: None (0)

Approval of Minutes of the December 14, 2011 Regular Meeting

Ms. Dana made motion to approve the minutes as written. Mr. Barnhart seconded the motion. All were in favor.

Old Business

There was none.

New Business **- 2011 Year End Summary Report**

Ms. Dana thanked staff for the BZA annual report.

Adjournment

Ms. Dana shared that City Council has been discussing boards and commissions' term limits.

Mr. Barnhart made motion to adjourn the BZA meeting. Ms. Dana seconded the motion. The meeting was adjourned at 8:02 p.m.