

Board of Adjustment
Minutes
December 15, 2015

Meeting was called to order at 6:03 p.m. by Chairperson Moe Richardson. Those in attendance: Moe Richardson, Lori Boren, Gary Ulch and Liz Sparks. Absent: Roch Player. Also in attendance: Zoning Administrator, Matt Siders.

1. Approval of Agenda. Motion made by Ulch, seconded by Boren to approve agenda. Carried all. Player absent.
2. Approval of minutes from November 5, 2015. Motion made by Sparks, seconded by Ulch to approve minutes. Carried all. Player absent.
3. Public Hearing and discussion and possible action on a request for a variance for a deck at 129 Lincoln Drive NE, Mount Vernon, Iowa. Siders reported that the applicant had submitted a building permit for a deck on the back of the house (west side). The old deck has been torn down, which was a lot larger than the one being proposed. On the drawing that was received from the contractor, 28 feet was listed as the distance from the property line to the front part of the old deck. The rear setback for Suburban Residential is 35 feet. The current deck did not meet that setback. Siders went on to say that this was a non-conforming or irregular lot (Article 12, Section 1203 and Article 7, Section 702(d) of the Mount Vernon Zoning Ordinance). For this type of lot, under residential uses, you can take the average horizontal distance between the building and the rear lot line and take 60% of that and this number is the required setback. Sixty percent of 35 feet is 21, which would be the required setback. Siders measured the house and property line. Due to this being an irregular lot there are different distances from the house to the lot line, depending on where you are measuring from. If the new deck was to come out 5 feet from the house it would still be 19.5 feet from the property line. Therefore it does not meet the 21 foot required setback, according to the above calculations, and would still need a variance. The proposal is for a 5 foot deck. Cutting that down to be in compliance with the setback would make it a 3 ½ foot deck. From a safety standpoint this size would not be recommended.

Board members then went over the requirements for granting a variance which are summarized below:

Does the property have an unusual shape or topography that creates exceptional difficulties for using the property for its zoned use? (exceptional narrowness, unusual shape or topography) Yes, the lot is irregularly shaped and its dimensions do not conform to the required lot size, the lot is smaller than required for a Suburban Residential lot. This lot is non-conforming.

- (a) Strict application of the zoning ordinance will produce undue hardship and would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.** Yes, there must be two forms of egress from a residence, the landing is required for egress from the back entrance and a 5 foot landing is needed for an adequate and safe door landing.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.** Yes, same as (a) above.
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.** Correct, this variance allows removal of an unsightly and unsafe deck and creates more setback for the neighboring property and is consistent with a residential neighborhood.
- (d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.** Yes, same as (a) & (b) above.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this Zoning Ordinance.** Yes, this is an irregular shaped lot that is creating the problem, the lot shape is unique to this property.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.** Correct, no detriment to public good and is consistent with the purpose and intent of the Ordinance for two safe entrances to a residential property with as much rear lot setback as can be provided.

Sparks then made a motion for the property located at 129 Lincoln Drive NE in Mount Vernon, the Board of Adjustment grant a variance requesting relief from the rear setback requirements in Article 12, Section 1203 and Article 7, Section 702 (d) permitting a 19.5 foot rear setback for the construction of a replacement landing at the rear exterior entrance to the house. Motion seconded by Ulch. Carried all. Player absent.

Meeting adjourned at 6:30 p.m., December 15, 2015.

Respectfully submitted,
Marsha Dewell
Deputy Clerk