

CITY OF NORTHVILLE
Board of Zoning Appeals
May 6, 2015 – 7:30 PM
City of Northville – Council Chambers
215 W. Main Street

I. CALL TO ORDER:

Chair Stapleton called the meeting to order at 7:30 p.m.

II. ROLL CALL:

Commissioners: Present: Rolland Stapleton - Chairman
James Bress – Secretary
David Marold
Patti Mullen
Ryan McKindles
Dominic Silvestri
Jay Wendt

Absent: None

Also present: Sally Elmiger, Planning Consultant

III. APPROVAL OF THE AGENDA:

Motion McKindles, support by Marold, to approve the agenda as published.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

IV. MINUTES OF PREVIOUS MEETING: March 4, 2015

MOTION Marold, support by Bress, to approve the March 4, 2015 meeting minutes as published.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

V. CASES TO BE HEARD – BY CASE:

- A. Case is called.
- B. Appellant presents case.
- C. Board questions & comments.
- D. Public comments on the case.
- E. A motion (usually to grant the variance) is made and seconded; discussed then voted upon; the results are announced by the Chair.

VI. CASE #15-02

**MICHAEL ROOSE
430 HIGH STREET
NORTHVILLE, MI 48167**

The applicant is seeking a variance to construct a new deck in the rear-yard setback on premises zoned R-1B, First Density Residential District, parcel number 48-002-01-0620-300. The deck will also exceed the lot coverage allowance for the district. The City's Building Official has determined that a rear-yard variance of 8.25 feet and lot coverage variance of 4.4% are needed from Section 15.01 of the Zoning Ordinance to allow construction of the deck in the rear yard.

Zoning Appeals Secretary Bress read the case, calling specific attention to the Applicant's written comments regarding Item #6 of the Application for Board of Zoning Appeals:

Current rear yard setback is 25'. House was constructed approximately 5-6' inside this envelope leaving no room for a functional deck.

New deck to be constructed will require a variance of up to 10'.

See attached plot plan with new proposed deck location.

Zoning Appeals Secretary Bress also read from the application the nature and extent of the variance requested:

Variance is being requested for up to and not to exceed 10' at its furthest point from the house. On the north end of the house the proposed deck will extend out 10' from the house and will encroach into setback area approximately 6'. On the south end of the house the proposed deck will extend 16' out from the house and will encroach into the setback area by approximately 8-10'.

Please see attached plot plan with proposed deck location.

Secretary Bress also referenced the April 8, 2015 memorandum from Building Official Strong, which showed the calculations for the rear yard setback and lot coverage variance requests as listed on tonight's agenda.

Michael Roose, 6226 Mercedes Lane, Plymouth Michigan, deck contractor, represented this application on behalf of the property owners Ellen Air and Randy Seeley.

Mr. Roose said that Ms. Air had requested they construct a deck at her home at 430 High Street, Northville MI. Mr. Roose had designed a functional-sized deck for Ms. Air. However, the house was built 5 feet from the 25-foot rear yard setback. He was now before the BZA to seek permission to build the deck for the homeowner.

Chair Stapleton asked Mr. Roose to explain the practical difficulty of this case. Mr. Roose said the difficulty was the inability to create a functional sized deck for the home and still stay within setback limits. Only a very small deck could be constructed within the setback limitations.

Chair Stapleton explained BZA background and process. Applicants came before the Board because they wanted the BZA to grant an exception to the zoning ordinance. It was the applicant's responsibility to

show a *practical difficulty*. Practical difficulty could not just be that someone wanted something that was not permitted by ordinance.

In response to a question from Chair Stapleton, Mr. Roose said a deck could be constructed that stayed within ordinance standards. That deck would only be 5 feet wide and would not be very functional for the resident. The difficulty was the location of the house, which allowed for a very small, almost unusable deck.

Member Marold pointed out that part of the definition of practical difficulty read: *The showing of mere inconvenience is insufficient to justify a variance*.

In response to a question from Member Mullen, Mr. Roose said the builder left only 5 feet of the building envelope at the rear of the home. At the south end, there was 8 feet of available building space. Member Mullen responded that the builder caused the difficulty in this case.

In response to a further question from Member Mullen, Mr. Roose said a patio could not be substituted in place of the deck because the grade dropped drastically at the rear of the home.

Member Silvestri pointed out that the homeowner purchased the home in its present configuration. Mr. Roose said that while that was true, the homeowner was probably unaware that they would require a variance to construct a deck.

In response to a question from Member Silvestri, Mr. Roose said the homeowner could construct an approximately 8 x 18' deck and stay within ordinance standards.

Member Silvestri said he lived in this neighborhood and felt the house towered over the home to the east. He opposed granting this variance. He felt it would be detrimental to the neighborhood, was not aesthetically pleasing, and the builder had pushed the envelope too far with the house already.

Secretary Bress agreed with Member Silvestri.

Chair Stapleton opened the public hearing.

Maria Johnston, 600 High Street, Northville MI was concerned that so many mature trees had been removed on this site that land erosion would be inevitable. She was concerned that more trees would also be removed.

Member Wendt directed Ms. Johnston to speak with Building Official Strong about this concern, as this was outside the BZA's discussion this evening. No tree removal was part of tonight's requested action.

Mr. Roose said that no trees were to be removed in order to construct the proposed deck.

As no one else came forward to speak, Chair Stapleton closed the public hearing.

In response to a question from the Board, Planning Consultant Elmiger noted that it would be feasible to construct an 8-foot wide deck without a variance, depending, however, upon total lot coverage. Mr. Roose acknowledged this information.

In response to a question from Chair Stapleton, Mr. Roose said both variance requests could be voted on together.

MOTION McKindles, support by Silvestri, that the Board approve the following findings of fact:

1. The proposed deck would require a variance of up to 10 feet on the south end of the property. On the north end, the proposed deck would encroach into the setback by approximately 5 feet.
2. The proposed lot coverage would exceed the 30% ordinance limit by 4.4%.
3. The house was constructed to within 5 feet of the rear yard setback.

Chair Stapleton asked for a roll call vote:

Bress	Yes
Wendt	Yes
Marold	Yes
Mullen	Yes
McKindles	Yes
Silvestri	Yes
Stapleton	Yes

Motion carried 7-0

MOTION Silvestri, support by McKindles, to grant the variances as requested by the applicant, for both the encroachment on the rear yard setback and the variance for the lot coverage.

Chair Stapleton asked for a roll call vote:

Bress	No
Wendt	No
Marold	No
Mullen	No
McKindles	No
Silvestri	No
Stapleton	No

Motion failed 0-7. The application was denied.

VII. PUBLIC COMMENTS

None.

VIII. DISCUSSION

Secretary Bress noted that the Board had been given 7 changes to the Zoning Ordinance, without any explanation or narrative. It was difficult to know the ordinance when changes were made without explanatory comment or context.

Discussion followed, including:

- Planning Consultant Elmiger said that in the future she could provide a memo along with any Ordinance changes, and/or provide a version that showed old text (struck out) and new text (underlined).

- Member Wendt said the Planning Commission minutes were a good source for understanding ordinance changes.
- Member McKindles said the BZA could receive the same information City Council received, including an explanatory memo and a red line version of the ordinance changes.

IX. ADJOURNMENT:

Motion Marold, support by Silvestri, to adjourn the meeting at 7:58 p.m.

Voice vote: Ayes: All. Nays: None. Motion Unanimously Carried.

Respectfully submitted,

Cheryl McGuire, Recording Secretary

Approved as submitted 07/01/15