

**MINUTES**  
**BOARD OF ADJUSTMENT**  
**CITY OF CREVE COEUR**  
**NOVEMBER 19, 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 6:00 p.m. on Thursday, November 19, 2009.

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

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

Mr. Jaffe made a motion to approve the minutes of October 15, 2009. Mr. Becker seconded the motion, which unanimously carried.

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

Chair Schenberg announced that he resides in this subdivision; there were no objections to his participation in the discussion and voting.

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.

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

**Affidavit of Publication**

*To consider a request by Laura Baebler Architects and Associates, on behalf of Theresa Gooch, owner of 12451 Montsouris Drive, to allow structural alteration of a front yard porch with a legally pre-existing, non-conforming front yard setback of approximately forty feet (40') where the required setback is fifty feet (50') per Section 26-30.5(c)(1), Minimum Front Yard for Permitted Uses, 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 to be renovated with a new roof structure but still meeting the same, non-conforming setback.*

Mr. Jaysen Christensen, Assistant to the City Administrator, outlined some of the points prepared in Mr. Langdon's Staff report dated November 19, 2009. He said that within the last two years, a similar case was brought before the Board involving property within the annexed Ward 4 when the Board granted a variance for the nonconforming porch. It was pointed out that the lot size is smaller than what is normally required in this district, and Chair Schenberg said the useable space on the lot might be smaller because of the approximate 25 feet of vegetation on the northeast angular side, which would not affect the front yard setback. Discussion continued.

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Attorney Elizabeth M. Leppert offered the following exhibits into the record on behalf of the City:

1. The Creve Coeur Code of Ordinances
2. The Creve Coeur Comprehensive Plan.
3. The Creve Coeur Zoning Code.
4. The application for 12451 Montsoursis Drive filed by Baebler Architects on behalf of Theresa Gooch.
5. Correspondence from Ms. Baebler.
6. Mr. Langdon's Staff report dated November 19, 2009, including photos and the aerial view of the neighboring properties.
7. Reference to the Ward IV porch on Auburndale.

Mr. Michael Kelly, with Laura Baebler Architects and Associates, presented some pictures to clarify the condition of the existing porch versus what is being proposed. He stated that the existing porch slab projects out seven feet from the front face of the house and will project out with the new porch the same seven feet but instead of being eight feet wide, it will be 12 feet wide. He pointed out that the existing covering on the porch is also 12 feet wide, that the proposed porch matches the depth of the slab but is slightly wider. Mr. Kelly noted that the "A" zoning requires a one acre lot, that this lot area is 43,475 square feet, 65 feet short of one acre, and if zoned "B" according to its size, would only require a 45 foot front yard setback and would not need a variance. He feels the zoning of the lot imposes a hardship on the owner of this property that others who have less than one acre of lot area do not have in other areas of the City. A brief discussion followed. Mr. Kelly stated the present porch does not provide adequate weather protection, which is really the focus of the variance request.

Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Laura Baebler, representing Theresa Gooch, for the property at 12451 Montsoursis Drive, 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,
- (b) Granting a variance would not result in the diversion of additional stormwater that would adversely affect adjacent property.

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Mr. Jaffe 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. Jaffe, 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 6:20 p.m.

Attest:

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*Earl Schenberg, Chairman*

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*Pat Rosenblatt, Secretary*