



MINUTES
BOARD OF ADJUSTMENT
CITY OF CREVE COEUR

March 15, 2012

A regular meeting of the Board of Adjustment of the City of Creve Coeur, Missouri was called to order by Chair Earl Schenberg at the Creve Coeur Government Center, 300 North New Ballas Road, at 7:00 p.m. on Thursday, March 15, 2012. The roll was called; Mr. Jaffe, Mr. Balk, Mr. Levy, and Mr. Davie were also in attendance.

Chair Schenberg stated that Mr. Davie was not present at the January 19, 2012 meeting and requested Mr. Davie to state that he has read the meeting's minutes and understands the issues discussed.

Mr. Davie confirmed that he has read the minutes.

Mr. Levy made a motion to approve the minutes of January 19, 2012. Mr. Jaffe seconded the motion, which unanimously carried.

UNFINISHED BUSINESS

Continued from January 19, 2012

A. Regarding property at 868 Larkin Avenue:

A request for a variance from the required 45-foot front-yard setback in the "C" Single Family Residential zoning district to allow for the new deck on the front of the existing home that has a legally pre-existing non-conforming front-yard setback of 30.61 feet, thereby reducing the setback to approximately 19 feet.

Applicant:	Qi Bo Ye	Applicant's	Hong T. Ye
	10820 Olive Blvd	Representative:	12074 Ladue Road
	Creve Coeur, MO 63141		Creve Coeur, MO 63141

Chair Schenberg reviewed that the applicants were given 60 days from the last meeting to amend their application and come up with alternative suggestions for the deck. He also reminded that one of the precepts of the Board is not to have the City to go forward with a bad precedent while trying to take the needs of residents into account.

Reporter Deborah McLaughlin swore in all parties who wished to address the Board.

Ms. Ye presented a revised drawing of the deck that reduced the encroachment toward Larkin Avenue.

She stated her belief that due to extremely small lot size, her property presents a unique situation that may require a unique solution. Ms. Ye was shown the permit by her contractor and did not

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have a reason to believe that anything was wrong. If the City inspector would have stopped the project at or near the beginning of construction, she would not be facing the loss of \$4,000 and not having this problem. Ms. Ye explained how the deck was built to provide safe outdoor environment for her two small children while at the same time alleviating her concerns about busy Olive Boulevard's traffic. She believes that the redesign will serve the intended purpose, and avoid a precedent-setting variance. Ms. Ye is not able to make radical changes to the deck due to finances. She considered the option of relocating the deck to the side of the house, but it appears that she will be faced with the same setback issues. She has invested considerable funds into improving the interior and exterior of the property and hopes that a way could be found for her to keep the deck. Ms. Ye does not think that her children will be safe outdoors without a deck, and has waited to find out the outcome of the meeting before moving into the house.

Brief discussion followed.

No comments or questions from the audience.

Ms. Kelly presented on behalf of the City. Ms. Kelly stated the variance request arose from the pre-existing non-conforming lot size. However, the applicant has not supplied any evidence to support the variance to the degree that she is requesting. Her reasons for variance are strictly personal and not due to the uniqueness of the property. Therefore, the Staff believes that the variance should be denied.

Mr. Levy stated that there is obviously a problem with the contractor misleading Ms Ye about passing inspections and disappearing. There is also a lack of follow up while the work has been done by the City.

Ms. Kelly replied that the contractor did provide false information on permit application. He indicated that the permit was to replace existing structure. She also added that the City would have to spend all of its time triple checking permit information if they had to second guess every contractor applying for permit. Also, Ms. Ye's reliance on false information from her contractor is not a valid reason for variance approval. It's an issue Ms. Ye needs to address with her contractor.

Discussion followed.

Attorney Carl Lumley clarified that exhibits regarding the Staff's report and the application were amended and/or updated since the January 19, 2012 meeting.

Chair Schenberg moved to approve the application for the property at 868 Larkin Avenue. The Applicant is Qi Bo Y and Hong T. Ye. For the variance requested, after having found from the evidence presented, that the requested variance arises from all the following circumstances:

- a. The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zoning district;
- b. The variance requested is because of a unique hardship not created by the applicant nor the owner of the property;
- c. The granting of the variance shall not adversely affect adjacent property owners or residents;

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- d. The strict application of the provisions of the Zoning Ordinance, from which a variance is requested, will cause severe practical difficulty or extreme hardship for the property owner represented in the application;
- e. The variance desired will not adversely affect the public health, safety, order, convenience, or general welfare of the community;
- f. Granting the variance desired will not violate the general spirit and intent of this Chapter.

In addition, by reason, Section 26-118.5, an applicant for an area variance must meet the following criteria:

By reason of exceptional narrowness, shallowness or shape of the specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually create a hardship to the property in a manner dissimilar to that of other similarly situated property in the zoning district in which it is located.

Granting the variance would not result in the diversion of additional storm water that would adversely affect adjacent property.

The motion was duly seconded with the resultant vote as follows:

Chair Schenberg -- nay	Mr. Jaffe -- nay	Mr. Levy -- aye
Mr. Balk -- aye	Mr. Davie -- aye	

Second motion was made by Mr. Levy to approve the Findings of Fact as presented by Staff. The motion was duly seconded, and it unanimously carried.

There being no further business to come before the board, upon motion being made and duly seconded, Chair Schenberg declared the meeting of the Board of Adjustment adjourned at 7:32 p.m.

The meeting was called back into order at 7:37 pm, to allow for a modification to the request.

Mr. Schenberg explained the side yard option, and Ms. Kelly and Mr. Langdon further clarified front and rear yard setback and fencing regulations. Mr. Schenberg moved that the Board grant a variance so that the front and rear yard setbacks for a deck would coincide with the setbacks of the existing structure and to amend the findings of facts accordingly.

The motion was duly seconded with the resultant vote as follows:

Chair Schenberg -- aye	Mr. Jaffe -- aye	Mr. Levy -- aye
Mr. Balk -- aye	Mr. Davie -- aye	

There being no further business to come before the board, upon motion being made and duly seconded, Chair Schenberg declared the meeting of the Board of Adjustment adjourned at 7:45 p.m.

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Attest: *Earl Schenberg, Chairman*


Recording Secretary