



*b) The Zoning Regulations State:*

The proposed rear deck would encroach into the required 30-foot rear-yard setback by approximately 13.16 feet. See Code of Ordinances Section 100.6.03.2.b(5).

*c) Interested Property Owners:*

Bob Klapperich of 1813 4<sup>th</sup> Ave. NW submitted a written correspondence in favor of the variance request. Adjoining property owners Wayne & Marietta Sargeant of 1714 3<sup>rd</sup> Ave. NW, Dale Boggess of 1801 4<sup>th</sup> Ave. NW and James Denner of 1720 3<sup>rd</sup> Avenue NW all signed a letter stating that they are not opposed to the rear deck. Mr. Denner also spoke at the meeting stating he is in favor of the request and that he would be the neighboring property owner affected the most by this construction.

*d) Discussion:*

Secretary Passmore briefly reviewed the variance request relating to the rear-yard setback and the surrounding area. Jay Albaugh described his project and stated that they desire a deck so that access would be level onto the deck versus any steps required to get to a patio. Mr. Albaugh mentioned the confusion that occurred regarding the benchmark for the subdivision when he built his home a few years ago. The City of Waverly was the developer and this confusion required lots to be swapped within the subdivision in order for the pre-ordered house to work with the required elevations. Mr. Albaugh stated that a byproduct of switching lots was that the deck would no longer fit on the new lot as it was not as deep.

Member Foy confirmed that the house barely fits within the rear and front yard setbacks, making any additions in either direction nearly impossible. Mr. Passmore reviewed the elevation requirement within the subdivision and described how the original benchmark was removed, although the required elevation never changed. Member Shea confirmed that an at-grade patio could be built in lieu of a deck, and that the steps down to a patio would not need to meet the setback requirements. Mr. Passmore stated that when the house was moved to the new lot, all parties were informed that a deck would not fit within the setbacks. Mr. Albaugh stated that a patio could be a workable solution, but maintaining level access is a big factor in the desire for a deck. He further stated that a deck is preferred over a patio so that it would not adversely affect the storm sewer and storm water drainage in the backyard. The storm sewer is within a ten foot easement and will not be affected by the proposal. Member Brown confirmed that the adjacent lot to the east is vacant and that three or four steps would be needed to get down to a patio. Member Foy mentioned that the history of the lot and what transpired makes a decision on the variance request very difficult.

Mr. Albaugh stated that a large amount of material would need to be hauled onto the lot in order to do a patio. The Board discussed the ability to construct a patio and the different methods for this type of a project. Mrs. Shea reviewed the Board's guidelines in order to grant a variance and stated that it is hard for all of these to be satisfied if another viable option exists. Chairperson Lampe confirmed that creating a patio by adding fill material would be acceptable as long as the storm water was not diverted to a neighboring property. The Board discussed potential retaining walls that could be built to also make a patio more appealing. Mr. Albaugh reviewed the misunderstanding regarding the elevations when he originally built the house and reasserted his desire to build a deck.

e) *Motion by the Board:*

Motion By: Chris Foy

Seconded By: Karla Shea

Move that a variance to allow a rear deck with the dimensions and features set out in the building permit application dated June 26, 2006, and no other building or structure, to encroach into the rear-yard setback approximately 13.16 feet for 1705 4<sup>th</sup> Avenue NW be approved.

Yes: 1

No: 3

Absent: 1

Members Lampe, Brown and Shea voted "No" and stated their reasons for denial as that there were viable options available and that a hardship was not established.

E. Old Business: None

F. New Business: None

G. Adjournment:

Motion By: Karla Shea

Seconded By: Chris Foy

That the Board of Adjustment meeting be adjourned.

Yes: 4

No: 0

Absent: 1

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