

MINUTES
BOARD OF ADJUSTMENT
CITY OF CREVE COEUR
SEPTEMBER 18, 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, September 18, 2008.

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

Mr. Earl Schenberg, Chair
Mr. Roger Levy
Mr. Richard Davie, alternate
Mr. Ted Brown, Vice Chair
Ms. Rhonda O'Brien

Mr. Brown made a motion, seconded by Mr. Levy, to approve the minutes of a regular meeting of June 19, 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 of Steve and Ann Deddens for the following variance request in Ordinance No. 1903, The Zoning Code, for the property located at 835 Deaver Lane. Section 26-32.5(c)(1) *Yard and Setback Requirements*. This section requires the front yard setback for any parcel in the "C" Single Family Residential District be forty-five (45) feet. The applicant is requesting a variance to allow for the construction of a new front porch approximately thirty-eight (38) feet from the front property line.

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, stated that this property is in the Olive Crest 1st Addition Subdivision and the houses were built before the enactment of the current Zoning Code and, as such, the majority does not meet all of the City's requirements. He pointed out that a nonconforming structure cannot be extended any closer to the street without first acquiring a variance. He added that the same section of the Zoning Code also speaks to structural alterations of any building within the setback and that tonight's variance would apply to the entire house--the second floor addition and window modifications, as well as the entrance. The variance would bring the entire structure into conformance if approved. Mr. Langdon had pictures of adjacent houses with similar extensions to show that the request of the applicant is not unusual within this neighborhood. He referred to the site plan and pointed out that the size requested is not out of character with the overhangs on other properties. He stated that the request is recognized as being appropriate in this area and even though they have made a voluntary choice to alter the pre-existing house, the existence of the nonconformity is not their doing. Mr. Langdon explained that the house sits about 40 feet from the street now and, with the variance, would be encroaching almost three feet into the setback, making a 37 foot setback for the entire house if approved by the Board. The footprint of the house does not change.

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The City submitted the following exhibits into the record:

1. City of Creve Coeur Charter.
2. Code of Ordinances of the City of Creve Coeur.
3. The Creve Coeur Comprehensive Plan.
4. The Board of Adjustment application and all attachments thereto.
5. Staff's report to the Board.
6. A collective exhibit of materials submitted by the applicant and any other witnesses.
7. A collective exhibit of materials offered by the opposition, if any.
7. All communications and letters received by the City to this point.

Mr. Steve Deddens, 835 Deaver Lane, submitted signatures from every house owner on the street in favor of the variance request. These signatures were marked as Applicant's Exhibit 1.

Mr. Deddens explained the reason they are requesting a variance is to widen the porch to protect more people from inclement weather. He pointed out that his requested front porch will align with his next door neighbor's porch to the south, and that the neighbor's porch to the north extends a farther than what he is requesting. He explained that a Building Permit was issued and the porch has been poured. A brief discussion followed.

Mr. Neil Breitweiser, Trustee of Olive Crest 1st Addition, stated all the neighbors and trustees are in full support of what the Deddens are trying to do. They believe it enhances the residential character of the neighborhood; there are no detrimental factors that would detract from the subdivision, and would only be an enhancement for the neighborhood.

Mr. William Roddy, 839 Deaver Lane, pointed out that he lives in the house to the north and that his existing front porch extends farther than what Mr. Deddens is proposing. Mr. Roddy is also a trustee of the subdivision and stated that they would like to see the variance granted.

Hearing no further questions, Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Steven Deddens at 835 Deaver Lane for the variance from the Ordinance Number 1903 of the Zoning Code, Section 26-32.5(c)(1), Yard and Setback Requirements, to allow the construction of a new front porch and to approve the current footprint of the house as it sits today, approximately 38 feet from the front property line, plus the porch addition, 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:

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(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,

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

Mr. Levy seconded the motion, with the resultant vote as follow, to-wit:

Mr. Levy – aye

Ms. O'Brien - aye

Mr. Davie– aye

Chair - aye

Mr. Brown - 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 7:23 p.m.

Attest

Earl Schenberg, *Chairman*

Pat Rosenblatt, Secretary