

MINUTES
BOARD OF ADJUSTMENT
CITY OF CREVE COEUR
MAY 21, 2009

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 7:05 p.m. on Thursday, May 21, 2009.

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

Mr. Earl Schenberg, Chair
Ms. Rhonda O'Brien
Mr. Martin Jaffe
Mr. John Becker
Mr. Roger Levy

Chair Schenberg stated that with the resignation of Ted Brown, Co-Chairman, it was necessary for the Board to elect a new Co-Chairman. He nominated Rhonda O'Brien. Mr. Levy seconded the nomination and all members voted in favor of Ms. O'Brien, who agreed to serve as Co-Chairman.

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.

Chair Schenberg called for approval, seconded by Mr. Becker, of the minutes of the December 18, 2008 Board meeting. With no corrections being heard, the minutes were approved by those members in attendance at the December meeting.

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 Anton of Anton Architecture, Inc., representing Stuart and Susan Adams, regarding property at 620 Sarawood Lane, to allow a front yard setback of thirty-nine feet (39') where forty-five feet (45') is the minimum allowed in the "C" Single-family Residential Zoning District per Section 26-32.5(c)1, *Minimum front yard for permitted uses*, of the City of Creve Coeur Zoning Code. The applicant is requesting the variance to allow the re-construction of the legally pre-existing, non-conforming front porch.

Mr. Steve Anton, with Anton Architecture, Inc., introduced Stuart Adams, homeowner of the subject property. Mr. Anton presented a brief history on the renovation of the home a few years ago, with the addition of a family room and deck and replacement of their patio. The Adams currently have a building permit to renovate their master suite, as well as their basement, and are hopeful that they will receive approval to allow the renovation of their front porch. The existing front porch encroaches approximately 6 feet into the front yard setback. He pointed out that the color scheme would remain the same. Mr. Anton explained that the concrete porch would remain and the columns replaced in their existing location; with a new gable being cut into the roof. Mr. Langdon explained that the example motion in the staff report allows just for the porch renovation and not for the entire house to be moved forward.

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City Attorney Lumley offered, on behalf of the City, the following exhibits into the record:

1. The Creve Coeur Comprehensive Plan.
2. The Creve Coeur Zoning Code.
3. The Board of Adjustment application and all items submitted therewith..
4. Staff's report to the Board dated May 21, 2009.
5. The sketch distributed this evening by the applicant.

Mr. Langdon, Director of Community Development, stated that there were two ways to approach these requests: (1) to change the whole setback, which would allow anything to move up to that point or (2) to allow a variance to the section that says you cannot structurally alter that part that is already nonconforming. In the past, the requests were handled with the latter, which he feels is the appropriate action for this evening rather than pulling the whole setback forward. Mr. Langdon stated that the property appears to have been built at a time when there may have been a different interpretation of what the setback requirement applied to; the main part of the house does meet the setback requirement, but the porch does not. As a pre-existing condition, it falls within the limitation that does not allow modification of the part that is over the line. The other properties on Sarawood Lane are similar in character and age, some have seen renovations, at least one has been torn down and replaced, and others have been maintained. He went on to say that there is nothing in the request that makes this property stand out, unusual, or detrimental to other properties or to the City in general. The applicants had nothing to do with the original construction and are not the ones who created the difficulty in the first place. Mr. Langdon sees no way to resolve the issue short of removing the porch, which, given the character of the neighborhood, would be more of a detriment to the neighborhood.

Hearing no further questions, Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the structural alteration of the pre-existing portions of the house at 620 Sarawood Lane that lie within the required 45-foot front yard setback, as discussed in the staff memorandum dated May 21, 2009 and represented in the applicants' materials attached thereto. The variance requested, after having found from evidence presented, 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,
- (b) Granting a variance would not result in the diversion of additional stormwater that would adversely affect adjacent property.

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

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

Chair Schenberg announced the variance is granted.

Chair Schenberg made a motion, seconded by Mr. Becker, 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 7:18 p.m.

Attest

Earl Schenberg, Chairman

Pat Rosenblatt, Secretary