



city of **CREVE COEUR**

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**BOARD OF ADJUSTMENT OF
THE CITY OF CREVE COEUR**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

APPLICANTS: Haresh and Parneeta Bhatia, homeowners
SUBJECT PROPERTY: 432 Graeser Road, Creve Coeur, MO 63141
ZONING DISTRICT: B Single Family Residential
APPEAL: Setback Variance, to wit,

**VARIANCE REQUEST FOR THE PROPERTY AT 432 GRAESER ROAD TO ALLOW FOR
A COVERED REAR YARD DECK AT 15 FEET RATHER THAN THE REQUIRED 30 FOOT
REAR YEAR SETBACK FOR THE B SINGLE FAMILY DISTRICT**

HEARING DATE: January 21, 2021

FINDINGS OF FACT

1. The Applicants are homeowners of 432 Graeser Road, and were also represented by Rhonda Loggia, ReDESIGN Architecture Group, LLC, Architect for the project. Jason Jaggi and Whitney Kelly testified on behalf of the City.
2. The City submitted the following exhibits which were admitted into evidence:
 1. City of Creve Coeur Charter.
 2. Code of Ordinances of the City of Creve Coeur.
 3. The Creve Coeur Comprehensive Plan.
 4. The PowerPoint Presentations by Staff and the Applicant regarding the Request
 5. Staff's report to the Board, with The Board of Adjustment application and all attachments thereto.
 6. A collective Exhibit of materials received from the Applicant.
 7. The public comments received.
 8. Proof of public notice
3. The Applicant requests a variance to allow for a new covered deck partially within the rear yard setback, where the existing home and lot are pre-existing, non-conforming, and home was built on a flag lot at an angle, at one corner 15 feet from the rear yard. Section 405.260(E)(4)(e) of the B Single Family Residential Zoning District requires a minimum rear yard of 30 feet. The proposed deck will at its closest point to the property line not be closer than the existing building setback. Section 405.610.D, Nonconformities within Setback Lines, of the City of Creve Coeur Zoning Ordinance states that no such alterations to non-conforming structures are allowed.
4. The variance is needed because of a unique hardship not created by the applicant nor the owner of the property. The flag lot and angled construction resulted in the property having a non-conforming lot shape and setbacks inconsistent with the existing neighborhood.

5. The granting of the variance will not adversely affect adjacent property owners or residents in that proposed deck would not be closer than the existing home's setback and in part because this approval is made subject to the condition that the Applicants shall provide mitigation measures to assure there is no additional stormwater runoff due to the new deck.
6. The strict application of the provisions of the Zoning Ordinance from which a variance is requested, will cause severe practical difficulty for the property owner represented in the application in that the current situation of the home would otherwise preclude a standard and normally sized component of a residence. The unique characteristics of the property are not ordinarily found in the same zoning district and were not created by the applicant s.
7. Granting the setback variance to will not violate the general spirit and intent of this Chapter, which encourages investment and upkeep of properties. The variance desired will not adversely affect the public health, safety, order, convenience, or general welfare of the community.
8. Granting the variance will not result in the diversion of additional stormwater that would adversely affect adjacent property, given the condition of approval requiring mitigation of any such additional runoff.

CONCLUSIONS OF LAW

9. Pursuant to Section 89.090.1 R.S.Mo. and City Ordinance, the Board of Adjustment has jurisdiction to hear this appeal.
10. The Board of Adjustment is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made in the enforcement or interpretation of the Code, or where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the ordinances.
11. Appropriate notices were authorized and published by the City Clerk and mailed to all the residents and property owners in compliance with the City Code and the documents supporting those are on file with the City Clerk's office.

REPORT OF DECISION

12. The variance application to allow for construction within the rear yard setback to allow a new covered deck to be built on the existing home, provided that the Applicant mitigate any new stormwater runoff to the satisfaction of City staff, is hereby approved.
13. Notwithstanding the provisions of Section 405.260(E)(4)(e) of the B Single Family Residential Zoning District which require a minimum rear yard of 30 feet, the property owners may construct the deck as shown on the site plan and other materials submitted with the application for the request subject to all other applicable laws, ordinances and regulations and the condition of approval set forth herein.
14. The ayes and nays cast on the motion to grant the variance were as follows:

4 AYE

1 NAY

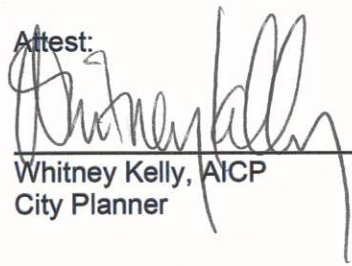
0 ABSENT

Name: Mr. Glenn Wilen (Chair) - Aye
Mr. Robert Mooney - Nay
Mr. Martin Satz - Aye
Ms. DP Villacis - Aye
Mr. James Kostelc - Aye

ADOPTED AND APPROVED AS OF THIS 21st DAY OF January, 2021.

Glenn Wilen
Chairman

Date of signature: _____

Attest:


Whitney Kelly, AICP
City Planner

**Glenn
Wilen**

Digitally signed
by Glenn Wilen
Date: 2021.01.23
11:45:11 -06'00'