

MINUTES
BOARD OF ADJUSTMENT
CITY OF CREVE COEUR
NOVEMBER 20, 2008

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, November 20, 2008.

Upon a request for Roll Call, the following members responded:

Mr. Earl Schenberg, Chair
Mr. Ted Brown, Vice Chair
Ms. Rhonda O'Brien
Mr. Roger Levy
Mr. John Becker

Mr. Brown made a motion, seconded by Mr. Becker, to approve the minutes of a regular meeting of October 16, 2008. With no corrections being heard, the minutes were approved.

Chair Schenberg outlined the procedures of the Board of Adjustment, stating that four affirmative votes are required for the granting of a variance.

The Affidavit of Publication was read by Chair Schenberg and marked as an exhibit.

Affidavit of Publication

1. To consider the appeal regarding property at 41 Auburndale Drive, requested by Pape Studio Architects, representing Stephen Wen and Tonya Russell, to allow the structural alteration of a front porch with a legally pre-existing, non-conforming front yard setback of approximately forty-four feet (44') where the required setback is fifty feet (50') per Section 26-30.5(c)(1), *Minimum Front Yard*, and no such alteration is allowed per Section 26-70.4, *Nonconformities within Setback Lines*, of the City of Creve Coeur Zoning Ordinance. The applicant is requesting the variance to allow for the pre-existing porch roof to be removed and replaced with one of a new design but still meeting the same, non-conforming setback.

Chair Schenberg requested all parties who wished to address the Board be sworn in. Whereupon, all parties to be heard were sworn in by Court Reporter Deborah McLaughlin.

Mr. Paul Langdon, Planning Director, pointed out that the Zoning Code says if a building has a legally pre-existing but non-conforming setback, the portion of that building that is within that setback should not be structurally altered without being brought into conformance. The purpose of the code is to try and encourage people doing major renovation to try to bring buildings into conformance without simply doing some basic maintenance. Mr. Langdon stated that this property is not unique in the City but it is unusual—not typical for this subdivision as most have larger setbacks. He pointed out that a number of houses on this street and within this area have been completely torn down and replaced with much larger structures that meet the current requirements. He stated that this property is becoming “out of step” with the rest of the street, and even those around it that have not been torn down have been substantially altered. He referred to the pictures in his staff report dated November 20, 2008. Mr. Langdon said no feedback from the neighborhood was received after the notice was done according to the requirements of the Zoning Code. A brief discussion followed.

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The City submitted the following exhibits into the record:

1. The Creve Coeur Comprehensive Plan.
2. The Creve Coeur Zoning Code.
3. The Board of Adjustment application submitted by Pape Studio Architects and all items submitted therewith, which includes correspondence from several neighbors indicating they have no objections.
4. Mr. Langdon's report to the Board dated November 20, 2008, including plans submitted with the application.

Mr. David Pape, architect, gave a brief history of what had transpired from the time Tonya and Steve bought the house, specifically that the survey incorrectly showed they had another ten feet to play with. Mr. Pape stated they used the survey to obtain a Building Permit for all the additions, as well as a permit to do a larger front porch. When they started laying the house out for the additions, he found out that the numbers did not add up. Before another survey was done, which showed the original survey had the house 15 feet too far forward, the builder had already started demolishing the front porch. He said they also found out that the addition to the garage would have been over the side yard building line as well, so the addition was immediately reduced. Mr. Pape spoke of the options they considered in trying to get the structure out of the 60's look and up to today's standards. He said they are asking to use the existing footprint.

Ms. Tonya Russell, the home owner, stated they purposely bought a ranch home because of their small children and a lot of elderly relatives that visit. They had intended to modify the existing home rather than build a two-story home, by changing the roof line to match the other proposed additions. She pointed out that if the house were demolished, several large trees in the back yard would also need to be removed.

Hearing no further questions, Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Pape Studio Architects, representing Steven Wen and Tonya Russell, 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 or the owner of the property;
- (c) The granting of the variance shall not adversely affect adjacent property owners or residents;
- (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, and
- (f) Granting the variance desired will not violate the general spirit and intent of this Chapter.

In addition, per Section 26-118.5, an applicant for an area variance or other non-use variances must meet the following criteria:

- (a) By reason of exceptional narrowness, shallowness or shape of the specific piece of property or whereby 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,

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- (b) Granting a variance would not result in the diversion of additional stormwater that would adversely affect adjacent property.

Ms. O'Brien seconded the motion, with the resultant vote as follow, to-wit:

Mr. Brown...aye Ms. O'Brien....aye Mr. Becker....aye
Mr. Levy...aye Chair....aye

Chair Schenberg announced the variance is granted.

Chair Schenberg made a motion, seconded by Mr. Levy, that the Board instruct the Planning Staff to prepare Findings of Fact and Conclusion of Law consistent with the opinion of the Board in this matter for execution by the Chairman of this Board and further that this Board shall instruct the Staff to mail the findings to the Applicant and all interested parties immediately upon execution by the Chairman. The motion unanimously passed.

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 7:22 p.m.

Attest

Earl Schenberg, Chairman

Pat Rosenblatt, Secretary